
IN THE SUPREME COURT OF THE UNITED STATES

JOHN H. MERRILL, IN HIS OFFICIAL CAPACITY AS THE ALABAMA
SECRETARY OF STATE, *et al.*,

Applicants,

v.

MARCUS CASTER, *et al.*,

Respondents.

**APPENDIX TO RESPONDENTS' OPPOSITION TO
EMERGENCY APPLICATION FOR STAY**

Richard P. Rouco
QUINN, CONNOR, WEAVER,
DAVIES & ROUCO LLP
Two North Twentieth
2-20th Street North,
Suite 930
Birmingham, AL 35203
(205) 870-9989

Abha Khanna
Counsel of Record
ELIAS LAW GROUP LLP
1700 Seventh Ave., Suite 2100
Seattle, WA 98101
(206) 656-0177
AKhanna@elias.law

Marc E. Elias
Lalitha D. Madduri
Daniel C. Osher
Joseph N. Posimato
Olivia N. Sedwick
ELIAS LAW GROUP LLP
10 G. St. NE, Suite 600
Washington, DC 20002
(202) 968-4653

Counsel for Respondents

TABLE OF CONTENTS

PAGE

HEARING TRANSCRIPT EXCERPTS (January 4, 2022)

Evan Milligan.....Supp. App. 2

HEARING TRANSCRIPT EXCERPTS (January 5, 2022)

Shalela Dowdy Supp. App. 15

William Cooper.....Supp. App. 27

HEARING TRANSCRIPT EXCERPTS (January 6, 2022)

Moon DuchinSupp. App. 93

HEARING TRANSCRIPT EXCERPTS (January 7, 2022)

Thomas Bryan..... Supp. App. 96

HEARING TRANSCRIPT EXCERPTS (January 10, 2022)

Joseph Bagley Supp. App. 107

Benjamin Jones.....Supp. App. 112

HEARING TRANSCRIPT EXCERPTS (January 11, 2022)

Marcus Caster..... Supp. App. 126

HEARING TRANSCRIPT EXCERPTS (January 12, 2022)

Bradley ByrneSupp. App. 148

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

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

BOBBY SINGLETON, et al., *
Plaintiffs, * 2:21-cv-1291-AMM
vs. * January 4, 2022
Birmingham, Alabama
9:00 a.m.

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

EVAN MILLIGAN, et al., *
Plaintiffs, * 2:21-cv-1530-AMM

vs. *
*

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

MARCUS CASTER, et al., *
Plaintiffs, * 2:21-cv-1536-AMM

vs. *
*

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING
VIA ZOOM CONFERENCE
VOLUME I
BEFORE THE HONORABLE ANNA M. MANASCO,
THE HONORABLE TERRY F. MOORER,
THE HONORABLE STANLEY MARCUS

CHRISTINA K. DECKER, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, AL 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q And once you learned that it was -- well, how did you
2 learn that it was possible to draw two majority black
3 districts?

4 A So I mentioned that we were, you know, participating in
13:36:21 5 public education events with that network of organizations.
6 And there was actually a pretty -- you know, there was a
7 conversation among our advocates and folks that were
8 participating in that around if we would be able to land in one
9 place in terms of supporting one of the maps. And prior to one
13:36:45 10 of the meetings, I was able to really read a letter that was
11 submitted to the apportionment committee by a group of Civil
12 Rights advocate organizations that featured maps prepared by
13 LDF and also a reference to a racial-polarization study that
14 they had -- they had hired a researcher to conduct.

13:37:09 15 And that was my first time actually seeing that data and
16 being able to look at the maps and have a better understanding
17 of what was really possible with our demographic data. And
18 that convinced me that that was the -- of the maps that I had
19 seen and the maps that we had attempted to draft, those were
13:37:25 20 the maps that most closely aligned with -- with our
21 organization's concerns with regards to the voting rights of
22 non-white voters, particularly black voters throughout the
23 state.

24 Q Mr. Milligan, why did you decide to participate in the
13:37:44 25 redistricting process?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Well, we're working to really inspire new participants in
2 civic engagement in Alabama. The state has been, you know,
3 losing a lot of the -- the folks that are born in the state
4 over the last ten years have, you know, for the majority of
13:38:06 5 that decade were leaving the state, and for Georgia, for the
6 surrounding southern neighbors. And we want to inspire people
7 to stay in the state, to commit to their communities.
8 Particularly younger Alabamians, non-white Alabamians.
9 Understanding all of our civic institutions and, you know,
13:38:26 10 democratic processes are important to provide a realistic
11 inspirational message to those folks. And redistricting is a
12 critical part of that.

13 I was learning about it a lot myself and was really taken
14 aback just by, you know, how much census data and redistricting
13:38:46 15 shapes everything that I do every day and opportunities that
16 are available to my children.

17 And so just playing that public education role was very
18 important in making sure that our organizers who are a part of
19 our network who are very concerned about it, making sure that
13:39:04 20 they had resources that they needed to do grass roots
21 engagement, and public education was also important to me.

22 Q Why is it important that black voters have a second
23 district?

24 A It's important, first and foremost, because based on the
13:39:22 25 racial-polarization data that I was able to review, our state,

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 unfortunately, has not arrived at a point where -- where we
2 have rates of cross-racial voting that can reliably sustain --
3 sustain the election of a non-white candidate in districts
4 where you have, you know, a close -- a close margin between
13:39:49 5 white and non-white voters.

6 And so because we have not arrived at a point where that's
7 a reliable occurrence, then having that second majority-black
8 district ensures that black voters, particularly in central and
9 southwestern Alabama have an opportunity to elect a candidate
13:40:10 10 of their choice, and that their votes, you know, aren't
11 discounted, so to speak.

12 And I'm concerned about this because I've spent all of my
13 career, you know, traveling and spending time in these
14 communities. I was raised in a multi-generational household,
13:40:33 15 so my great-grandparents that I was raised with were from
16 Lowndes County which is the neighboring county west of Alabama.
17 And that gave me access to the way that they spoke, the way
18 they dressed, their types of clothing and just their whole --
19 just their whole way of life and way of thinking, which has
13:40:54 20 always given me an appreciation for the more rural parts of the
21 state because I guess it connects me to those folks that I grew
22 up with in my household.

23 And I think there is a direct correlation between the lack
24 of agency that black voters feel, you know, in Montgomery and
13:41:10 25 in places where you see the splitting of the districts. And

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 what folks feel throughout the Black Belt and throughout the
2 southwest part of the state in terms of the black communities
3 located there. And the black district would provide more
4 buy-in for those communities and more of an incentive to make,
13:41:28 5 you know, longer term commitments, and even see themselves as
6 leaders of those communities to the highest levels.

7 Q In your lifetime, do you know of any black person who has
8 been elected to Congress outside of District 7?

9 A I don't. The Congress members I remember who are black
13:41:46 10 have been Representative Hilliard, Davis, and Sewell, all black
11 representatives from District 7.

12 Q Mr. Milligan, you tell us where the black community
13 resides in Montgomery County?

14 A Sure. So currently, all over the county. Honestly,
13:42:06 15 there's -- the county -- the city is 60 -- I believe
16 60.5 percent black African-American. And so at, you know, in
17 any of the zip codes, there are pockets of neighborhoods or
18 entire neighborhoods that are majority black.

19 And that's very different from, you know, the Montgomery
13:42:28 20 where I grew up. Historically, black communities were
21 concentrated either immediately south or west of the downtown
22 area and a little north of there, or in rural pockets on the
23 rural borders of the county on the northern end that would have
24 been Madison Park. On the eastern end, the Mount Meigs area.
13:42:53 25 On the southern end, you would be looking at Hope Hull,

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Pintlala. And on the western end, the Old Selma Road area
2 would be those rural counties. I'm sorry. The rural parts of
3 the county.

4 But again, as time as grown on and, you know, as Redlining
13:43:09 5 and -- was challenged and economic opportunities made it more
6 possible for families to move over throughout the county,
7 again, that population has spread throughout the county.

8 Q As far as you know, what does the black community in
9 Montgomery County share in common?

13:43:28 10 A I would say there's a central -- there's a commitment to
11 really the center of the city, in terms of downtown and the
12 river front area, and the areas that are immediately just
13 adjacent to there.

14 So for the black community, Alabama State University,
13:43:49 15 which is located just south of downtown, is a central gathering
16 place.

17 I mentioned, you know, I attended Zelia Stephens Early
18 Childhood, for example, in the late '80s, mid '80s. My mother
19 went there in the '50s. My daughter attends there now. And so
13:44:06 20 that's a school where 100 percent of the student body and
21 faculty are African-American. And that's just one example of
22 ASU's fingerprint within the community at large.

23 The Acadome there is used for, you know, cultural events
24 ranging from funerals to high school graduations for the public
13:44:26 25 schools, all of which are predominantly black schools, with the

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 exception of the magnet schools.

2 And then also concerts, public speaker events. And then,
3 you know, also the college's role as a source of education and
4 employment for many African-Americans throughout the city.

13:44:46 5 Then north of ASU, you have, you know, downtown proper, so
6 historically black communities like Centennial Hill which were
7 the home of Civil Rights leaders, the King family, the
8 parsonage for Dexter Avenue Church is there. Significant Civil
9 Rights institutions are located throughout downtown, as well
13:45:11 10 as, you know, employment with the local and the state and the
11 federal government agencies. Since Montgomery is the capital,
12 those are also sources of employment for many African-Americans
13 throughout the city.

14 The two federal military installations, as well as Alabama
13:45:26 15 National Guard headquarters located just west and east of
16 downtown are also significant because there are black service
17 members some of whom settled in Montgomery after their tenure
18 of service ended when they were introduced to it because of
19 their military service. But others who grew up in the area who
13:45:45 20 also became service members. They continue to use the military
21 installations for recreational events or to shop at the grocery
22 store there, you know, and recreational activities.

23 The parks, the river front amphitheater for concerts, as
24 well as downtown being a central place for Thanksgiving
13:46:09 25 activities. Alabama State has maintained the -- for over

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 80 years I think at this point, has maintained a Thanksgiving
2 football game and parade. And so there are black families that
3 really come back to the city generations you will see on Dexter
4 Avenue enjoying that parade.

13:46:32 5 And then some of the city's oldest and largest black
6 churches are located in downtown or in the surrounding adjacent
7 areas.

8 So I think wherever black Montgomerians are living, there
9 are ways that they're connecting with that downtown area and
10 those surrounding communities at some point in their life.

11 Q Do you have ties to the black community in the Black Belt?

12 A I do. I mentioned my family's connection to Lowndes
13 County. So that was my maternal grandmother and
14 great-grandparents who were raised there. So, you know, it was
15 -- that was something that's connected me to the land and given
16 me a sense of cultural legacy, cultural identity. We still
17 maintain a cemetery that holds our loved ones on my mother's
18 side of the family there in Lowndesboro.

19 And really throughout my career, that's, you know, that's
13:47:26 20 a personal connection. Before I get to the career part, I will
21 also mention that connection that I share is something that I
22 noticed among my peers growing up. I can't count the number of
23 people who have a similar Lowndes County connection or a
24 connection to another more rural part of the Black Belt. I
13:47:45 25 would offer the unique part about my family is we were smaller,

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 and our connection, you know, is more historic. There aren't
2 active cousins or grandparents down there now receiving us when
3 we visit. In contrast, my peers have first cousins, second
4 cousins, or elders in their family that they're still visiting
13:48:05 5 in those counties.

6 And then I will say professionally, a lot of my work, my
7 organizing skills and my training as far as knowing how to
8 listen to clients and listen to community members came from
9 time that I spent working with FOCAL and with EJI in Black Belt
13:48:22 10 counties. FOCAL had a program called the Southern Rural Black
11 Women's Initiative. And we -- that is a program that, you
12 know, all of its members or the participants are based in Black
13 Belt counties. And so I was able to spend time interviewing
14 women in those counties that we honored at hall of fame
13:48:42 15 banquets and really getting to know their stories, stories of
16 their children, as well as while at EJI, we started a project
17 called the Black Belt education project where we went to all of
18 the Black Belt counties, talked to the superintendents and
19 different principals to sponsor high school students coming to
13:49:00 20 Montgomery to spend a day or half day at the EJI office
21 interacting with staff.

22 And that required us to again, you know, go to Perry
23 County, Hale County, and all the places and make sure that they
24 understood what EJI was and why that -- why that trip would be
13:49:16 25 valuable to the students. Booking the trips, making sure we

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 were able to get funds for the buses. And just interacting
2 with the students, you know, when they came. Some of those
3 students went on to go to college and go to law school and
4 credited that trip as being inspirational for their decision to
13:49:34 5 do so.

6 So the Black Belt has been, you know, pretty central to me
7 throughout my life, both personally and professionally.

8 Q As far as you know, what does Montgomery County share in
9 common with those Black Belt counties?

13:49:48 10 A I would say the socioeconomic challenges that black
11 communities are facing in Montgomery County are shared
12 throughout the Black Belt at large. And, you know, to be
13 clear, Montgomery County is a part of the Black Belt. It's a
14 more urban part. So our rural neighbors to the east and west,
13:50:10 15 when it comes to concerns about infectious disease or, you
16 know, K through -- the quality of education -- public education
17 at K-12 level, availability of job training, public
18 transportation, access to health care, food deserts and access
19 to quality -- to quality produce, those are conversations and
13:50:34 20 challenges that are shared by community members throughout
21 central Alabama and the southwestern part of the state in the
22 area that we refer to as the Black Belt.

23 So at that level, I would say, you know, the sense of
24 frustration and sometimes isolation from opportunity is a
13:50:51 25 common thread.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 And also the idioms and ways of speaking, quilting and
2 sewing, traditions, music traditions, whether it's blues or
3 four-part harmony Gospel, different traditions of story
4 telling, family reunions, those are things that, you know, I
13:51:09 5 guess in a more positive way are shared by black communities
6 throughout that part of the state.

7 Q Do you have any sense of whether that's also true for
8 black people in Mobile County?

9 A I would say it has been from my experience one of the
13:51:27 10 things that I -- that FOCAL when I was working there after
11 college, you know, other -- aside from going to Mobile for --
12 for as, you know, playing in marching band tournaments while at
13 high school, my time spent in Mobile was really provided to me
14 by FOCAL because I would go down there to work with child care
13:51:49 15 advocates and child care providers. And particularly in the
16 Prichard area above the city of Mobile proper, and really
17 seeing the pace of life, you know, physically, just in terms of
18 optics, people on horse back, folks raising chickens further
19 out from the city center, that layered directly on to what I
13:52:10 20 was seeing Washington County, Wilcox, Dallas, and more rural
21 parts of Montgomery County that I was describing, also Macon
22 County, east of Montgomery County.

23 So just, you know, the pace of life, the tone of the -- of
24 life and what I experienced was very similar. But also, again,
13:52:25 25 those socioeconomic concerns, the conversations and the

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 trainings we were doing around, you know, access to child care
2 for working families. Same -- the same trainings, the same
3 conversations, the same comments raised by participants in
4 those trainings in that Mobile area, as compared to the other
13:52:46 5 parts of the Black Belt and Montgomery County that I covered at
6 the time.

7 And then the last thing I would say is in the way that
8 there are sort of anchor cities throughout the Black Belt. So
9 Selma can be that for, you know -- or Demopolis or like that
13:53:01 10 whereas the smaller towns, their transition stage might be to
11 do most of their shopping or to move to one of those -- one of
12 those cities as a transition from more rural life. Montgomery
13 is certainly that for many people throughout the central part
14 of the state.

13:53:18 15 Mobile plays that role, and Prichard plays that role for
16 the southwestern part of the state. So the same way that I
17 mentioned my peers having that connection to their Black Belt
18 relatives, in Montgomery County, I observed colleagues that I
19 have worked with throughout my life, people that I have met
13:53:36 20 personally through school who had that relationship with rural
21 relatives and throughout the Black Belt when they may have
22 grown up in Mobile County.

23 Q Thank you, Mr. Milligan.

24 MS. CARTER: No further questions at this time. I
13:53:52 25 pass the witness.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

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

CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Christina K Decker

01-04-2022

Christina K. Decker, RMR, CRR

Date

Federal Official Court Reporter

ACCR#: 255

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

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

BOBBY SINGLETON, et al., *
Plaintiffs, * 2:21-cv-1291-AMM
vs. * January 5, 2022
Birmingham, Alabama
9:00 a.m.

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

EVAN MILLIGAN, et al., *
Plaintiffs, * 2:21-cv-1530-AMM

vs. *
*

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

MARCUS CASTER, et al., *
Plaintiffs, * 2:21-cv-1536-AMM

vs. *
*

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING
VIA ZOOM CONFERENCE
VOLUME II
BEFORE THE HONORABLE ANNA M. MANASCO,
THE HONORABLE TERRY F. MOORER,
THE HONORABLE STANLEY MARCUS

CHRISTINA K. DECKER, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, AL 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 to state your name for the record, please.

2 THE WITNESS: My name is Shalela Dowdy.

3 JUDGE MARCUS: Thank you. And you may proceed,
4 Ms. Carter.

11:26:47 5 MS. CARTER: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MS. CARTER:

8 Q Ms. Dowdy, where were you born?

9 A I was born in Mobile, Alabama.

11:26:54 10 Q What year were you born?

11 A I was born in 1989.

12 Q What race do you identify as?

13 A I identify as black or African-American.

14 Q And where did you grow up?

11:27:10 15 A I grew up in the city of Prichard, Alabama and Mobile,
16 Alabama.

17 Q And do you still live in the city of Mobile or Prichard?

18 A Yes. I currently live in Mobile, Alabama.

19 Q What schools did you attend while growing up in Mobile?

11:27:29 20 A I attended Bessie C Fonvielle Elementary School, Nan Gray
21 Davis Elementary School, Ella Grant Elementary School, and
22 Calloway Smith Middle School and Murphy High School.

23 Q Where did you go to college?

24 A I attended undergrad at the United States Military Academy
11:27:50 25 at West Point, and I obtained my graduate degree from the

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 University of Texas at El Paso.

2 Q What is your professional background?

3 A I am -- my professional background consists of me
4 commissioning in the United States Army in 2012 as a second
11:28:07 5 lieutenant and matriculated through the ranks to -- I earned
6 the rank of captain which is the rank I currently hold.

7 I was in air dispense artillery officer on active duty
8 where I was responsible for work centered around defending air
9 space and daily Army operations. I -- while in the Army, I was
11:28:30 10 stationed at Fort Sill, Oklahoma, Fort Bliss, Texas, deployed
11 to the Middle East to Bahrain, and Shaw Air Force Base in South
12 Carolina, while all the time still being a citizen of Alabama
13 and voting within the state.

14 And after six years of active duty, I switched to the
11:28:48 15 Individual Ready Reserves, and my first year out of the Army, I
16 worked as a consultant for Deloitte. And after a year of that,
17 the pandemic hit. And I worked for the Alabama Democratic
18 Party. I did work with the 2020 census. And for a -- for
19 about four months this year, I worked for the city of Mobile.

11:29:14 20 Q So Captain Dowdy, what is your current occupation?

21 A Currently, I am participating in a fellowship, a CROWD
22 fellowship, which stands for Community Redistricting Organizing
23 Working For Democracy with the Southern Coalition of Social
24 Justice.

11:29:32 25 Q And what kind of work does that organization do?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A SCSJ does work centered around voter advocacy work, and
2 right now, they're also focusing on the redistricting efforts
3 going on in the country.

4 Q What specifically do you do as a CROWD fellow?

11:29:51 5 A As a CROWD fellow, I am assigned lower Alabama. So
6 counties in the first congressional district and other counties
7 in the Black Belt. And my goal is to -- or my job is to
8 educate local residents on what redistricting is, being that it
9 is something that happens every ten years. A lot of people are
11:30:11 10 not knowledgeable on redistricting and knowledgeable on how
11 redistricting affects us when we go to the polls and vote.

12 So we're educating people on the redistricting process,
13 what redistricting entails, and also educating them on how they
14 can play a role in the process as average citizens. So we
11:30:30 15 provide them with testimony, training, update them on what's
16 going on in the state, and so that was our focus in the fall.
17 Now that these maps have been signed, right now, we're focusing
18 on work preparing them to be involved in the redistricting
19 going on with the local municipalities in the state of Alabama.

11:30:50 20 Q Does your work give you an understanding of issues
21 affecting black communities in Alabama?

22 A Yes. The previous work that I have done with the
23 Democratic Party, the work I have done as an organizer with the
24 non-profit. I am president of the Mobile -- called Stand Up
11:31:06 25 Mobile, and the work that I do now with CROWD provides me with

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 that background. I'm able to engage with the citizens above
2 Mobile and surrounding counties and in the Black Belt. And
3 gain an understanding on what they need, what their needs are,
4 and how we can progress forward.

11:31:25 5 Q Captain Dowdy, what congressional district do you live in?

6 A I reside in Congressional District 1.

7 Q And what is your understanding of Alabama's redistricting
8 process for congressional districts?

9 A My understanding is that the state has a reapportionment
11:31:44 10 committee that consists of members of both the Alabama State
11 Senate and the Alabama House from both political parties. And
12 the reapportionment committee is chaired by Senator McClendon
13 and Senator Chris Pringle. Once the census data was received
14 by the state, the reapportionment process basically started,
11:32:04 15 and there were 28 public hearings held across Alabama both in
16 person. And which allowed for private citizens in the state to
17 play a role in the process with our elected officials on any
18 issues that we saw with the current maps so that these issued
19 could be rectified with the new maps that would be presented.

11:32:32 20 There were 28 public hearings across the state. And the
21 citizens of Alabama were allowed to participate both virtually
22 and in person. She just through me off a little bit. And so,
23 anyways, once the public hearings were done, there was about a
24 month break, and then the reapportionment committee presented
11:32:56 25 maps to Alabama Legislature. And those maps were almost

Christina K. Decker, RMR, CRR
Federal Official Court Reporter

101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 immediately voted on. So the citizens of Alabama were not able
2 to play a role in talking about or having any discussion on the
3 new maps. It was as if the process was rushed. And there was
4 not a lot of transparency.

11:33:19 5 So the new maps were presented -- the people were not able
6 to talk about it if any of the communities of interest were
7 split up. If there were any other issues that were identified,
8 they were not able to be spoke about from the actual citizens.
9 And so they -- the reapportionment committee and the elected
11:33:41 10 officials, they say that, you know, they're aiming for the
11 process to be transparent, but given the actions that took
12 place, the short turnaround and how fast the maps were passed,
13 it was if they were trying to hinder the citizens from playing
14 a role in the process of the reapportionment.

11:33:57 15 Q Okay. Thank you. Did you participate in that process?

16 A I did participate in the process. There was a public
17 hearing held in Mobile. I participated in person. I testified
18 about and spoke about all four of the current maps and placed
19 emphasis on the congressional map, and so I spoke about the
11:34:21 20 packing that is evident in District 7, and that with that
21 packing, the black vote is basically diluted. I spoke about
22 that one district giving black Alabamians one out of seven,
23 which is only 14 percent of representation in Congress when we
24 make up about 27 percent of the population in the state of
11:34:43 25 Alabama. And so I also advocated that I would think the fair

Christina K. Decker, RMR, CRR
Federal Official Court Reporter

101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 and equitable thing would have been with the new maps for there
2 to be two majority-minority districts where a second
3 African-American could be elected to Congress.

4 I gave this testimony in person. And I also submitted a
11:35:05 5 written statement to the representative that was present from
6 the state reapportionment committee.

7 Q By second majority-minority district, do you mean a second
8 black district?

9 A Yes. I mean a second black district.

11:35:18 10 Q Why did you decide to participate in the redistricting
11 process?

12 A I decided to participate through my work and in engaging
13 with the citizens. I just realized people do not know how
14 important redistricting is and how it impacts us. And so I was
11:35:38 15 -- I was provided the opportunity through the fellowship to be
16 able to participate and utilize my voice. And so I chose to
17 participate because I saw the need. I see the lack of
18 representation of black Alabamians and decided to participate,
19 and I know when we have these public hearings, sometimes it
11:35:58 20 seems as if they're being done just to say they were done.

21 And so if the legislators see that we are attending and
22 playing a role in the process, it can also put pressure on them
23 to do the right thing. So that it can be known that, hey,
24 we're watching what you do. We know our state has a history of
11:36:15 25 diluting the black votes. So be aware that we are watching and

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 we are here. So I wanted my presence to be known. I wanted to
2 be the voice for those in my community who were not
3 knowledgeable on the process. And that's basically why I chose
4 to participate.

11:36:29 5 Q So, Captain Dowdy, why is it important that black voters
6 have a second district?

7 A It is important for fair and equitable representation.
8 Looking at who currently represents me in Congress, I am not
9 comfortable, and I am not confident that he is adequately
11:36:49 10 representing me based off of bills that he has chosen not to
11 support the build back, better build, bills centered around
12 nursing mothers. The CARES Act, the other bills, and so these
13 are issues -- we have issues in our community that can be
14 rectified by supporting these bills. And we don't have the
11:37:11 15 right person in these elected positions who will vote for the
16 things that can help fix the issues we have in our community.

17 Then it shows that they need to -- they need to not
18 necessarily go, but we need to be able to have the opportunity
19 to elect fair -- what are our issues, because not everybody who
11:37:30 20 is elected cares about how the issues in their community. So
21 when you're able to elect someone who understands you, who
22 comes from your community, then progress can be made. And so
23 that is why I am advocating for that. It is necessary that we
24 have a second black district.

11:37:49 25 Q In your lifetime, do you know of any black person who has

Christina K. Decker, RMR, CRR
Federal Official Court Reporter

101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 been elected to Congress outside of District 7?

2 A In my lifetime, I am only aware of black representatives
3 being elected in the Seventh Congressional District.

4 Q So and then additionally, the -- the bills that you
11:38:11 5 mentioned, the CARES Act and the infrastructure bill, those are
6 bipartisan supported bills, correct?

7 A Right. For the most part, they are.

8 Q Thank you. Can you tell us where the black community
9 resides in Mobile County?

11:38:27 10 A In Mobile County, the black community resides in the city,
11 the city of Prichard, the city of Chickasaw, and then we have
12 some black residents in the northern rural areas of the county,
13 as well.

14 Q As far as you know, what interests do the black community
11:38:45 15 in Mobile County share in common?

16 A Some of the interests that we share in common
17 unfortunately is the interest of dealing with what we -- what
18 our struggles are. So we have a high poverty -- a high poverty
19 rate. We have issues with being able to afford health care.

11:39:03 20 All the food deserts in the city happen to be in the black
21 community.

22 So our struggle is what kind of unifies us and what is our
23 interest. The health care -- issues with education. That's
24 what kind of unified, and those are what black people have in
11:39:21 25 common, the things they are struggling with.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter

101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q Captain Dowdy, can you see and hear me?

2 JUDGE MARCUS: I think the witness has been cut.

3 Ms. Dowdy, can you hear me? I think we have lost.

4 THE WITNESS: I can hear you.

11:39:45 5 JUDGE MARCUS: You can hear us okay?

6 THE WITNESS: I can hear y'all.

7 JUDGE MARCUS: Okay. Thank you. You may proceed,
8 Ms. Carter.

9 MS. CARTER: Thank you, Your Honor.

11:39:53 10 BY MS. CARTER:

11 Q So, Captain Dowdy, do you specifically have ties to the
12 black community in the Black Belt?

13 A Yes, I have ties. My great, great, grandparents
14 originally migrated from the Black Belt area to Mobile for
11:40:09 15 economic and job opportunities. We have the port. We have
16 factories down here. And then outside of that, everybody in
17 the family didn't migrate. So I still have great aunts and
18 uncles and cousins and family members that do reside in the
19 Black Belt.

11:40:23 20 Q So black people from the Black Belt commute into Mobile to
21 work in the port?

22 A There are some people from the northern counties that
23 drive down to work at the ports on the coast of Alabama.

24 Q In your opinion, what do you think that the Black Belt
11:40:45 25 counties share in common with Mobile County?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Being that the Black Belt counties have a high black
2 population, what they share in common is the same -- the issues
3 that I mentioned of what unities the black community. So
4 health care issues -- their health care issues are more extreme
11:41:05 5 in the Black Belt due to the closing of hospitals. We have
6 access to Mobile. Our issue is having the ability to afford
7 the health insurance. And so in the Black Belt, they have
8 issues affording the health insurance, but also getting to the
9 hospitals because of the closing of a lot of rural hospitals.
11:41:22 10 So it's not even the hospitals. It's even seeking regular
11 daily medical attention that they have issues with because some
12 of the closest doctors' offices are over 50 miles away --
13 comparable to the poverty rate in the black community in
14 Mobile.

11:41:43 15 Health care-wise in the Black Belt, there's a high HIV
16 rate also. And then the issue with sewage in Lowndes County,
17 which leads to health care issues because they don't have
18 adequate infrastructure to provide themselves with adequate
19 sewage. And then the issues with education also. That's what
11:42:02 20 unites the Black Belt with those in Mobile. And when our
21 family in the Black Belt are struggling, we hear about it. We
22 try to assist as we can, because when they hurt, we hurt, and
23 it's a family issue.

24 Q So you mentioned education issues. How do education
11:42:18 25 issues impact black people in Mobile and the Black Belt more

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 specifically?

2 A Those issues -- the issues that we have with education,
3 the child care issues. So a lot of people cannot afford child
4 care. So the start of education is starting later in life.

11:42:37 5 And so some people are behind, and then it also leads the other
6 economic issues later in life because the education is the
7 issue growing up. That means you are possibly going to make
8 less money when you get older, and it continues to -- as
9 poverty, and it's starting early on because we don't have
11:42:53 10 adequate access to education, and one of those issues because
11 of the economy.

12 Q And how exactly people do people not have adequate access
13 to education?

14 A Well, it starts young, so the pre-K -- a lot of the pre-K
11:43:13 15 programs that were around previously no longer are not around.
16 Some of that should be coming back with the Build Back Better
17 plan did get approved. And so that will be providing funds for
18 child care and whatnot. But people cannot afford child care.
19 And so you're leaving your kid with family members while you
11:43:31 20 work. So like I said, the education and the learning process
21 for us in the black community is starting later in life because
22 we don't have the professionals. If I am leaving my child with
23 a family member, they are not a professional to start the
24 education process. We are behind basically and playing catch
11:43:47 25 up, and that sometimes puts it in -- contributes to us staying

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 --

2 Q And that's an issue in Mobile and the Black Belt?

3 A It is an issue in Mobile and the Black Belt because the --
4 living in poverty is an issue in both locations.

11:44:03 5 Q You mentioned having relatives in the Black Belt. Where
6 exactly are they located in that region?

7 A I have family in Montgomery, Wilcox County, Monroe,
8 Escambia, the Dallas County where Selma is located. Those
9 regions. Tuskegee.

11:44:24 10 Q And also you mentioned the CARES Act and the Build Back
11 Better Act as being something that if you had -- that you would
12 like more representation on.

13 What specifically about those bills are -- have -- what
14 specifically about those bills affects black voters in Mobile
11:44:51 15 and in the Black Belt?

16 A The CARES Act or the Build Back Better plan, one of them
17 had tax credit. So that's extra money being pumped into the
18 household. Also the Build Back Better plan has it where the --
19 things like 7 percent of their income will go to child care.

11:45:12 20 So an example such as that the Build Back Better plan is going
21 to create more jobs and grow the economy framework wise. And
22 then it is the Build Back Better plan is investing in child
23 care, and also care giving on the back end for those
24 individuals who are elders in our families and in our
11:45:33 25 community.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 JUDGE MARCUS: So you are going to put Mr. Cooper on
2 first, and I take it you will go back and forth between you and
3 the Milligan plaintiffs on the Section 2 case.

4 MS. KHANNA: Yes, Your Honor. We're trying to present
14:04:56 5 it in as coherent a fashion as possible, but obviously witness
6 availability and issues like that.

7 JUDGE MARCUS: I understand. So the way we will
8 proceed is we'll proceed in the same manner we have proceeded
9 earlier. If there's something particular to the Caster case
14:05:13 10 and the Caster case alone, you can highlight it, and we can
11 turn it at that point over to Judge Manasco. Otherwise, we
12 will proceed this way. I take it that's agreeable with you.

13 MS. KHANNA: Thank you, Your Honor. Yes.

14 JUDGE MARCUS: All right. Let's proceed. We have
14:05:28 15 Mr. Cooper?

16 MS. KHANNA: He should be here.

17 JUDGE MARCUS: Mr. Cooper, welcome.

18 WILLIAM S. COOPER,
19 having been first duly sworn, was examined and testified as
14:05:43 20 follows:

21 JUDGE MARCUS: Thank you. Good afternoon. And if you
22 would state your full name for the record, please.

23 THE WITNESS: My name is William Sexton Cooper.

24 JUDGE MARCUS: Thank you, sir. And you may proceed,
14:06:00 25 counsel.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 MS. KHANNA: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. KHANNA:

4 Q Good afternoon, Mr. Cooper.

14:06:04 5 A Good afternoon.

6 Q You have been retained as an expert for the Caster
7 plaintiffs in this case; is that right?

8 A That's correct.

9 Q And you prepared two expert reports in this case?

14:06:16 10 A I have.

11 Q Okay. I would like to call up Caster Plaintiffs'
12 Exhibit 1, please. Can you please identify this exhibit?

13 A Yes. That is the first declaration I filed. I think it
14 was around the 10th of December.

14:06:36 15 Q Great. And if I can now call up Caster Plaintiffs'
16 Exhibit 59.

17 A And that would be the second declaration filed ten days
18 later.

19 Q Thank you. And do you have a printed copy of both of
14:06:57 20 these exhibits in front of you, as well?

21 A I do. I have a binder of various documents that you have
22 prepared I guess is a trial exhibit book.

23 Q I believe -- and if you look through it, is that basically
24 is just your two reports and all of the exhibits attached to
14:07:15 25 them; is that right?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Exactly.

2 Q And just for your awareness and the Court's awareness, I
3 will be periodically looking to an adjacent screen to looking
4 at the exhibits and my own notes, but I understand you might be
14:07:29 5 looking down at your report at times, too?

6 A Exactly.

7 Q All right. Let's pull up Plaintiffs' Exhibit -- Caster
8 Plaintiffs' Exhibit 2, please.

9 This was attached as Exhibit A to your first declaration.

14:07:46 10 Is this your current CV?

11 A Yes.

12 Q And does it provide a complete and accurate summary of
13 your background and professional experience?

14 A I believe it does.

14:07:57 15 Q Great. Okay. I think we can take this down.

16 I will just ask a few questions on your background and
17 expertise without combing over that document, which is, of
18 course, in the record.

19 What is your profession, Mr. Cooper?

14:08:13 20 A I am a consultant providing demographic analysis and
21 computer mapping analysis.

22 Q What does that mean?

23 A Basically, I draw maps, some of them for purposes of
24 elections, others for other kinds of demographic analysis --
14:08:36 25 poverty, households having issues with public utilities, or

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 something like that. It just varies from project to project.

2 But almost invariably there is a component that involves

3 mapping. So that's my key function.

4 Q And so do you usually incorporate census data in drawing
14:09:00 5 those maps?

6 A Yes. Yes. Almost always.

7 Q So is it fair to say that you draw maps for a living?

8 A That is fair. That is basically what I do. And --

9 Q How long have you --

14:09:12 10 A -- lawns.

11 Q How long have you been doing this?

12 A I started using GIS software maybe just a limited amount
13 in graduate school in the '70s actually, but it was off of a
14 mainframe, and stuff was printed out on a piece of paper. With
14:09:34 15 modern-day technology, I think in late 1989 or maybe early
16 1990, I obtained a copy of a software program called GIS Plus
17 that was developed by the Caliper Corporation in Massachusetts,
18 and they were also the makers of the world-famous Maptitude for
19 redistricting that I still use to this day.

14:09:57 20 Q So about 30 years?

21 A 30 years, right.

22 Q Have you been accepted as an expert witness in cases
23 involving redistricting before?

24 A I have.

14:10:06 25 Q And about how many?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A I think approximately 45.

2 Q 45 federal court cases?

3 A 45 federal court cases involving -- I believe almost all
4 of them would have been Section 2, not all perhaps, but almost
14:10:24 5 all.

6 Q And all of those cases are listed in Caster Plaintiffs'
7 Exhibit 2 dating back to the '80s; is that right?

8 A That's correct.

9 Q Have any of the Section 2 lawsuits in which you have
14:10:36 10 served as an expert witness resulted in changes to
11 redistricting plans?

12 A Many have, at least five at the state level, and 25 or
13 more at the local level.

14 Q And do you -- what state level plans have you testified in
14:10:58 15 Section 2 cases that resulted in changes to those plans?

16 A The first state level case I testified in would have been
17 in Tennessee in the early '90s. And in that case, the issue
18 was regarding the state House, and the end result was that a
19 year or two later, a new African-American majority House
14:11:20 20 district was drawn in west Tennessee.

21 Q Any other states?

22 A I was involved in a case in Montana in the '90s to the
23 early 2000s, Native American Section 2 case. Then later that
24 decade, I also had a case on South Dakota involving the Lakota
14:11:44 25 Sioux and the Cheyenne Sioux. That resulted in the Court

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 finally ordering a plan that I developed as an illustrative
2 plan as the remedial plan. I think that would have been around
3 2008 or 2009 when it was finally court ordered.

4 Q And more recently in Mississippi, as well; is that right?

14:12:03 5 A That is correct. In Mississippi in 2019, I testified at a
6 Section 2 trial involving the Mississippi state Legislature,
7 the state Senate, and there, as well, the end result has been a
8 new state Senate district in the Mississippi Delta.

9 Q Have you served as an expert in any other Alabama cases?

14:12:23 10 A I have. I served as an expert in the Alabama Legislative
11 Black Caucus case which was not a Section 2 case. I also
12 testified in the judicial case in 2018 involving state court,
13 the Supreme Court, and the appellate courts. And I testified
14 also in 2017, I believe, in a school desegregation case
14:12:52 15 involving the city of Gardendale and Jefferson County. The
16 judge relied on some of my maps in her opinion.

17 So I have testified. I think those are the three times I
18 have testified in federal court in Alabama.

19 Q In fact, most recently, you actually testified in the
14:13:09 20 Chestnut case, as well, just a couple of years ago; is that
21 right?

22 A Exactly. Thanks for refreshing my memory.

23 Q Absolutely.

24 So have you only done work on behalf of plaintiffs in
14:13:19 25 litigation?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A No. I've worked on behalf of defendants' jurisdictions.

2 Q Any in particular? Any examples?

3 A Most recently in the summer of 2020. I think my first

4 Zoom trial I testified on behalf of the city of Quincy,

14:13:42 5 Florida, the Northern District of Florida, in a Section 2 case.

6 Q All right. Do you also provide map drawing consultation

7 to jurisdictions outside of litigation?

8 A Yes.

9 Q And which jurisdictions, for example?

14:13:56 10 A Well, since the release of the 2020 census data, I have

11 provided assistance to the city of Wenatchee, Washington and

12 also to San Juan County, Utah. In fact, just a couple of weeks

13 ago, the county commission out there adopted the plan that I --

14 a plan that I drew for them. So there is now a plan in effect

14:14:21 15 for the rest of the decade at the county commission level that

16 I drew.

17 Q And you have also provided map drawing services for

18 several jurisdictions in Mississippi; is that right?

19 A That is correct, going back to the late '90s.

14:14:34 20 Q Thank you.

21 MS. KHANNA: Your Honor, pursuant to federal rule of

22 evidence 702, I would like to proffer Mr. Cooper as

23 redistricting, demographics, and census data to the Court.

24 MR. DAVIS: No objection, Judge.

14:14:48 25 JUDGE MARCUS: I'm sorry. I couldn't hear you.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 MR. DAVIS: No objection, Your Honor.

2 JUDGE MARCUS: We will qualify the witness as an
3 expert in those three fields. You may proceed.

4 MS. KHANNA: Thank you, Your Honor.

14:15:00 5 BY MS. KHANNA:

6 Q Mr. Cooper, can you please tell the Court what you were
7 asked to do in this case?

8 A Yes. I was asked to do two different things. One, to
9 determine whether or not the minority population, specifically
10 the African-American population in Alabama was sufficiently
11 large in geographically compacted to create a second
12 majority-black district in central and south Florida, and also
13 to produce some statistics from the Census Bureaus,
14 specifically the American Community Survey examining the
14:15:38 15 socioeconomic well-being of African-Americans as opposed to
16 non-Hispanic whites in the state.

17 Q Did you reach any conclusions regarding whether the black
18 population in Alabama is sufficiently large and geographically
19 compact to create an additional majority-black congressional
14:15:55 20 district?

21 A Yes, I did.

22 Q And what was that conclusion?

23 A It is definitely sufficiently large and sufficiently
24 geographically compact to create a second majority-black
14:16:08 25 district based on the 2020 census.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q How did you determine that?

2 A I took the U.S. census data that was released back in
3 August and developed some illustrative plans combining
4 different counties, different parts of south Alabama, and those
14:16:30 5 plans were ultimately part of my first declaration, where I
6 drew I think six illustrative plans.

7 Q Great. And did you reach any conclusions regarding
8 whether there were any disparities between black Alabamians and
9 white non-Hispanic white Alabamians on various indicators on
14:16:51 10 socioeconomic well-being?

11 A Yes. That's just clearly apparent, I think, to most
12 anyone, and data really brings it out. Poverty rates are twice
13 as high for African-Americans versus non-Hispanic whites in the
14 state. College graduation rates are higher for non-Hispanic
14:17:11 15 whites. One could go on and on. It's very difficult to find
16 any data point relating to socioeconomic well-being that
17 results in African-Americans at large in the state
18 outperforming whites.

19 Q All right. I'd like to turn a little bit to the
14:17:28 20 demographics of the state.

21 Can you please describe at a high level the population
22 growth patterns among different racial groups in Alabama since
23 between the 2010 census and the 2020 census?

24 A Well, the population in the state that has increased. And
14:17:45 25 I think I have a table in my declaration. Specifically,

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 though, the minority population grew. I don't have the
2 percentage right off the top of my head. But I think it's
3 about 5 or 6 percent. And the non-Hispanic white population
4 actually fell by about 1 percent. And so African-Americans, I
14:18:09 5 believe, comprise a significant component of the minority
6 population growth. But the fastest growing minority population
7 in Alabama between 2010 to 2020 is actually the Latino
8 population starting from --

9 Q I think you are referring to --

14:18:34 10 A Oh, starting from a much lower population base.

11 JUDGE MARCUS: I think the point, Mr. Cooper, that our
12 court reporter is making is that she's had some trouble taking
13 down the testimony. She wants to get it exactly correct, so as
14 we proceed, just really proceed very slowly for all of us, and
14:19:00 15 we'd be much appreciative.

16 Did you want to put your question again, Ms. Khanna?

17 MS. KHANNA: No, Your Honor. I think we actually have
18 it on record now.

19 JUDGE MARCUS: Okay.

14:19:11 20 THE WITNESS: I would like to clarify that actually
21 the fastest growing population in the minority community would
22 have been Asian Americans. Not in terms of absolute numbers,
23 but just in terms of percentages. It nearly tripled by
24 193 percent.

14:19:29 25 BY MS. KHANNA:

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q All right. And I think that the figure you're referring
2 to is Figure 1 on page 6 of your report.

3 MS. KHANNA: Let's call that up. That's Caster
4 Plaintiffs' Exhibit 1, Figure 1.

14:19:43 5 BY MS. KHANNA:

6 Q So what does this figure indicate about the white
7 population since 2010?

8 A Since 2010, it's up by -- it's down by 1 percent, 33,000.

9 Q And what about the minority population overall?

14:20:01 10 A Up by 17 percent or 277,594.

11 Q And what about the single-race black population, including
12 black Hispanics?

13 A The single-race black population has increased by 44,851
14 persons or 3.58 percent.

14:20:25 15 Q And finally, what about the any-part black population?

16 A It increased by 83,618, or 6.53 percent.

17 Q Mr. Cooper, what is the difference between single-part
18 black -- the single-race black -- sorry -- and the any-part
19 black metric?

14:20:45 20 A Well, the single-race black category is just simply -- an
21 enumeration of the number of people when filling out the 2020
22 census form, there's an option to sign as single-race black or
23 black plus one other race, which could be black and white,
24 black and indigenous, black and Asian. So single race is just
14:21:14 25 for persons who checked black and nothing else. Any part would

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 include those who also identified as having some other racial
2 background in addition to being black.

3 Q So which metric do you typically use in determining
4 whether the black population is sufficiently large and
14:21:36 5 geographically compact to comprise a majority-black district?

6 A Well, it would vary from place to place, but primarily
7 nowadays in most parts of the South, I would use any-part
8 black, perhaps elsewhere say in south Florida, I might look at
9 non-Hispanic black just because it's a very large Latino
14:22:00 10 community there. But for Alabama, I think the appropriate
11 category to examine is the any-part black population.

12 Q And why do you choose to look at the any-part black
13 population?

14 A Because households in the 2020 census and individuals have
14:22:15 15 identified as either single-race black or some other part
16 black, and in addition to that, there is case law out there --
17 I am not a lawyer, but the definition has been accepted by the
18 Supreme Court going back to Ashcroft vs. Georgia, and so it
19 seems appropriate to use that definition.

14:22:41 20 Q So it's your understanding that the Supreme Court has
21 required the use of the any-part black metric in cases such as
22 this; is that right?

23 A I believe so. I believe so. It could vary from place to
24 place, though. I will point that out. But it's not something
14:22:59 25 that would be a factor in Alabama where the Latino population

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 is still relatively small, and beyond that probably, 40 percent
2 of the Latino population is noncitizen. So the key minority
3 population in Alabama is African-American.

4 Q So, Mr. Cooper, have any courts in Section 2 cases where
14:23:25 5 you have served as an expert used the any-part black metric in
6 determining whether the first *Gingles* precondition has been
7 met?

8 A My recollection is at least two have. One in Fayette
9 County, Georgia in 2014 or 2015, NAACP versus Fayette County.
14:23:46 10 And another time in the school board case I was involved in, in
11 Ferguson-Florissant school district outside of St. Louis,
12 Missouri. And I routinely report the any-part definition. In
13 some instances, it doesn't become an issue. But those are two
14 where I think it -- at some level did become an issue when the
14:24:09 15 Court accepted the any-part definition.

16 Q I'd like to move on to discuss the geographic distribution
17 of the black population in Alabama. Let's pull up Figure 2 of
18 your report, which is on page 8 of Plaintiffs' Exhibit 1.

19 Can you please describe what this figure shows?

14:24:32 20 A Yes. This shows the distribution of the black population
21 by percentage black at the county level. So naturally, some of
22 the more rural counties in the so-called Black Belt have high
23 percentages of African-American populations. And, of course,
24 Montgomery County is part of the Black Belt. And it, too, is
14:24:55 25 almost is roughly 50 percent black, I believe. It was a very

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 large population. But in addition to Montgomery County, there
2 are other counties in the state more urban, including
3 Jefferson, Tuscaloosa, Mobile, and, of course, Huntsville, as
4 we've sort of discussed or was discussed this morning. All of
14:25:13 5 those areas have very large numbers of African-Americans.

6 Q Okay. I am going to pull this one down and pull up Figure
7 4 of your report, which is on page 11. I believe this is the
8 current the 2021 enacted congressional plan; is that right?

9 A Yes.

14:25:35 10 Q Are any of the districts in this plan majority-black?

11 A Only one.

12 Q Which one is that?

13 A District 7. District 7.

14 Q Do you know how much of Alabama's black population is in
14:25:52 15 District 7 under this plan?

16 A I believe that I calculated that it was around 14 percent.

17 Q Actually, I am going to refer you to paragraph 28 of your
18 report. And I think there -- if that refreshes your
19 recollection, there your report -- the percentage of the
14:26:11 20 statewide black population that resides in District 7?

21 A I'm sorry. Which paragraph?

22 Q Paragraph 28.

23 A Oh. Oh. I'm sorry. Yes. You're right. Of all -- of
24 all of Alabama's black population, about a third does reside --
14:26:32 25 less than a third in Congressional District 7.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q Great. Thank you. We can take that down.

2 In which districts -- so you said less than a third of the
3 black's population resides in majority-black district under the
4 congressional map; is that right?

14:26:48 5 A Yes.

6 Q In which districts do the remaining two-thirds of black --
7 of the black population generally reside?

8 A In Districts 1, 2, and 3.

9 Q Okay. Let's pull up -- if we could please pull up Figure
10 5 of your report on page 12 of Caster Plaintiffs' Exhibit 1.

11 A Yes.

12 Q What is the Black Voting Age Population of District 7
13 under the enacted plan?

14 A The percentage is 55.26 percent and in District 7.

14:27:28 15 Q And what is the Black Voting Age Population of Districts
16 1, 2, and 3 in the enacted plan?

17 A 1 and 3 are at just about 25 percent. District 2 is just
18 a little bit over 30 percent.

19 Q So about a quarter to a third of the eligible voters in
14:27:50 20 each of these three districts is black?

21 A Yes.

22 Q What is the total black population of those three
23 districts -- Districts 1, 2, and 3 under the enacted plan? And
24 if it helps, I can refer you to paragraph 29 of your report.

14:28:15 25 A Oh, oh, okay. For -- well, for 1, 2, and 3, the total

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 population -- the total black population would be 612,759.

2 Q How does that number compare to the ideal population for
3 an Alabama congressional district?

4 A It's almost as large as the ideal district size, which is
14:28:46 5 717,754.

6

7 Q So taken together, these three districts have enough black
8 population to form nearly an entire congressional district; is
9 that right?

10 A That's correct. It's actually -- it would be about
11 85 percent of the congressional district. And that would mean
12 all the people in that particular 85 percent would be black.
13 So that's a lot of people who are left out.

14 Q Thank you. I think we could take this exhibit down.
14:29:20 15 Mr. Cooper, you testified earlier that less than a third of
16 Alabama's black population resides in a majority-black
17 congressional district; is that right?

18 A Right.

19 Q How much of Alabama's non-Hispanic white population
14:29:33 20 resides in a majority white district?

21 A Over 90 percent.

22 Q 92 percent exactly, right?

23 A Yes. It sounds right.

24 Q And that's in paragraph 28 of your report?

14:29:45 25 A Yes.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q So according to the 2020 census, what percentage of
2 Alabama's population is black?

3 A According to the 2020 census, it is -- let me refer back
4 to Table 1. It's 20 -- 27.16 percent is any-part black. Was
14:30:16 5 that your question?

6 Q Yeah.

7 A Yeah.

8 Q So over 27 percent of the population is black in the 2020
9 census?

14:30:26 10 A Yes.

11 Q What percentage of Alabama's congressional districts are
12 majority-black?

13 A There's a 14 percent number. One out of seven.

14 Q One out of seven. So if Alabama were to draw a second
14:30:39 15 majority-black district, what percentage of Alabama's
16 congressional districts would be majority-black?

17 A About 28 percent, roughly in line with the statewide
18 percentage of African-Americans, which is about 28 percent
19 almost, or soon will be if the population continues to grow in
14:30:58 20 the course of a decade.

21 Q So according to the 2020 census, what percentage of
22 Alabama's population is non-Hispanic white?

23 A It is 63.12 percent.

24 Q And what percentage of Alabama's congressional districts
14:31:17 25 are majority white under the enacted plan?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Six out of seven, or 70 -- well, six out of seven. I am
2 not doing the math right, but it's going to be in the mid 80s.
3 86 percent, I guess.

4 Q I am going to do the math myself. Is it about
14:31:39 5 85.7 percent; is that right?

6 A Yeah. I rounded it up.

7 Q If Alabama were to draw a second majority-black
8 congressional district, what percentage of Alabama's
9 congressional districts would remain majority white?

14:31:55 10 A About 72 percent.

11 Q Thank you. I will move on to the state board of education
12 plan that you mention in your report; is that right?

13 A Yes.

14 Q Why do you reference the 2021 Alabama State Board of
14:32:18 15 Education plan?

16 A Well, the Alabama State Board of Education plan, the 2021
17 plan has eight districts, and two of them are majority-black.
18 One is anchored in Jefferson County, and the other in south
19 central, Alabama, and includes both Montgomery County and/or at
14:32:40 20 least part of Montgomery County and part of Mobile County. So.

21 Q Let's --

22 A Proceed.

23 Q Sorry. Let's pull up the map so that we're all looking at
24 the same one. If we could please pull up Plaintiffs' Exhibit 1
14:32:53 25 Figure 9 on page 19. So, Mr. Cooper, this is the 2021 board of

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 education map; is that right?

2 A That's correct.

3 Q Do you know when this map was enacted by the Alabama
4 Legislature?

14:33:07 5 A I believe in late October and signed into law in November,
6 along with the congressional plan.

7 Q So this was at the same time as the 2021 congressional
8 plan; is that right?

9 A Yes.

14:33:21 10 Q And so which of the districts under this plan are
11 majority-black?

12 A District 4, which is the green district, and the kind of
13 purplish color District 5, which is a district that goes from
14 the western Black Belt Macon County then through part of
14:33:41 15 Montgomery County to Mobile.

16 Q And is this the first time as far as you're aware that
17 Alabama has had a State Board of Education plan with two
18 majority-black districts?

19 A No. There's a long tradition of the configuration very
14:33:56 20 similar to this plan. I have a map in this declaration showing
21 the 2011 plan, if memory serves, the percentages are about the
22 same. And the two districts look very similar between 2011 and
23 -- between 2010 and 2020 census.

24 Prior to that, there was a plan adopted in the early 2000s
14:34:24 25 that I reference that had one district that was based on

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 single-race black slightly below 50 percent. In paragraph 34,
2 I have 47.61 percent. That was District 4 in the north, I
3 think. And then District 5 in the south was almost 52 percent
4 single-race black.

14:34:47 5 And there was litigation in the 1990s. So I think there
6 was a court ordered plan in 1996. And in that plan, District 4
7 was about 46.6 percent black and voting age, and District 5 was
8 51.75 percent. So for 25 years now, there has been two
9 majority-black school board districts out of eight.

14:35:11 10 Q Can you please describe looking at the 2021 board of
11 education plan, can you describe how District 5 is drawn here?

12 A Well, yes. It's -- it's drawn from Macon and Bullock
13 County in the east southwest through the Black Belt to Mobile
14 County and the city of Mobile and north along the Mississippi
14:35:43 15 line up to Sumter County. And then at that point, it borders
16 District 4, which is the second majority-black district that
17 includes the east -- the western part of the Black Belt,
18 including Tuscaloosa and part of Jefferson County.

19 Q Does District 5 include all of Mobile County?

14:36:08 20 A No, it does not.

21 Q Does the 2021 State Board of Education plan combine part
22 of Mobile County with Montgomery County?

23 A Yes, it does.

24 Q And does it also combine part of Mobile County with
14:36:28 25 Baldwin County in District 1?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Yes, it does.

2 Q What portion of Alabama's black population resides in
3 these two majority-black board of education districts today?

4 A I believe that it is very close to half of the black
14:36:46 5 population. I think I have that figure in my declaration.

6 Q And I can refer you to paragraph 37, if that's easier.

7 A Yes. There it is. 51.69 percent.

8 Q So more than half of the state's black population --
9 sorry.

14:37:06 10 A No. Statewide population. Black population, right.

11 Q More than half of the state's black population then
12 resides in a majority-black board of education district; is
13 that right?

14 A Yes. In either District 4, which is the one in the north,
14:37:20 15 or District 5, which is the one in the central and south part
16 of the state.

17 Q So what did your review of this plan, the State Board of
18 Education plan, tell you about the possibility of drawing an
19 additional majority-black congressional district?

14:37:35 20 A Well, it suggests that it would not be at all difficult to
21 get a second black-majority congressional district because
22 there are only -- there are eight districts in the school board
23 plan and seven in the congressional plan. And the state is now
24 on record as proving a configuration much like this. So my
14:38:02 25 assumption -- working assumption at the outset was that it

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 would be possible to draw an additional district based on the
2 2020 census data.

3 Q And that's true even though this is an eight district plan
4 and the congressional map is a seven district plan?

14:38:16 5 A Right. Right, because it's not including some areas that
6 have significant black populations in those two districts.

7 Q Great. We can take this down now. Thank you.

8 I want to turn now to the illustrative plans that you
9 produced in your reports.

14:38:37 10 Can you first describe to the Court what an illustrative
11 plan is?

12 A Well, an illustrative plan is basically what it says it
13 is. It's just a plan that makes a demonstrative exhibit
14 showing how one might draw a plan given certain sets of
14:39:00 15 parameters. And so I've drawn a total of seven illustrative
16 plans, each of which has two majority-black districts.

17 Q So when you assess whether the black population is
18 sufficiently large and geographically compact to allow for the
19 creation of an additional majority-black district, is it
14:39:21 20 necessary to consider race?

21 A Yes. One of the traditional redistricting principles is
22 to be aware that you have -- that you are not diluting minority
23 voting strengths when you are developing a voting plan and the
24 underlying districts. So that is -- it is always a factor that
14:39:42 25 one must consider no matter where you are, or maybe not

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Vermont, but generally speaking, you have to pay attention to
2 it, particularly in the South.

3 Q And are there other considerations that you take into
4 account when drawing illustrative plans, as well?

14:39:58 5 A Several. All districts have to be reasonably compact,
6 contiguous, and certainly have to be relatively equal in
7 population for congressional districts. They have to be almost
8 0. For school board districts, you can be kind of in a plus or
9 minus 5 percent range, probably although some states have more
14:40:22 10 restrictive requirements maybe than Alabama has with respect to
11 the school board.

12 Q So you reference in your report traditional redistricting
13 principles; is that right?

14 A Yes.

14:40:33 15 Q And what are -- without listing them out necessarily, what
16 does that generally refer to? What does it mean that term?

17 A Well, it's just a set of objectives, goals, that want you
18 to have in mind when putting together an illustrative plan or
19 what would ultimately become a real plan. You have to be aware
14:40:55 20 of the underlying demographics of the communities you're
21 working with, and try to produce a plan that is fair and
22 constitutional. And that's what I believe I have done in the
23 case of the seven illustrative plans that I have drawn for
24 Alabama's congressional plan.

14:41:14 25 Q And you would consider traditional redistricting

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 principles whether you are drawing an illustrative plan for
2 litigation or an actual district plan for a jurisdiction; is
3 that right?

4 A That's right. Yeah. It's the same.

14:41:27 5 Q So what specific traditional districting principles did
6 you consider in drawing the illustrative plans in this case?

7 A Well, I took all of them into consideration. I examined
8 the document produced back in May by the Alabama Legislature
9 outlining the guidelines for redistricting. But a lot of that
14:41:48 10 just incorporates the general concept of traditional
11 redistricting principles. So I didn't prioritize any of them.
12 I tried to balance them.

13 Q And those principles include population equality; is that
14 right?

14:42:01 15 A Yes.

16 Q And what else?

17 A Contiguity. The districts must be contiguous, either by
18 land or water. I think the Alabama redistricting guidelines
19 allow contiguity by water and not necessarily not by land or
14:42:18 20 road.

21 And then other factors are compactness. They have -- the
22 district has to be reasonably compact. One should also, of
23 course, very important to pay attention to political
24 subdivisions, counties, precinct lines, municipal boundaries,
14:42:37 25 sometimes the latter municipal boundaries can be very difficult

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 to contend with in Alabama because there are some odd shapes
2 out there. But one should try to keep communities together,
3 jurisdictions together where possible. Obviously, if you start
4 at the county level, which I basically did, so many of the
14:42:53 5 component parts of the congressional plan involve whole
6 counties that you are automatically including political
7 subdivisions in toto cities, except maybe in a few rare
8 instances like in Jefferson County and Hoover, where part of
9 the city of Hoover dips into Shelby County. Most of it's in
14:43:17 10 Jefferson County.

11 Q I believe you also mentioned in your report the principles
12 of respect for communities of interest and non dilution of
13 minority voting strengths; is that right?

14 A Yes.

14:43:27 15 Q So was any one factor of the ones we just mentioned
16 predominant, the predominant factor when you were preparing
17 your illustrative plans in this case?

18 A Not really. I feel like I gave them equal weighting. It
19 would be possible to prioritize others and come up with
14:43:46 20 different configurations, but perhaps at the expense of one of
21 the key redistricting principles. So you could draw very
22 compact districts, but they might split numerous counties
23 because they're perfect squares. Or you draw a district that
24 is -- two districts that are maybe 60 percent black, but they
14:44:09 25 wouldn't be contiguous. That, you know, so you have to balance

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 it.

2 Q And did race predominate in your development of any of the
3 illustrative plans?

4 A No. It was a consideration. This is a Section 2 lawsuit,
14:44:23 5 after all. But it did not predominate or dominate.

6 Q And you were balancing all the traditional redistricting
7 principles during your development of these plans?

8 A I believe so. I believe so. I was thinking about a lot
9 of different things. And all of those things kind of come
14:44:41 10 together in one or more of these illustrative plans.

11 Q Let's talk through what -- how those principles came to
12 be.

13 You mentioned population equality. How is this principle
14 reflected in your illustrative plans?

14:44:57 15 A Well, all of these plans have districts that are for all
16 intents and purposes zero deviation plus or minus one person.
17 One of them is minus two in one instance because I didn't want
18 to split a county. But, you know, there's zero deviation
19 plans. There's no -- no disputing that.

14:45:17 20 Q I think you also mentioned respect for political
21 subdivision boundaries in drawing illustrative plans?

22 A Yes.

23 Q And how did you follow that principle in drawing the plan?
24 What was your approach?

14:45:28 25 A Well, I felt like it was important to either meet or beat

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 the county split achievement of the enacted plan. And I did so
2 in almost all the plans I drew. The enacted plan splits six
3 counties. And I think four of the plans I draw split six
4 counties. One splits five. And a couple others split seven,
14:45:55 5 although one of those splits is only 15 people in the one -- in
6 one of the plans involves seven county splits. So arguably,
7 that's not a necessary split and could be left as entirely in
8 Calhoun County instead of splitting Calhoun County.

9 Q Was it possible to keep the counties whole in drawing
14:46:21 10 these illustrative plans?

11 A Yes. I do split a county here and there often just to
12 achieve something very close to zero population deviation. So
13 it is very easy to draw districts in Alabama for a second
14 majority-black district that is built off of whole counties.
14:46:40 15 There are splits. One split always. But for the most part,
16 it's a very reasonable compact shape that you end up with when
17 you draw a plan that is -- contains two majority-black
18 districts.

19 Q So am I understanding your report correctly when you say
14:47:01 20 that you have to -- you had to split a few counties in order to
21 meet population equality; is that right?

22 A Oh, yes, you do. At some point, you have to split a
23 county. You could, you know, conceivably draw a plan that
24 maybe split four counties and had a higher deviation. I'm not
14:47:24 25 -- it's very unclear just to how far you can go with a

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 congressional plan above and below zero. Certainly, though, as
2 long as you're in the low teens, that's a zero deviation plan.

3 Q And certainly your plans are primarily plus or minus
4 one person; is that right?

14:47:40 5 A Yeah. There's -- there are two that are minus two in one
6 of the districts. And it just did not make any sense at all to
7 go into another county with a split and move one person. Of
8 course, you couldn't do that because the secret ballot. So you
9 would end up having to like move 300 people from one county in
14:48:01 10 one precinct into one county and split the other county so you
11 could put 302 in that. I mean, that's just pointless to do
12 anything other than except a minus two deviation.

13 Q Mr. Cooper, when you were forced to split a county to
14 achieve population equality, what was your approach in
14:48:22 15 splitting counties?

16 A Well, I tried to minimize precinct splits. Often that was
17 not possible. Again, because I was aiming for zero deviation.
18 So I think one of my plans splits 12 precincts. And I believe
19 the state splits seven. So I didn't quite hit their number in
14:48:44 20 that particular metric. But all of them are drawn to minimize
21 precinct splits.

22 I drew a couple of plans that kept the city of Mobile
23 whole. And in that case, both of those plans split around 20
24 or so precincts. That was partly just to follow the city
14:49:04 25 boundaries of Mobile. So it's not going to create any kind of

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 administrative problem for the city of Mobile because they have
2 city elections there, and they have already got everybody
3 organized by whether they're in the city of Mobile or in the
4 county as a whole for county elections.

14:49:17 5 Q So when you did have to split precinct boundaries, did you
6 follow other natural geographic boundaries or political
7 boundaries?

8 A Yes. I would follow either precinct lines or municipal
9 lines, primary roads, waterways, maybe, in a few instances.
14:49:35 10 Also sometimes in some instances, I followed census block
11 groups, which is an area that has been designated by the Census
12 Bureau as having some commonality. So that's another
13 geographic reference point that I used.

14 Q Mr. Cooper, you also considered geographic compactness in
14:49:58 15 drawing your illustrative plans; is that right?

16 A Yes, I did.

17 Q What are the most common compactness metrics?

18 A The most common is just eyeballing it as you draw the
19 plan. But if you are really obsessive about it, you can
14:50:16 20 constantly get readouts of various compactness scores. The
21 most widely relied upon are probably the Reock score and the
22 Polsby-Popper score. So you can get instant -- virtually
23 instant readouts of what the scores are for any district you're
24 drawing as you're drawing them from within the Maptitude
14:50:39 25 program that I used.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q Can you describe in layman's terms what the Reock score is
2 measuring?

3 A Yeah. It's basically measuring the extent to which a
4 district minimizes the area of the district if you circumscribe
14:50:56 5 that district with a circle. So if you drew a circle, which
6 would be a perfect compact score, the Reock score would be 1.8.
7 Of course, if you drew a circle, you would end up splitting
8 counties, splitting precincts, splitting most cities. There
9 may be a couple in Alabama that are circles. There are in
14:51:15 10 George. But, yeah, that would be the perfect score, though,
11 one.

12 Q Okay. And how about the Polsby-Popper metric? What is
13 that measuring on the compactness when you are looking at
14 compactness?

14:51:26 15 A That looks at the perimeter of the district. For example,
16 you could have a Reock score that is very close to one because
17 you have drawn a very concentrated area in the district. But
18 with lots of squiggly lines. So the Reock score could be very
19 high, but that would be somewhat misleading, very misleading if
14:51:44 20 you looked at the perimeter of the district and relied on the
21 Polsby-Popper measure where it would score quite low.

22 Q Both of these metrics kind of capture different aspects of
23 compactness; is that fair to say?

24 A Right. You have to pay attention to those. They both
14:51:59 25 tell you a little something.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q So how did you -- what was your approach to drawing --
2 what was your approach to incorporating the compactness
3 principle in drawing your illustrative plans?

4 A Well, I would occasionally glance at the score, and also I
14:52:13 5 was aware of the score that the state had for their plan. And
6 so I wanted to make sure that my score was sort of in the
7 ballpark of the state score. And I think that's generally the
8 case.

9 Some of my plans are somewhat lower, slightly lower, but
14:52:31 10 still certainly within the normal range if you look at
11 districts around the country. And in one instance, the last
12 plan I drew, illustrative plan 7 is part of my rebuttal
13 declaration, I think my district is actually higher on a mean
14 average score than the state's plan. And just 1/100th of a
14:52:51 15 point lower on the Polsby-Popper score. So in that case, I
16 have met the same standard that the state has. It would be
17 unfair maybe to call it a standard, because they don't specify
18 what a score should be. It just happens that they had a
19 certain score, and so I looked at that as a possible yardstick.

14:53:09 20 Q You also considered the principle of contiguity; is that
21 right?

22 A Yes. One good thing about Maptitude is -- and all modern
23 day GIS software, but back in the '90s, not the case. You can
24 get an instant readout as to whether the district is contiguous
14:53:29 25 in its entirety. So I took that into account.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q And are all the illustrative plans contiguous?

2 A Yes.

3 Q You also mentioned in your report communities of interest
4 as one of the principles you took into account; is that right?

14:53:45 5 A Right.

6 Q How did you define communities of interest?

7 A Well, I -- and in basically working with a computerized
8 map, and so I consider communities of interest to include
9 political subdivisions like counties and towns and cities. I'm
10 also aware that the minority population in and of itself can be
11 a community of interest. I have some knowledge of historical
12 boundaries. For example, one of my -- one of my maps here
13 shows what is kind of generally considered to be the Black Belt
14 of Alabama, the group mainly of rural counties plus Montgomery
15 County in the central part of the state. So I was aware of
16 that historical feature.

17 So, you know, communities of interest can cross over into
18 many different features, but I guess the political subdivision
19 and the importance of recognizing communities of interest in
20 minority populations, those two items were probably top of mind
21 as I was drawing the plan, with respect to communities of
22 interest.

23 Q Mr. Cooper, you reference the 2021 redistricting
24 guidelines in your report; is that right?

14:55:07 25 A Yes.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q Did you refer to those guidelines before developing your
2 plans in this case?

3 A I did.

4 Q I'd like to pull those up. If you could pull up please
14:55:19 5 Plaintiffs' Exhibit 82. And are these the reapportionment
6 redistricting guidelines that we were just talking about?

7 A Yes. And there's a very good written description of
8 communities of interest in the guidelines themselves.

9 Q And, Mr. Cooper, I think we have it up on the screen. I
14:55:44 10 think that's where you will find it. I don't believe it's in
11 your report.

12 Okay. If we could turn -- you mentioned the description
13 of communities of interest. If we could scroll down to I think
14 it's page 2 to 3, section --

14:56:00 15 A I found it.

16 Q Where are we -- j(iii). You see that?

17 A Yeah. I got it. Line 28.

18 Q Can you please read the text starting, community of
19 interest is defined as an area? Could you read that? We will
14:56:14 20 highlight that text there. Can you please read that out loud?

21 A Yeah. Districts shall respect communities of interest,
22 neighborhoods, and political subdivisions to the extent
23 practicable and in compliance with paragraphs A through I, and
24 then the definition. A community of interest is defined as an
14:56:32 25 area with recognized similarities of interests, including but

Christina K. Decker, RMR, CRR
Federal Official Court Reporter

101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 not limited to ethnic, racial, economic, tribal, social,
2 geographic, or historical identities. The term communities of
3 interest may in certain circumstances include political
4 subdivisions such as counties, voting precincts,
14:56:52 5 municipalities, tribal lands and reservations, or school
6 districts.

7 Q Thank you. We can take that --

8 A Oh.

9 Q Certainly, we can keep reading. If you look at the
14:57:05 10 screen, we have highlighted certain language that I just wanted
11 to focus on for a moment.

12 A Right.

13 Q So which of -- when you were -- you said you were -- when
14 you were approaching the communities of interest criterion, you
14:57:14 15 specifically looked at political subdivisions, and such as
16 counties, pre precincts, municipalities; is that right?

17 A Yes, among other things, that's right. I was balancing
18 things.

19 Q And there are multiple ways to define various communities
14:57:30 20 of interest across the state; is that right?

21 A True.

22 Q We can take this down. Mr. Cooper, in your opinion, as
23 somebody who draws electoral districts for a living, do each of
24 the illustrative plans comply with traditional districting
14:57:53 25 principles as the ones we just discussed?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Absolutely. I think they are all worthwhile plans that
2 are worth considering as possible remedial plans.

3 Q And they all balance the various criterion we just
4 discussed?

14:58:11 5 A Yes. In my opinion. I don't think I went to the extreme
6 in any of them.

7 Q Mr. Cooper, how many illustrative plans did you draw in
8 this case?

9 A I drew seven. Six in my initial declaration and seven in
14:58:28 10 my rebuttal declaration.

11 Q All right. I want to talk a little bit about the common
12 features we see among all of the illustrative plans. And I can
13 -- we can just pull up Illustrative Plan 1, just as a visual
14 aid. We can pull up Plaintiffs' Exhibit 18. This is attached
14:58:46 15 as Exhibit G-2 of your report. You can look it on the screen
16 here.

17 A Yes.

18 Q Where is District 7 roughly located across your
19 illustrative plans?

14:58:55 20 A Well, District 7 is to the north. And almost always
21 includes -- it always includes Jefferson County, which I think
22 has the largest black population in the state. And also
23 includes part of Tuscaloosa County and part of the city of
24 Tuscaloosa, as well as the rural counties in the western Black
14:59:20 25 Belt, including, of course, Dallas County where Selma is

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 located and Wilcox County. So it's the western and northern
2 district.

3 Q Where is District 2 generally located in your illustrative
4 plans?

14:59:35 5 A In the south. Again, also including the western border,
6 but the southern half -- normally I think most of the plans for
7 District 2 extend -- all of them start in Mobile County and I
8 think go as far north as Choctaw. There may be one that
9 splits. I don't recall. And then west to include Montgomery
14:59:59 10 County all or and in part, or in some instances such as this
11 one, I included districts that go all the way to the Georgia
12 state line, including Russell, Barbour, and Henry. Some of the
13 plans only go as far as Macon and Bullock.

14 Q Great. And can you specifically discuss the configuration
15:00:27 15 of Mobile County in your illustrative plans?

16 A Well, in the illustrative plans, all of the illustrative
17 plans include a significant portion of the city of Mobile, or
18 in the case of District 6 and 7, all of Mobile.

19 In illustrative plan 1, the only -- the primary area of
15:00:56 20 Mobile that I excluded from District 2 is the waterfront area
21 of Mobile, which is actually a grouping of precincts that are
22 predominantly African-American and I put into District 1 so
23 that there was a transportation route between District 1 and
24 Mobile County and District 1 in Baldwin County. So you don't
15:01:24 25 need to drive outside of District 1 to get from one part of

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 District 1 to the other. You have a straight route going
2 across U.S. 98 and Mobile Bay. And there are a few precincts
3 that are split along that route I-10 area coming in to downtown
4 Mobile. And that actually is a feature of most of my plans,
15:01:50 5 except for illustrative Districts 6 and 7 -- illustrative plans
6 6 and 7, which keep all of Mobile whole, extending it right up
7 to the waterfront.

8 Q This feature of dividing Mobile County, is that something
9 that you observed in the board of education plan, as well?

15:02:10 10 A Well, yes. The board of education splits Mobile County.

11 Q Are the Black Voting Age Populations of Districts 2 and 7
12 in each of your illustrative plans over 50 percent?

13 A Yes.

14 Q And that is any-part black?

15:02:30 15 A That is any-part black, although I think there are a
16 couple maybe that are also over single-race black, as well.

17 Q So in your report, you also report the -- let me take down
18 this figure.

19 You also report the non-Hispanic single-race Black Citizen
15:02:52 20 Voting Age Population in your report in your illustrative
21 plans, as well; is that right?

22 A That is true. That's the most restrictive definition one
23 could identify because it requires you not only be non-Hispanic
24 black and over 18, but you also must be a citizen. And it's
15:03:12 25 also four years old. So given that the black population in

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Alabama is a little bit younger, it's probably historically
2 inaccurate, too. As those cohorts age, when we see what the
3 non-Hispanic black citizen population is for 2020, it may be a
4 little higher than what I'm reporting because I'm reporting
15:03:34 5 something with a survey midpoint of 2017.

6 Q So is my understanding -- is my understanding correct that
7 the non-Hispanic single-race Black Citizen Voting Age
8 Population is the most conservative accounting for who -- who
9 is actually a black voter in that district?

15:03:52 10 A That's correct.

11 Q And that it's likely even higher than that given there's
12 some time lag between the citizenship data that is available
13 from the Census Bureau?

14 A Yes. That's now over four years old. The 2015-2020 ACS
15:04:10 15 special tabulation, that's the name given to the citizenship
16 report that the Census Bureau normally publishes every year
17 about this time, it was delayed due to the pandemic, and I
18 think it's going to become available later this year. I don't
19 even think they have set a date yet. So it probably won't be
15:04:30 20 available until late spring.

21 Q And are there any other ways that you determined whether
22 black voters make up a majority of Districts 2 and 7 in your
23 illustrative plans?

24 A Yes. At the time I drew Illustrative Plans 1 through 6, I
15:04:46 25 did not have access to a contemporary voter registration file

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 that I could geocode. But as part of discovery, after
2 December 10th, I received a statewide voter file, which I
3 geocoded and was able to confirm that the active voter
4 registration rate in all districts that I have drawn, 1 through
15:05:09 5 6 illustrative plans, as well as illustrative 7 in those plans
6 in Districts 2 and 7, the underlying active voter registration
7 rate for African-Americans as a component of the total voter
8 population is over 50 percent.

9 Q And in filling out their voter registration forms, do
15:05:31 10 Alabama voters indicate whether they are any-part black or
11 single-race black? How do they indicate their race?

12 A Well, I've seen the voter registration application, and
13 there's just one choice. You either select black or white or
14 Asian. I think those are the three categories. But you also
15:05:50 15 have the option to check Hispanic. But if you are Hispanic
16 black, you have to make a choice. You cannot say I am Hispanic
17 and black and register in that fashion. You only can check
18 one.

19 Q I am actually going to pull up Plaintiffs' Exhibit 104,
15:06:02 20 which I believe is the voter registration form we have just
21 been discussing. And let's zoom in right there in the middle
22 left where it says race check one?

23 A Yes.

24 Q This is what you are referring to; is that right,
15:06:24 25 Mr. Cooper?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Right. Right. Because Hispanic is actually an ethnicity.
2 It's not a race. But in Alabama at least, you can just check
3 one. So you have -- if you choose your -- if you choose
4 Hispanic, then you are not really identifying the race.

15:06:40 5 Q So you only have -- you can only choose one box here, and
6 so if somebody checks off black, that's the only you marker
7 that they have checked?

8 A Right. They have decided they are black, even if they are
9 Hispanic.

15:06:53 10 Q Okay. Can we -- we can pull this down. If we can pull up
11 your supplemental report, Plaintiffs' Exhibit 59, Figure 4,
12 which is on page 12, what does this figure show?

13 A That shows the geocoded percentage of African-Americans
14 who reside -- African-American voters -- active registered
15:07:22 15 voters who reside in District 2 or District 7. And you can see
16 across the board there is a black registered voter majority and
17 all seven plans for both District 2 and District 7.

18 Q So in each of your illustrative plans, Districts 2 and 7
19 are majority-black using the any-part BVAP metric; is that
15:07:46 20 right?

21 A Using any-part BVAP metric, using a voter registration as
22 you see here on Figure 4, and also of course, based on the
23 American Community Survey estimates, which are older, but also
24 clearly have shown that the non-Hispanic black citizen
15:08:05 25 population in all seven plans in both Districts 2 and 7 over

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 50 percent. So there should be no question about that.

2 Q Okay. Great. We can take this down. Thank you.

3 We've talked a little bit about how Districts 2 and 7 are
4 configured generally across illustrative plans. What about the
15:08:25 5 remaining congressional districts?

6 A Well, I drew the other districts to the extent I could in
7 a fashion that was generally following the geographic areas of
8 the state where the enacted plan has a given district. Of
9 course, because I am drawing a new black majority congressional
15:08:52 10 district that there are differences I can't match up
11 completely. But I did by and large keep District 5 in the
12 north part of the state in the first six plans I drew very
13 similar, almost identical to the way the state has drawn it,
14 because it's far removed from the areas that were reconfigured
15:09:12 15 to create the second African-American majority districts. So I
16 was able to keep that one fairly intact.

17 Others changed, but still in the same general part of the
18 state.

19 Q And District 4, too, is largely kept in the similar
15:09:26 20 configuration as it is under the enacted plan?

21 A For the first six districts -- first six plans I drew, I
22 took a different approach with the last one, and so District 4
23 is more compact in that plan as is District 5.

24 Q How do the illustrative plans compare to the enacted plan
15:09:46 25 on the measure of county splits?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A About the same. The -- I drew seven plans. Four of them
2 have exactly the same number of county splits -- six. One has
3 just five splits. That's Illustrative Plan 7, and then the
4 other two I think have seven splits, which is the same number
15:10:15 5 the plan had in 2011 enacted plan. As I mentioned, in one
6 instance, one of the illustrative plan does have seven splits,
7 but it only involves 15 people in Calhoun County, so arguably
8 it would not be necessary to make that split for an enacted
9 plan. It -- I did it just to get it down to plus or minus one.

15:10:35 10 But that seems unnecessary.

11 Q Okay. Let's talk a little bit about the compactness of
12 the illustrative plan that's compared to the enacted plan. I
13 will pull up figure 22 of your initial report. We will pull it
14 up here on the screen, which is on page 36 of Plaintiffs'

15:10:52 15 Exhibit 1?

16 A Yes.

17 Q What does this table show?

18 A It shows compactness scores for various plans that I
19 produced, as well as the enacted plan and also historical
15:11:13 20 congressional plan, the 2011 benchmark plan and the 2011 board
21 of education plan.

22 When I did this declaration on December 10th, I did not
23 have a block equivalency file for the 2021 congressional plan
24 or for the board of education plan. And so to avoid some sort
15:11:32 25 of minor discrepancy, I didn't report the compactness scores

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 for the 2021 board of education -- I'm sorry. I had the
2 congressional plan, but not the board of education plan. So
3 that's why I did not report 2021 board of education in this
4 one. But we got the -- we got the updated shape file between
15:11:59 5 December 10 and 20, so that -- and my next declaration, the
6 second declaration, I do report the score for the 2021 board of
7 education plan. It's about the same.

8 Q And, Mr. Cooper, in your experience, is there a bright
9 line standard for when a district is considered compact?

15:12:17 10 A No. No. And you really have to go beyond compactness
11 scores and take into account other factors, like odd-shaped
12 counties, odd-shaped cities, odd-shaped precincts. There just
13 really is not a bright line rule, nor should there be.

14 Q So how do your illustrative plans compare, or on the -- on
15:12:43 15 these metrics of compactness compared the enacted plan?

16 A Compared to the enacted plan, a little bit lower. But
17 there's nothing out of order here.

18 And I was able to pay more attention to compactness in the
19 Illustrative Plan 7 as a result of comments by defendants'
15:13:05 20 expert Mr. Bryan. And decided to see if I could draw a plan
21 that was more compact than 2021 plan. And I didn't draw one
22 that was more compact, but it's clearly as compact.

23 So we've met that objective, as well, in Illustrative Plan
24 7.

15:13:24 25 Q Before we get to Illustrative Plan 7, I know that was in

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 your supplemental report, I believe you wrote in your report
2 here that your evaluation of these compactness metrics
3 indicated that the illustrative plans were in the comparable
4 range as the other Alabama statewide plans including the
15:13:42 5 enacted congressional plan; is that right?

6 A That's right. That's right.

7 Q And you believe that the illustrative plans are comparable
8 in compactness to the enacted plan?

9 A I think so. I mean, they're not -- they're not scored
15:13:56 10 quite as high, but there is no, you know, you could get a blue
11 ribbon I guess for the best possible plan, in terms of the
12 Reock and Polsby-Popper scores. But that doesn't mean that all
13 the other plans are losers. They place.

14 Q All right. And you mentioned Illustrative Plan 7. Let's
15:14:16 15 pull that one up. Plaintiffs' Exhibit 59, Figure 3. And so
16 this is the chart that explains the metrics for Illustrative
17 Plan 7 as well as the 2021 board of education plans, Senate
18 plan and House plan, which you have added here, as well,
19 additional statewide plans; is that right?

15:14:37 20 A Right.

21 Q So why did you draw Illustrative Plan 7?

22 A Well, the defendants' expert is really almost obsessed
23 with compactness scores, so I felt like, well, you know, better
24 show that you can do two districts in a seven district plan
15:14:54 25 that have compactness scores that are equal to the 2021 plan

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 and not just a few hundredths of a point below. So that's what
2 I did with Illustrative Plan 7. A Reock score -- go ahead.

3 Q I was -- I was going to say the same thing you were. In
4 fact, the Illustrative Plan 7 actually has a higher Reock score
15:15:12 5 than the enacted plan; is that right?

6 A It does. It does. .41, and the enacted plan is .38.

7 Q And the Polsby-Popper score is I think 100th of a point
8 different; is that right?

9 A That's right.

15:15:25 10 Q And you mentioned the report submitted by Mr. Bryan in
11 this case. That's the defendants' expert; is that right? Is
12 that what you are referring to?

13 A Yes.

14 Q Was there anything in Mr. Bryan's report change your
15:15:41 15 opinion on whether or not the illustrative plans achieve
16 compactness?

17 A No, not at all. He used a methodology really an
18 evaluating plans at least in his initial declaration that was
19 flawed because you can't just add up the numbers. But, no,
15:15:56 20 nothing there would have changed my mind.

21 Q Great. We can take this down.

22 MS. KHANNA: Your Honor, I know we have been going for
23 a little over an hour. I am about to start talking about some
24 of the specifics of the illustrative plans. I would say I have
15:16:15 25 about maybe a half hour left. And I didn't know if the Court

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 wanted to take a break now.

2 JUDGE MARCUS: If you prefer to break at this point
3 and then pick up?

4 MS. KHANNA: I think so. I think it's probably more
15:16:26 5 logical stopping point right now.

6 JUDGE MARCUS: Okay. We will -- I have 3:16 Alabama
7 Central Standard Time. So we will get started a little past
8 3:30. We will take a 15-minute or so break. Thank you.

9 MS. KHANNA: Thank you, Your Honor.

15:16:51 10 (Recess.)

11 JUDGE MARCUS: Are the parties ready to proceed?

12 MS. KHANNA: I am. I wanted to make sure Mr. Cooper
13 is back on, on video.

14 JUDGE MARCUS: I do not see him. We have two lawyers
15:30:46 15 and no witness.

16 Mr. Cooper?

17 THE WITNESS: Yes. I am here.

18 JUDGE MARCUS: We hear you but do not see you.

19 Now we are all ready to proceed. Ms. Khanna, you may
15:31:14 20 proceed with your direct examination of Mr. Cooper.

21 MS. KHANNA: Thank you, Your Honor.

22 BY MS. KHANNA:

23 Q Mr. Cooper, I now want to discuss each of the individual
24 illustrative plans in some detail. Let's start with
15:31:26 25 Illustrative Plan 1. And we will pull up Plaintiffs'

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Exhibit 18, Caster Plaintiffs' Exhibit 18, which is also
2 attached to your initial report.

3 So can you describe the configuration of District 7 in
4 your Illustrative Plan 1?

15:31:44 5 A Well, Illustrative Plan 1 places, as do all the plans as
6 all the plans do, Jefferson County in District 7 and then picks
7 up Tuscaloosa County and then several of the rural Black Belt
8 counties starting with Sumter and Perry and Dallas and Wilcox
9 and Hale.

15:32:16 10 Q And can you describe the configuration of the District 2?
11 Illustrative Plan 1?

12 A Okay. In Illustrative Plan 1, as in all plans, Mobile is
13 in the -- Mobile County is in District 2, at least part of it,
14 and then the remaining counties of the western and eastern
15:32:37 15 Black Belt, as well as part of the county of Montgomery. Like
16 the enacted plan in Illustrative Plan 1, a part of Montgomery
17 County is put into District 3.

18 Q Okay. And let's take a look at the statistics for
19 Illustrative Plan 1. I believe that's at Plaintiffs'
15:33:01 20 Exhibit 17. Can you see the screen -- see all the numbers on
21 the screen, Mr. Cooper?

22 A Yes.

23 Q What is the any-part Black Voting Age Population of
24 District 7 in Illustrative Plan 1?

15:33:15 25 A 53.28 percent.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q And what is the any-part Black Voting Age Population of
2 District 2 in Illustrative Plan 1?

3 A 50.09 percent.

4 Q What is the non-Hispanic single-race Black CVAP for
15:33:36 5 Illustrative Plan 7 in this plan?

6 A 54.97 percent.

7 Q And the same metric for District 2?

8 A 51.16 percent.

9 Q Great. If we could zoom out from this close-up exhibit.
15:33:56 10 Okay. Let's turn to Illustrative Plan 2. That's
11 Plaintiffs' Exhibit 23, which shows the map.

12 So in what way does Illustrative Plan 2 differ from the
13 other illustrative plans? What's the defining characteristics
14 of this plan?

15:34:16 15 A Well, Illustrative Plan 2 does one thing that the other
16 plans do not do, and that includes -- that is that I have
17 included predominantly African-American community area of
18 Houston County in the city of Dothan in District 2, and the
19 only other thing that might be different -- actually I guess
15:34:49 20 there is no -- there is no other defining factor. Basically,
21 the same counties are combined perhaps in a different way. But
22 it's still District 2 in the south and District 7 in the north.
23 And District 7 in this instance, and I am not sure if in any
24 other of the plans I've drawn actually goes into Lowndes
15:35:10 25 County, which doesn't show up on the label on this map. It's

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 sandwiched between Montgomery and Dallas counties. And I think
2 in the enacted plan and most of maybe even in the 2011 plan,
3 District 7 in the enacted plan did go from Jefferson County all
4 the way into Lowndes County and even picked up a little bit of
15:35:32 5 Montgomery. I have not taken it into Montgomery County, but
6 this plan does have Lowndes County in District 7.

7 Q Let's take a look at the statistics of Illustrative Plan
8 2, which is Plaintiffs' Exhibit 22, I believe.

9 What is the any-part Black Voting Age Population of
15:35:55 10 District 7 under Illustrative Plan 2?

11 A 53.79 percent.

12 Q What is the any-part Black Voting Age Population for
13 District 2 in this plan?

14 A 50.88 percent.

15:36:10 15 Q What is the non-Hispanic single-race Black Citizen Voting
16 Age Population for District 7 in Illustrative Plan 2?

17 A 55.58 percent.

18 Q And what about the same metric for District 2 in this
19 plan?

15:36:30 20 A 51.82 percent.

21 Q All right. Let's turn to Illustrative Plan 3. That's
22 going to be Plaintiffs' Exhibit 28. Look at the map.

23 So, Mr. Cooper, how does Illustrative Plan 3 differ from
24 the other plans? What are its defining features?

15:36:50 25 A Illustrative Plan 3 keeps Montgomery County whole. I

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 think the first two we looked at did not keep Montgomery County
2 whole.

3 And, of course, as in all the plans, it includes Mobile
4 County.

15:37:09 5 So District 7 is a northern district in this case. And
6 includes part of Bibb County and all of Bibb County, part of
7 Tuscaloosa, and the northwestern part of the Black Belt,
8 including Pickens and Sumter county along the Mississippi line.

9 Q So this map manages to keep Montgomery County whole in
15:37:31 10 District 2; is that right?

11 A Right.

12 Q And the enacted plan actually divides Montgomery County;
13 is that right?

14 A I believe so.

15:37:38 15 Q Okay. Let's pull up the statistics for Illustrative Plan
16 3 Plaintiffs' Exhibit 27. What is the any-part Black Voting
17 Age Population for District 7 in Illustrative Plan 3?

18 A 50.09 percent.

19 Q What about the same metric for District 2 in Illustrative
15:38:04 20 Plan 3?

21 A 50.27 percent.

22 Q And what is the non-Hispanic single-race Black Citizen
23 Voting Age Population in District 7 under this plan?

24 A 51.77 percent.

15:38:18 25 Q And the same metric for District 2?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Yes. 51.08 percent.

2 Q Great. Let's talk about -- let's go to Illustrative Plan
3 4 that's Plaintiffs' Exhibit 33 to look at that map.

4 A Yes.

15:38:39 5 Q So how -- you anticipated my question. But yes. How
6 would you -- what's different about Illustrative Plan 4
7 compared to the other illustrative plans that you created?

8 A Well, this plan is different in that I kept Tuscaloosa
9 County whole, as well as the city of Tuscaloosa.

15:38:58 10 The current plan -- the enacted plan the state produced
11 actually splits Tuscaloosa County, of course, but it also
12 splits the city of Tuscaloosa. So I believe that this is the
13 only plan on the table right now that does not split Tuscaloosa
14 County county or the city of Tuscaloosa. So that was my
15:39:18 15 variation in this particular plan. And so District 7 is sort
16 of in the -- again, kind of a northwest quadrant. And then
17 District 2, as in all plans, includes Mobile County and extends
18 east to Barbour County on the Georgia line and also does have a
19 split in Montgomery County when shares that with District 3.

15:39:45 20 Q And that split is also reflected in the enacted plan?

21 A It's not the exact same split, but same general area,
22 true.

23 Q Okay. Let's go to statistics Illustrative Plan 4, which I
24 believe is now at Plaintiffs' Exhibit 32. What is the any-part
15:40:08 25 Black Voting Age Population of District 7 under this plan?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A 50.09 percent.

2 Q And what is the any-part Black Voting Age Population of
3 District 2?

4 A 50.07 percent.

15:40:20 5 Q What is the non-Hispanic single-race Black Citizen Voting
6 Age Population of District in 7 under this plan?

7 A 52.13 percent.

8 Q What is that metric for District 2?

9 A 50.8 percent.

15:40:39 10 Q Mr. Cooper, I believe in Mr. Bryan's declaration, he notes
11 that some of the numbers that you report population figures
12 when it comes to Illustrative Plans 4, 5, and 6 were transposed
13 in your report. Do you recall reading that?

14 A I do. Apparently a copy and paste error as I was taking
15:41:03 15 columns from the exhibit and putting it into the declaration, I
16 must have inadvertently copied the wrong plan in the population
17 column. It does not change the percentages at all. The
18 numbers that are reported in my declaration exhibits are
19 accurate. I think that was confirmed by Mr. Bryan. He spent
15:41:30 20 about three pages discussing this issue, and it's really making
21 a mountain out of a mole hill.

22 Q So there was a typo in your declaration; is that right?

23 A Yeah. Well, you can call it a typo. It's a copy and
24 paste error. I just copied a column apparently from the wrong
15:41:49 25 election plan and put it into total population for a plan that

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 should have gone in another one. So that the -- sum of the
2 total population numbers instead of being plus one might be
3 minus one for one district. It's just not a meaningful error.

4 Q So but just for the Court's clarification, all of the
15:42:08 5 statistics, all of the numbers in the exhibits to your report,
6 including the one we're looking at right now, those are all
7 accurate?

8 A Yes.

9 Q Okay. All right. Let's move on to Illustrative Plan 5.
15:42:25 10 That will be Plaintiffs' Exhibit 38 to look at this map.

11 What are the unique details of Illustrative Plan 5
12 compared to the other plans that you produced?

13 A The key distinguishing factor with Illustrative Plan 5 is
14 that I put Coffee County into District 2, and the current
15:42:50 15 incumbent for District 2 lives in Coffee County. So this plan
16 demonstrates that you can draw two majority-black districts for
17 the U.S. House in Alabama and protect all incumbents.

18 Q And so in extending it to Coffee County to capture the
19 current incumbent, did you have to kind of extend District 2 a
15:43:14 20 little bit more southward than you did in any of the other
21 plans?

22 A Yeah. At least on the eastern most part of the district,
23 I did. The border instead of just being Macon and Bullock
24 County actually goes through Pike and all the way down to the
15:43:34 25 -- well, all of Coffee County down to the Geneva County line.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 So it does extend the eastern border further south.

2 Q So with respect for the incumbent in that district in
3 particular creates that kind of little foot on the southeastern
4 side of the district?

15:43:47 5 A Yes.

6 Q Let's go to the statistics for this plan at Plaintiffs'
7 Exhibit 37. What is the any-part Black Voting Age Population
8 under Illustrative Plan 5?

9 A 50.09 percent.

15:44:04 10 Q And the any-part Black Voting Age Population for District
11 2?

12 A 50.24 percent.

13 Q What is the non-Hispanic single-race Black Citizen Voting
14 Age Population for District 7 in this plan?

15:44:20 15 A 51.65 percent.

16 Q And what is that metric for District 2 in that -- in this
17 plan?

18 A 51.2 percent.

19 Q All right. Let's move on to Illustrative Plan 6.

15:44:41 20 Mr. Cooper, I know in your report you describe each of these
21 plans more fully, and I am just asking for kind of a summary of
22 what the key differences are from one plan to another here. So
23 I know you have gone into more detail there. What would you
24 describe as the key difference --

15:44:55 25 JUDGE MARCUS: Let me stop you for a moment, counsel.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 What exhibit number is Plan 6?

2 MS. KHANNA: Thank you, Your Honor. Apologies for
3 that. This is Plaintiffs' Exhibit 43.

4 JUDGE MARCUS: Thank you.

15:45:10 5 BY MS. KHANNA:

6 Q Mr. Cooper, looking at this map, what would you say are
7 the -- what differentiates this map from some of the other
8 plans you drew?

9 A Well, this is the first plan that I prepared or presented
10 that actually keeps all of the city of Mobile in District 2.
11 And it also at the same time keeps all of Montgomery County in
12 District 2. So it does not split Montgomery city or Mobile
13 city. Both are whole. And that is the key feature of this
14 particular plan.

15:45:46 15 Q And so if you recall back to the compactness chart, I
16 believe that Illustrative Plan 6, this one, scored the lowest
17 on the Polsby-Popper metric. Do you remember that?

18 A I don't remember exactly, no, but I know that there were
19 lower scores maybe in some of the plans compared to others.

15:46:08 20 Q Can you explain why this plan would score slightly lower
21 on the Polsby-Popper metric particularly when it comes to
22 District 2?

23 A Well, I think in the case of keeping Mobile city whole,
24 the city boundary is places kind of irregular shaped. And so
15:46:27 25 that would have been a factor. It also -- because I wanted to

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 maintain a way for people to drive from District 1 in Mobile
2 County into Baldwin County without going to District 2, I left
3 that opening there in the north end of the county so that you
4 could cross through on I-65 or one of the state routes without
15:46:51 5 travelling into District 2. And I also wanted to make sure
6 that the incumbent in District 1 stayed in District 1. And in
7 doing that, some of the precincts in the east -- west of Mobile
8 before you get back into District 2 are slightly irregular, so
9 that may have had something to do with the lower score.

15:47:12 10 Q So those are regular boundaries that we see are explained
11 by certainly the Mobile city line, city boundary, but also
12 various road ways and other traversals as well as the
13 incumbent?

14 A Right. But I have to emphasize again there's nothing out
15:47:29 15 of line with the Polsby-Popper scores in any of these plans.
16 This one happens to be maybe one of the lower ones. But it
17 matches up fine if you look at districts around the country or
18 even if you look at some of the legislative districts in
19 Alabama.

15:47:49 20 Q Okay. Let's move on to the statistics for Illustrative
21 Plan 6. That's Plaintiffs' Exhibit 42. And, again,
22 Mr. Cooper, what is the any-part Black Voting Age Population
23 for District 7 under this plan?

24 A 51.09 percent.

15:48:09 25 Q What is the any-part Black Voting Age Population for

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 District 2?

2 A 51.28 percent.

3 Q What is the non-Hispanic single-race Black Citizen Voting
4 Age Population for District 7?

15:48:27 5 A 52 -- oh. 52.48 percent.

6 Q And what is the non-Hispanic single-race black CVAP for
7 District 2?

8 A 52.44 percent.

9 Q All right. Let's move on to Illustrative Plan 7, which is
10 Plaintiffs' Exhibit 61. What are the -- what differentiates
11 Illustrative Plan 7 from the others that you created for this
12 case?

13 A Well, first of all, this plan also keeps the city of
14 Mobile whole and also keeps Montgomery County whole. So it's
15 like District 6 -- and Illustrative Plan 6 in that sense. And
16 it also as I've discussed previously has higher compactness
17 scores than the state's plans. And it also makes changes to
18 the districts in the north. You can see District 6 is perhaps
19 more compact in this plan than in others.

15:49:27 20 I did change the configuration of this so that it
21 basically just includes the city of Huntsville, which is
22 extends now into Limestone County. It's not only Madison
23 County. So I included all the city of Huntsville and the
24 Appalachian counties in District 5. And District 4 runs from
15:49:47 25 Tuscaloosa north to the Tennessee line. But it's a more

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 compact shape than exists in the -- in the existing plan.

2 Because the existing plan if you live in suburban Tuscaloosa,

3 you can end up in the same district as somebody in, you know,

4 northwest Alabama really in the mountains. And so there is a

15:50:12 5 question there from a geographic standpoint whether that's a

6 good match up.

7 Q Let's pull up the statistics for Illustrative Plan 7

8 that's Plaintiffs' Exhibit 60. What is the any-part Black

9 Voting Age Population for District 7 under this plan?

15:50:34 10 A 51.88 percent.

11 Q Actually, for District 7, I think that's --

12 A Oh. I'm sorry. 50.31 percent.

13 Q Any-part Black Voting Age Population for District 2?

14 A 51.88 percent.

15:50:49 15 Q What is the non-Hispanic single-race Black Citizen Voting

16 Age Population for District 7?

17 A 52.12 percent.

18 Q And for District 2?

19 A 52.92 percent.

15:51:06 20 Q And in this exhibit, you also include the percent of black

21 registered voters in the district, as well; is that right?

22 A That's true because this particular plan was produced

23 after we -- that the discovery request was for voting

24 registration files. So Illustrative Plan 7, which was produced

15:51:25 25 sometime after the 10th of December, I was able to include the

Christina K. Decker, RMR, CRR

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 registered voter count in this particular plan for all
2 districts.

3 Q And I know we have already shown the figure that shows the
4 black active registered voters among all the illustrative
15:51:40 5 plans, but just looking at Illustrative Plan 7 here, this is
6 both District 7 and 2 are well over 50 percent; is that right?

7 A Yes, exactly.

8 Q We can take that down.

9 A This is current information I must emphasize. This is the
15:51:56 10 most recent registered voter files they have. 2021
11 information, whereas a slightly lower non-Hispanic CVAP is
12 historical dating to 2017.

13 Q Thank you. We can take down this exhibit. Mr. Cooper, is
14 it fair to say that each of your illustrative plans balances
15:52:16 15 traditional districting principles in different ways?

16 A Yes.

17 Q And in your opinion as a map drawer, each of these
18 achieves the goals of population equality, contiguity,
19 compactness, respect for political subdivision boundaries,
15:52:32 20 communities of interest, and non dilution of minority voting
21 strength. Is that fair?

22 A Yes.

23 Q Each of them contains two districts that are
24 majority-black under the any-part Black Voting Age Population
15:52:48 25 metric, the majority non-Hispanic single-race Black Citizen

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Voting Age Population, and have a majority of black active
2 registered voters; is that right?

3 A Right. And I believe Illustrative Plan 6 actually has two
4 districts that are single-race Black Voting Age Population over
15:53:06 5 50 percent.

6 Q I would like to shift gears right now to the socioeconomic
7 profile in Alabama.

8 I know all of the figures that we are going to talk about
9 that you have included here are incorporated in your first
10 report, I believe at page 37 onward. What data are these
11 socioeconomic statistics based on?

12 A They're based on the 2019, one-year American Community
13 Survey. So the survey instrument went out to households in
14 2019 and the early part of 2020. And then the data was
15 reported in the month of September of 2020. So it's fairly
16 recent socioeconomic information, although it predates the
17 pandemic. So for that reason, the pandemic has resulted in the
18 2021 American Community Survey being canceled. It is not going
19 to be reported except maybe in some sort of experimental
15:53:47 20 fashion since the bureau's indicated they are going to do
21 something with the data.

22 So this is the most current data available from the
23 one-year survey, and there won't be any more data available
24 until the 2021 survey is released, which will be in September
15:54:12 25 of '22.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q And just to clarify, the American Community Survey data is
2 administered and produced by the U.S. Census Bureau, correct?

3 A Yes.

4 Q So what are your conclusions generally regarding the
15:54:41 5 socioeconomic profile of blacks and whites in Alabama?

6 A Well, whites outpace blacks in almost every single
7 category. I'm hard pressed to think of one where there is not
8 a disparity. And I outline that in my declaration and have a
9 set of charts in the exhibits, which illustrate those
10 disparities and is probably a little easier to get through,
11 just looking at bar charts.

12 Q And those disparities across -- span across education,
13 income, and other metrics, as well; is that right?

14 A Yes.

15:55:18 15 Q Employment?

16 A Unemployment rates, just the whole nine yards, really.
17 It's not -- it's sad in a way that the disparity is that
18 pronounced.

19 Q Thank you.

15:55:33 20 MS. KHANNA: Mr. Cooper, I don't have any further
21 questions at this time. Your Honor, I pass the witness.

22 JUDGE MARCUS: Thank you. Mr. Davis?

23 MR. DAVIS: Thank you, Your Honor.

24 CROSS-EXAMINATION

15:55:41 25 BY MR. DAVIS:

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 can be drawn for the remedial plan. That's more often the
2 case, as I explained earlier a little bit.

3 Q So your illustrative plans basically provide an example of
4 how one could draw two majority-minority districts, not how one
17:07:45 5 must draw two majority-minority districts?

6 A That's very true.

7 Q And whoever ends up drawing a remedial map in the event
8 that plaintiffs were to succeed in their Section 2 claim could
9 choose to balance the various traditional principles that we
17:07:59 10 discussed in the same or different ways as any of your maps; is
11 that right?

12 A That's true.

13 MS. KHANNA: Your Honor, I have no further questions.
14 I pass the witness.

17:08:24 15 JUDGE MARCUS: Any other questions for Mr. Cooper
16 regarding the subject matter we have covered? Anything from
17 our colleagues? Judge Manasco, or I think you had a question.

18 JUDGE MANASCO: I do.

19 Does Judge Moorer have any though? If he does, I'm happy
17:08:38 20 for him to go.

21 JUDGE MOORER: No. Go ahead.

22 JUDGE MANASCO: Great. So, Mr. Cooper, I understood
23 you to testify that as much as is possible, you tried not to
24 split counties. And then after that, you tried not to split
17:08:49 25 precincts; is that correct? But that some splits were

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 inevitable.

2 THE WITNESS: I think that's true. Yes. I mean, even
3 state splits seven precincts. I think the plan -- one of my
4 plans splits I believe 12 precincts in six counties.

17:09:06 5 JUDGE MANASCO: So my question is: When you concluded
6 that you had to split precincts, did you have a consistent
7 basis for deciding where to put the line, and if you did, what
8 was it?

9 THE WITNESS: To the extent that I could, I tried to
17:09:24 10 follow municipal boundaries, or main thoroughfares or census
11 block groups, which often don't necessarily follow a main
12 thoroughfare, but they are areas that are designated by the
13 Census Bureau as having some commonality. They're smaller than
14 census tracks. But a census track could include as many as
17:09:49 15 eight or nine block groups. And often times, a block group
16 would only have a couple of hundred people in it.

17 And they're used for certain kinds of analysis because
18 it's the smallest unit for which the American Community Survey
19 actually presents an estimate. So block groups are used for,
17:10:11 20 for example, determining the percentage of children who might
21 be eligible for free school lunches or summer food -- the
22 summer food programs. Some of the federal poverty programs
23 actually are designated to identify their areas of service by
24 block groups. So that's where the -- that's where the
17:10:37 25 commonality might come from. There are socioeconomic features

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 about those block groups that makes them a unit that can be
2 discerned even if it's not an incorporated entity.

3 JUDGE MANASCO: Okay. So do you recall any instances
4 when after concluding that you had to split a precinct you
17:10:57 5 decided where to put the line on the basis of race?

6 THE WITNESS: I don't think so. I mean, I did have to
7 -- I did split some block groups in some places, but it -- more
8 than anything, when that happened, it was just trying to get to
9 zero deviation. Because precincts in Jefferson County, for
17:11:19 10 example, that are very large, and so they have to be split
11 ultimately to get to zero. Lost my light. It's coming back.

12 JUDGE MANASCO: Great. Thank you. That answers my
13 questions.

14 JUDGE MARCUS: Any follow up based on the questions
17:11:35 15 Judge Manasco has asked, Mr. Davis, or Ms. Khanna? Let me
16 start with you, Mr. Davis.

17 MR. DAVIS: No further questions from the defendants,
18 Judge.

19 JUDGE MARCUS: Ms. Khanna?

17:11:47 20 MS. KHANNA: No further questions here either. Thank
21 you, Your Honor.

22 JUDGE MARCUS: All right. So this will conclude
23 Mr. Cooper's testimony as your witness and Milligan's witness
24 on Section 2. We will then turn to out of turn taking
17:12:07 25 Mr. Davis and giving him the opportunity to question Mr. Cooper

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

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

CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Christina K Decker

01-05-2022

Christina K. Decker, RMR, CRR

Date

Federal Official Court Reporter

ACCR#: 255

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

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

BOBBY SINGLETON, et al., *
Plaintiffs, * 2:21-cv-1291-AMM
vs. * January 6, 2022
* Birmingham, Alabama
* 9:00 a.m.

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

EVAN MILLIGAN, et al., *
Plaintiffs, * 2:21-cv-1530-AMM

vs. *
*

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

MARCUS CASTER, et al., *
Plaintiffs, * 2:21-cv-1536-AMM

vs. *
*

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING
VIA ZOOM CONFERENCE
VOLUME III
BEFORE THE HONORABLE ANNA M. MANASCO,
THE HONORABLE TERRY F. MOORER,
THE HONORABLE STANLEY MARCUS

CHRISTINA K. DECKER, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, AL 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 think we've departed from the traditional principles.

2 Q Okay. So you offer no opinion, then, in this case,

3 though, as to whether it's possible to draw according to all

4 traditional redistricting criteria minus that one -- the race

14:23:48 5 focus criteria of two majority-black districts in the state of

6 Alabama?

7 A That question I can certainly answer.

8 It is possible, because the world of possibility includes

9 my demonstrative maps, which could be arrived at through a

14:24:07 10 random process. So it is certainly possible.

11 Q Okay. But when you applied a random process in that study

12 you referenced earlier and you drew 2 million maps, not one of

13 them came back looking anything like one of the four

14 illustrative maps, at least when it comes to Black Voting Age

14:24:30 15 Population in two districts?

16 A Well, I can't answer whether one of them had a

17 majority-black district and a second that was 49.999, in which

18 case it could closely resemble one of the ones that I drew.

19 But I can say that my understanding is that race consciousness

14:24:51 20 is expressly permitted in order to achieve minority electoral

21 opportunity, and in particular, in order to draw majority-black

22 districts, stands to reason that one must consider race. And I

23 think the study that I referenced showing that it is hard to

24 draw two majority-black districts by accident shows the

14:25:15 25 importance of doing so on purpose.

Christina K. Decker, RMR, CRR

Federal Official Court Reporter

101 Holmes Avenue, NE

Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

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

CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Christina K Decker

01-06-2022

Christina K. Decker, RMR, CRR

Date

Federal Official Court Reporter

ACCR#: 255

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

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

BOBBY SINGLETON, et al., *
Plaintiffs, * 2:21-cv-1291-AMM
vs. * January 7, 2022
Birmingham, Alabama
8:30 a.m.

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

EVAN MILLIGAN, et al., *
Plaintiffs, * 2:21-cv-1530-AMM

vs. *
*

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

MARCUS CASTER, et al., *
Plaintiffs, * 2:21-cv-1536-AMM

vs. *
*

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING
VIA ZOOM CONFERENCE
VOLUME IV
BEFORE THE HONORABLE ANNA M. MANASCO,
THE HONORABLE TERRY F. MOORER,
THE HONORABLE STANLEY MARCUS

CHRISTINA K. DECKER, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, AL 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q And you don't provide any analysis of the extent to which
2 highways and rivers inform the compactness of any given
3 district in Mr. Cooper's illustrative plans?

4 A Not in Mr. Cooper's plan. I do offer some analysis of
14:44:17 5 that in other plans where it was relevant, for example, in the
6 Alabama plan where there was some districts with lower
7 compactness scores. Those were a result of some geographic
8 features. I found no strong prevailing geographic features
9 that in particular hindered Mr. Cooper's compactness scores.

14:44:39 10 Q Well, you don't provide any analysis at all of the
11 geographic or political boundaries of his districts as it
12 relates to their compactness?

13 A I did not identify any features -- specific features of
14 the plan that were specifically very detrimental, and I defer
14:44:58 15 to Mr. Cooper's expertise and judgment in drawing plans that
16 are either compact or not compact.

17 Q Toward the end of your direct examination with Mr. Davis,
18 I believe he asked you some questions about whether plaintiffs
19 illustrative plans draw lines that appear to you to be based on
14:45:18 20 race or other traditional districting principles. Am I
21 recalling that correctly?

22 A That is correct.

23 Q But at no point in your report do you provide any analysis
24 of the way in which specific districts in Mr. Cooper's
14:45:35 25 illustrative plans are configured outside of their objective

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 compactness scores.

2 A Except insofar as to acknowledge how they were precisely
3 drawn to exclude white population and include black population
4 to achieve the majority district status that he was seeking.

14:45:54 5 Q Can you point me to where in your supplemental report you
6 speak about that topic in Mr. Cooper's illustrative plans?

7 A It may be in the map -- just give me a moment, let me see
8 if I can track it.

9 Q Sure.

14:46:58 10 A It appears I may not have written text about that finding.
11 I would refer to the map of the Cooper's plans to support my
12 observation.

13 I cannot quickly find text if I wrote any about the
14 observations because, as I stated earlier on my direct with
14:47:19 15 Mr. Davis, the performance in the outline of these plans were
16 very consistent with the Hatcher plan, which I did document the
17 degree to which it followed these boundaries exactly. And in
18 looking at the Cooper plans, as I am now, one after the next,
19 the degree to which they follow black populations and exclude
14:47:41 20 white populations around Birmingham and Mobile are consistent
21 with every one of the other plaintiff plans that I reviewed.
22 So I'll stick with that.

23 Q And that analysis that you just provided, including the
24 analysis in response to Mr. Davis's questions are not
14:47:59 25 actually --

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 JUDGE MARCUS: I am not sure we heard the whole
2 question. I'm sorry. Ms. Khanna? Have we frozen up
3 completely? Mr. Davis, can you hear me? Judge Manasco?

4 MR. DAVIS: I can hear you, Your Honor. I just
14:48:26 5 believe Ms. Khanna's screen has frozen momentarily.

6 MR. DUNN: I think it's Ms. Khanna's screen that's
7 frozen, Your Honor.

8 MR. DAVIS: There she is. She is back.

9 JUDGE MARCUS: Ms. Khanna?
14:48:40 10 Hi, Ms. Khanna. I think we lost you for a moment.

11 MS. KHANNA: I apologize, Your Honor.

12 JUDGE MARCUS: That's all right. Why don't you start
13 over and ask your question again.

14 MS. KHANNA: Can everybody hear and see me now?

14:48:51 15 JUDGE MARCUS: We hear you fine.

16 MS. KHANNA: Thanks. Give me one second to
17 reconfigure my screen. It closed out for a second.

18 JUDGE MARCUS: Sure.

19 BY MS. KHANNA:

14:49:22 20 Q Okay. I am not sure where I got cut off, but my question
21 was the analysis that you just provided about --

22 A Yeah.

23 Q -- about how the lines were drawn in Mr. Cooper's
24 illustrative plans --

14:49:34 25 A Yeah.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q -- is not an analysis that we will find anywhere written
2 in your report about Mr. Cooper's illustrative plans, correct?

3 A No. I think that part of the report and the analysis was
4 pretty light and I think that I was mostly led by the fact that
14:49:52 5 his plan and Dr. Duchin's plan, all of these plans were
6 following a very similar pattern. And if you look at the map,
7 you will see that they do the same thing as in other plans that
8 we documented, where we show it follows precisely where black
9 population is and is not -- I concede that that analysis and
14:50:11 10 that finding is not -- does not appear to be written up in my
11 summary of findings.

12 Q You provide no analysis in any of the text about the
13 configuration of the districts in Mr. Cooper's plans outside of
14 their objective compactness scores, core preservation scores
14:50:28 15 and incumbency protection scores?

16 A Yes. My observation about their consistency in
17 performance in including or excluding black populations is as I
18 am reciting to you right now, looking at the maps that I drew.

19 Q But not an opinion you expressed in your report?

14:50:45 20 A Yes, ma'am, that's correct.

21 Q And at no point in your report do you offer any
22 conclusions or opinions as to the apparent basis of any
23 individual line drawing decisions in Mr. Cooper's illustrative
24 plans?

14:50:59 25 A I did not. Yep. That's correct.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A It's difficult to see where that boundaries of the city of
2 Mobile are in this map. I can't give an opinion. It may be
3 the case, but I can't tell from this map. But whether the map
4 contains it is -- would be a misleading statement because you
15:14:21 5 can have a geography that can outer bound a city and capture
6 numerous pieces of irregular geography around it. Because it
7 contains it does not mean it follows it. And the benefit of
8 following administrative geography in redistricting is because
9 it captures pieces of administrative geography that enable that
15:14:41 10 district to represent people with similar administrative
11 geography and policy interests and concerns.

12 So stating that this outer bounds, the city of Mobile does
13 not necessarily mean that that means that it's an accurate
14 capture of Mobile.

15:14:56 15 A visual examination of this plan shows a highly irregular
16 draw into the county of Mobile anyway. So some other thing was
17 happening when Mr. Cooper drew this in this very unusual and
18 unique way, into the otherwise very geometrical simple
19 geography of Mobile.

15:15:18 20 Q So you don't know sitting here today whether that -- the
21 drawing of District 2 in Mobile County conforms to the
22 boundaries of the city of Mobile; is that right?

23 A I -- it may -- I want to be precise with my language.

24 That district may outer bound, that is, fully contain the city
15:15:38 25 of Mobile. I do not believe just looking at this map, which is

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 not precise, whether it exactly follows the boundaries of the
2 city of Mobile or not. I don't believe that it is. But I
3 cannot say that definitively.

4 Q You would agree that if it does exactly follow the
15:15:55 5 boundaries of the city of Mobile, that would make a significant
6 difference between its configuration and the Hatcher plan that
7 you criticize; is that right?

8 A If this exactly followed the city boundaries of Mobile,
9 that would certainly give it some credence, but that does not
15:16:14 10 change the highly irregular features and the draw that was made
11 to go into Mobile County. There's no way a map drawer could
12 look at this draw and not avoid the highly irregular draws in
13 and out and around the county.

14 Q So when you were evaluating whether a district looks
15:16:37 15 irregular, you are doing that without respect to whether or not
16 it's following municipal boundaries; is that right?

17 A In this particular case, Mobile is only a part of Mobile
18 County and so my visual observation of this draw is showing
19 significant irregularities that are clearly outside of the city
15:17:00 20 of Mobile here.

21 Q So your understanding is this district -- the district
22 lines of CD 2 do not conform with the city of Mobile
23 boundaries; is that right?

24 A I am not able to say with certainty whether they do or do
15:17:19 25 not. It does not visually appear to, given my knowledge of the

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 area. I would have to see something much more detailed to be
2 able to prove that or not.

3 My assessment is that the draw in Mobile County in this
4 case appears, given the geometric simplicity of the county,
15:17:37 5 that there was some motivation to draw a highly irregular
6 boundary within the county. And not all of that -- not -- it
7 is not possible to that all of those irregularities were
8 determined simply by the municipal administrative unit of
9 geography known as the city of Mobile.

15:17:54 10 Q And you mentioned there were motivations, but you, of
11 course, have no knowledge, information or opinion about any of
12 the motivations, correct?

13 A I don't know what the motivations were. All I know from
14 my own analysis and maps are that the lines that go down into
15:18:10 15 Mobile across all these different plans, I am speaking
16 generally, not to any one particular plan, go down into Mobile
17 and surgically go into and out of white VTDs and black VTDs,
18 including the black ones and excluding the white ones.

19 If that was the motivation, I would believe that a
15:18:29 20 mapmaker would have just gone into Mobile and taken the whole
21 county. Otherwise there is no reason to have gone in here and
22 so surgically and forensically grabbed just very precise pieces
23 of the city of Mobile, which we know to be the most densely
24 black portion of the county.

15:18:44 25 Q And, again, your testimony about which pieces of the city

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 of Mobile may or may not be included in District 2 --

2 A Right.

3 Q -- is not about this district that we're looking at right
4 now, you're speaking generally about some of the illustrative
15:19:02 5 plans?

6 A Yes, ma'am.

7 Q And about the Hatcher plan?

8 A That, too.

9 Q Let's turn -- let's actually look at your depiction of
15:19:10 10 Mr. Cooper's Illustrative Plan 6. And I think that's going to
11 be at page 88 of your supplemental report. Defendants'
12 Exhibit 4. Does this look familiar to you?

13 A It does, yes.

14 Q This is your depiction of Mr. Cooper's Illustrative Plan 6
15:19:31 15 color coded by the concentration of black population; is that
16 right?

17 A Yep, that is correct.

18 Q And sitting here today, you can't tell me whether the
19 District 2 boundaries depicted in this map conform to the city
15:19:45 20 of Mobile boundaries; is that right?

21 A I cannot determine that from this map. I could in a
22 matter of minutes if it's an important point, but I cannot tell
23 from this whether it definitively is or is not.

24 Q But you can tell from this map that Mr. Cooper's
15:20:08 25 District 2 includes a lot of those red and orange VTDs on your

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 really got to listen to my question. Do you agree the Black
2 Belt is a community of interest?

3 A Yes.

4 Q Okay. It's a rural area throughout, is it not?

17:18:12 5 A Yes, predominantly, yes.

6 Q It's heavily agricultural?

7 A Yes.

8 Q It has lower income levels than other parts of the state?

9 A Definitely.

17:18:22 10 Q Lower education levels?

11 A Yep.

12 Q Lower infrastructure?

13 A My understanding.

14 Q And a shared history?

17:18:32 15 A Yes.

16 Q And it's racially significant because that's where --

17 those counties as you pointed out in your own work have

18 significantly higher percentages of blacks than other counties,

19 right?

17:18:44 20 A They do.

21 Q Now, is it -- so -- and one of the things that

22 Dr. Duchin's models perform is to aggregate the Black Belt more

23 than the existing plan or the 2011 plan, isn't that correct?

24 A It appears so.

17:19:07 25 Q So you would say on communities of interest with respect

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

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

CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Christina K Decker

01-07-2022

Christina K. Decker, RMR, CRR

Date

Federal Official Court Reporter

ACCR#: 255

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

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

BOBBY SINGLETON, et al., *
Plaintiffs, * 2:21-cv-1291-AMM
vs. * January 10, 2022
Birmingham, Alabama
9:00 a.m.

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

EVAN MILLIGAN, et al., *
Plaintiffs, * 2:21-cv-1530-AMM

vs. *
*

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

MARCUS CASTER, et al., *
Plaintiffs, * 2:21-cv-1536-AMM

vs. *
*

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING
VIA ZOOM CONFERENCE
VOLUME V
BEFORE THE HONORABLE ANNA M. MANASCO,
THE HONORABLE TERRY F. MOORER,
THE HONORABLE STANLEY MARCUS

CHRISTINA K. DECKER, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, AL 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 school systems. In fact, if you look at the most recent list,
2 almost exclusively, it's public schools in the Black Belt, in
3 Birmingham, or in the urban core of Mobile.

4 Q Thank you, Dr. Bagley. What did your report determine in
09:49:22 5 higher education?

6 A I talk briefly about the *Knight* litigation from the 1990s.
7 The state's flagship universities were desegregated by a
8 litigation in the 1960s. So Auburn and Alabama were
9 desegregated at that time. But in the 1990s, in *Knight vs.*
09:49:47 10 *Alabama* litigation, the Court found there were still, quote,
11 vestiges of segregation in those institutions and in the --
12 proposed at that time satellites of those institutions that
13 were being built in Huntsville and Montgomery respectively.
14 And it entered in a remedial decree similar to that in *Lee v.*
09:50:08 15 *Macon* where it oversaw the process of trying to eliminate those
16 vestiges over the course of a ten-year period up into the
17 2000s.

18 Q So, Dr. Bagley, when you were discussing schools, you
19 mentioned the Black Belt of Alabama on pages 1 and 2 of your
09:50:24 20 supplemental report, which is Plaintiffs' Exhibit M-9, you
21 discuss the Black Belt in Alabama. Can you tell me a little
22 bit about the history of the Black Belt of Alabama?

23 A Yeah. So the Black Belt broadly speaking is an
24 agricultural region that stretches all across the deep south.
09:50:44 25 So from all the way up into Virginia and the whole

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 tidewater, tobacco-growing regions through the rice-growing
2 regions of the low country and through the heart of the sort of
3 deep south. In Alabama, it stretches through south central
4 Alabama from roughly Russell and Barbour counties through
09:51:08 5 Montgomery and widening out sort of from Sumter County down to
6 Washington County on the Mississippi state line.

7 This is the area of the state when the state was very
8 young when native Americans were forcibly removed from that
9 area. White settlers flooded in down the federal road from
09:51:29 10 Georgia either bringing with them enslaved persons or
11 purchasing them at slave markets at a time where people
12 realized the deep rich black soil, where the name Black Belt
13 comes from, and the climate of the South was perfect for
14 growing long-staple cotton at just the right time where via
09:51:50 15 mechanization industrialization cotton was becoming the go-to
16 material in textile production. So the upshot is it made a lot
17 of white land owners very, very rich, and the labor was being
18 done of course primarily by enslaved black persons.

19 In terms of relevance to this case, as I talk about in my
09:52:10 20 supplemental report, there was never a land redistribution
21 program. Land was never systematically taken from white land
22 owners after the Civil War and distributed to former slaves.
23 Even when the so-called radical Republicans in Congress were in
24 charge of Reconstruction, that never happened.

09:52:34 25 And so most of the poorer states become landless tenant

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 farmers, sharecroppers. The legacy of that is very, very long
2 and profound. The Black Belt remains characterized by its
3 mostly black population by the fact that it is stricken by
4 poverty.

09:52:56 5 And the -- I should add that where I'm going with this in
6 the supplemental report is to say that over time a lot of black
7 people leave the Black Belt. I think that's widely known when
8 it comes to the so-called great migration that black people
9 leave the poorer areas of the South and move to cities in the
09:53:20 10 Midwest or the Northeast.

11 What I tried to emphasize, though, in my report is that
12 also black people leave the Black Belt and move to cities in
13 Alabama, most especially Mobile. And I cite to the imminent
14 historians in Alabama including Wayne Flynt who have described
09:53:41 15 the process whereby black people have left in large numbers in
16 a couple of different waves the Black Belt for the city of
17 Mobile, and they share then the current residents of the urban
18 core of Mobile that history with black people in the Black
19 Belt. And it's not just the migration. It's not just ancestry
09:54:03 20 and heritage. It's cultural, and it's multifaceted when it
21 comes to the history.

22 For example, you look at the mid-20th Century and the
23 Civil Rights movement. Where were black people first active,
24 in terms of organizing to bring down Jim Crow and to have
09:54:23 25 access to the franchise? You would look at something like John

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Hewlett in the Lowndes County Freedom Association. That is in
2 the heart of the Black Belt. You would look at John Cashin who
3 is from Huntsville, but when he forms his National Democratic
4 Party of Alabama, where do they first run candidates? They run
09:54:44 5 them in the Black Belt. Where do they first win races? They
6 win them in the Black Belt.

7 Literally at the same time, you have John LeFlore in
8 Mobile organizing black stevedores and then organizing a local
9 chapter of the Non-Partisan Voters League. And all of these
09:55:04 10 individuals and anyone associated with this organizational
11 activity is facing the sort of brunt or butt end of withe
12 backlash. So all that to see there are these important
13 connections I feel like when it comes to the Black Belt and
14 Mobile, and that is what I am reporting in this supplemental
09:55:25 15 report.

16 Q Let's move now, Dr. Bagley, to page 21 of your report,
17 where you describe the living conditions in the Black Belt.
18 Can you take us through those?

19 A Sure. And I'm trying to find that page. And it is --
09:55:42 20 here it is.

21 Q Page --

22 A Thank you. I cite to a report that the United Nations
23 published in 2019. The UN sent a special representative to the
24 United States that year to examine conditions of extreme
09:56:02 25 poverty. And one of the places they looked was the Alabama

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Black Belt. The UN's special representative reported that
2 there were indeed conditions of extreme poverty, especially
3 when it came to, for example, drinking water and waste water
4 systems. He reported widespread findings of, you know, folks
09:56:25 5 having to try to fashion their own water systems with PVC pipe,
6 drinking water systems at the same time that their septic tanks
7 are backing up in their yard and you have got drinking water
8 that's exposed to raw sewage, and you have got people getting
9 sick, sometimes entire households at a time with E. Coli and
09:56:52 10 hookworm and so on.

11 And I also talk briefly about the effects of the
12 environmental pollution in the Black Belt. I talk about how
13 the Court in *People First* found that black people are more
14 likely to live in areas that suffer from the effects of
09:57:09 15 environmental pollution. And I talk briefly on page 21 about
16 the case of Uniontown in the south central Black Belt where 4
17 million tons of potentially toxic coal ash was dumped sometime
18 ago with -- over the protestation of then Congressman Artur
19 Davis. And that has been fairly recently found to continue to
09:57:34 20 have an adverse impact on people in that area.

21 Q Dr. Bagley, let's talk more then about the environmental
22 deprivation, particularly in large areas with high black
23 populations in the state: Can you describe your other
24 findings?

09:57:50 25 A Yeah. I look at -- the Environmental Protection Agency

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Well, I would like to just see for the blacks in
2 Montgomery in this area a candidate who at least have an
3 opportunity to represent the interests of the black community.

4 Q And is it your understanding that to bring about that
17:09:44 5 result, the plaintiffs in this case are seeking to create a
6 second majority-black district? Is that your understanding?

7 A That is correct, yes.

8 Q If that were to happen, do you think it's likely that
9 someone else who has not served your congressional district
17:10:00 10 would then be elected?

11 A I believe so, yes.

12 Q Uh-huh. And would that change in representation -- do you
13 think that would benefit or harm the black community in your
14 area?

17:10:10 15 A Well, I think it can only benefit the black community,
16 certainly the more representation that we have, the better the
17 opportunity of our interests to be served.

18 Q Mr. Jones, based on your experience working in Montgomery,
19 does the black community there have unique needs relating to
17:10:34 20 education?

21 A I would say that the black community has unique needs,
22 because in Montgomery public school system in Montgomery
23 County, population of blacks in the school system is probably
24 about 85 to 90 percent, and certainly Montgomery County has for
17:10:55 25 a long time had a very low tax base for millage for the school

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 system, and the majority of the whites in Montgomery County are
2 in the public schools. And I mean -- in the private schools --
3 blacks in the public schools. And so with the low tax base,
4 the school system is substandard. So the education is

17:11:18 5 substandard. And so then that causes issues for blacks, in
6 terms of getting a good quality education and going from that
7 to getting a good quality job to serve their families.

8 Q What about affordable child care for kids who aren't yet
9 of school age? Is that a problem for a unique problem -- I
10 should say -- sorry. Does the black community have a unique
11 need in that area, as well?

12 A Oh, absolutely. Child care is expensive for everybody.
13 But when you're struggling to hold more than one job or so to
14 support your family, then it becomes extremely critical, and so
15 with the cost of child care, it is extremely difficult on
16 blacks who are perhaps working low -- low-income jobs in the
17 beginning. So that just makes it all the more difficult.

18 Q Are you aware that a recent federal legislation that would
19 have addressed this unique -- this particular need that the
20 black community has?

21 A Well, I think that the bipartisan infrastructure bill had
22 some funds in it for creating jobs and perhaps addressing some
23 needs that could have been helpful or would be helpful or will
24 be helpful to blacks in Montgomery County because that bill did
17:12:51 25 pass.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q Do you know if Representative Moore voted for that
2 infrastructure bill?

3 A No. He voted against it. As a matter of fact, the entire
4 delegation did, except for Terri Sewell.

17:13:02 5 Q Uh-huh. And Terri Sewell represents -- am I correct, she
6 represents a majority-black district?

7 A She does, yes.

8 Q What about the Build Back Better Act? Are you familiar
9 with that?

17:13:13 10 A I am.

11 Q Yes. Do you know whether that legislation addresses the
12 need of affordable child care?

13 A It does, yeah. There is affordable child care in that I
14 think the -- a few hundred billion in there, couple of hundred
17:13:31 15 billion for --

16 Q And?

17 A Child tax credit and some -- some that are in there for
18 our pre-K, which is a part of what we work with, as well, so
19 all of that would be beneficial to blacks in the low-income
17:13:49 20 bracket.

21 Q Do you know how Representative Moore voted on the Build
22 Back Better Act?

23 A He voted against it.

24 Q And the Build Back Better Act and the infracture act, did
17:13:58 25 you want Representative Moore to support them?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Absolutely.

2 Q And do you think that his opposition to these pieces of
3 legislation did it serve or disserve the black community in
4 your area?

17:14:09 5 A Definitely disserved the community.

6 Q You talked about this a bit. Does the black community in
7 your area have unique needs related to employment?

8 A Yes absolutely.

9 I mean, clearly, employment for everyone was important.

17:14:30 10 But if you start out with an education system that is poor,
11 then it makes it all the more difficult to get good quality
12 jobs, a good high-paying job, and so for the black community,
13 for a large portion of the black community in Montgomery
14 County, if they're seeking a job, they're seeking jobs in those
17:14:56 15 areas that are going to be low wages. And so that makes it all
16 the more difficult for them to get good quality employment.
17 And then that also bleeds then into affordable housing, because
18 if you don't have a good quality job, it's difficult to get
19 good quality housing and all the other issues that comes along
17:15:20 20 with it like black health care and things of that nature.

21 Q Based on your experience, has the COVID-19 pandemic
22 exacerbated the black community's needs related to employment?

23 A Most definitely. In our -- in this agency, we've seen a
24 tremendous increase over the last couple of years in those
17:15:42 25 persons who have come to seek assistance from the program.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 That's true across all of racial groups in -- for us, but
2 blacks were already the higher number, and that just compounded
3 it to be even greater. So we have seen a tremendous amount of
4 blacks seeking assistance.

17:16:03 5 Q Are you familiar with the American Rescue Plan?

6 A I am. Yes.

7 Q Is that otherwise known as the 2021 COVID Relief Bill?

8 A It is, yes.

9 Q Did that legislation -- do you know whether that
17:16:19 10 legislation had provisions providing assistance to people who
11 lost their job during the pandemic?

12 A It did. And had provisions for funding for our agency, as
13 well, to assist people, so it was a bill that provided
14 assistance for a number of families on that level, yes.

17:16:38 15 Q And how did Representative Moore vote on that piece of
16 legislation?

17 A He voted against that also.

18 Q And did you want him to support it?

19 A Absolutely.

17:16:47 20 Q Did his vote against that bill serve or disserve the black
21 community in your area?

22 A Definitely disserved the black community.

23 Q You talked a bit about health care. Is that a unique need
24 among the black community in your area?

17:17:03 25 A Health care is a tremendous need. We have in the black

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 community, Montgomery County, there's a lot of diabetes, a lot
2 of preexisting conditions that was aggravated by COVID-19 or
3 brought out or highlighted by COVID-19. And so there's a
4 tremendous need for health care.

17:17:21 5 Q When she was in office, did Martha Roby take any actions
6 relating to legislation dealing with health care?

7 A The only thing that I could think of is that she voted to
8 repeal the Affordable Care Act.

9 Q Did you want her to support the repeal of the Affordable
17:17:41 10 Care Act?

11 A Not at all.

12 Q Why not?

13 A I mean, of course, the Affordable Care Act if it was
14 repealed would have certainly hurt a tremendous number of black
17:17:53 15 families in Montgomery County. As a matter of fact, we were
16 hoping that there would be more support for expanding it and
17 for Alabama accepting the expansion of Medicaid.

18 Q And has, to your knowledge, has Alabama expanded Medicaid
19 under the Affordable Care Act?

17:18:12 20 A Not -- not to date, no.

21 Q And what effect has that had on the black community?

22 A It's certainly has been a negative for the black community
23 for the entire state for those who are poor and impoverished
24 and in need of health care.

17:18:29 25 Q We spoke about the Build Back Better Act a bit ago. Do

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 you know whether that contained provisions helping those who
2 don't have access because of the failure to expand Medicaid
3 under the Affordable Care Act?

4 A It does have provisions for health care.

17:18:46 5 Q And Representative Moore voted against that legislation?

6 A Absolutely.

7 Q What about access to utilities, quality and affordable
8 utilities, is that an issue for the black community in your
9 area?

17:19:05 10 A It is. As I stated earlier, the agency here at Community
11 Action, we assist families with energy assistance, and we have
12 a tremendous number of blacks who have -- COVID has increased
13 that number, but we have a tremendous number of blacks that
14 come to our agency for assistance with energy because of the
17:19:32 15 need for it and the difficulty of maintaining it.

16 Q Any of the legislation we have talked about, did that
17 address that need?

18 A Well, I think -- yeah, the American Rescue Plan assisted
19 in that area. Build Back Better will provide funding to help
17:19:55 20 that, as well. And some of the climate change items that are
21 there, as well.

22 Q Any other pieces of federal legislation that you believe
23 Representative Moore's positions have been adverse to the black
24 community in your area?

17:20:10 25 A I would say that -- well, the Voting Rights Act have been

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 something that would have been -- will be beneficial to the
2 black community if it's passed. And Representative Moore has
3 not voted in favor of that.

4 Q Can you tell us a bit more about why you think those
17:20:36 5 voting-related pieces of legislation would benefit the black
6 community?

7 A Well, because clearly as I stated earlier, voting is one
8 of those things that is important because it gives us an
9 opportunity to select those representatives who would represent
17:20:54 10 our interest. And if we are not clearly -- if we don't have
11 that clear right to have better access to voting, better access
12 to voter registration, and all of those things, then it's
13 adverse to the black community.

14 Q The things that we have talked about -- education, health
17:21:15 15 care, employment, those -- you are not asserting that white
16 residents of Alabama don't have needs related to those areas,
17 right?

18 A Oh, absolutely not. Those are things that every race will
19 need, and every person in Alabama would really need to have
17:21:36 20 access to all of those things. I guess my assertion is that
21 blacks are behind in all of those things already. We have a
22 higher rate of uneducated individuals. We have a higher rate
23 of persons in need of health care, a higher rate of persons in
24 need of affordable housing, and certainly a higher rate of
17:21:59 25 blacks in prison. So criminal justice is important to us, as

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 well, than it is whites in jail.

2 So we are -- our representation is out of sort for a
3 number of things. And our population in the state of Alabama
4 is about 20-plus percent, 25, 27 percent. And our
17:22:23 5 representation in the prison is about 50-plus percent.

6 Q We have been talking a lot about federal legislation,
7 which I guess that is not surprising because this case is about
8 congressional districts.

9 Aside from federal legislation, do you think a
17:22:39 10 congressional representative can also impact state policy?

11 A Well, I certainly think so. I certainly think that
12 because of the way state legislators approach congressional
13 delegation for support on things that they want, I think that
14 gives the opportunity for collaboration and that collaboration
17:23:05 15 could be helpful to local policies, as well as federal policy.

16 Q And you spoke earlier about Representative Sewell who
17 represents District 7, which is a majority-black district. Do
18 you think she has used her political capital as a federal
19 legislator to impact state policy that's been beneficial to the
17:23:25 20 black community?

21 A Oh, absolutely. I think that she has taken every
22 opportunity to collaborate with state officials and state
23 government and do what she could from her position to assist in
24 those things that are of interest to blacks in her district and
17:23:44 25 throughout the state.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q Mr. Jones, are you a member of a political party?

2 A I am. I am a registered Democrat.

3 Q Do you have a sense of whether in Alabama black voters
4 tend to support either of the major political parties?

17:24:02 5 A Of course, black voters in Alabama tend to vote
6 Democratic. And I think, of course, that's based on looking
7 for who would best represent the black interest.

8 Q Can you tell us a little bit more -- well, why don't you
9 tell us why you are a member of the Democratic Party.

17:24:21 10 A Well, again, I will stress that I -- I am a part of the
11 Democratic Party only because it represents more of those
12 interests that I have in terms of things I would like to see
13 like the Build Back Better Act or the infrastructure bill that
14 would help the American Rescue Plan and anything that could
17:24:44 15 help the population that I serve, which is not necessarily
16 having to be black, just those persons who are low income and
17 in need, and those things are better represented by the
18 Democrats at this time.

19 Q Do you have a sense of whether white voters in Alabama
17:25:07 20 tend to support one of the two major parties?

21 A Well, certainly in Alabama, the majority of white voters
22 support the Republican Party.

23 Q Do you think -- to what extent, if any, do you think this
24 division is influenced by race in issues explicitly tied to
17:25:27 25 race?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter

101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Well, I mean, from all of my voting career and all of my
2 time voting in Alabama, I would say that I am -- I have always
3 had a sense that race was playing a part in every election.
4 When I think about the southern strategy and how race always
17:25:49 5 seems to come up in how it's always somehow even if it's
6 indirect or direct, it somehow plays a part in our voting in
7 Alabama.

8 Q Do you think that division has gotten better or worse in
9 the last few years?

17:26:04 10 A I'd say it's gotten much worse.

11 Q Can you tell us why you say that?

12 A Well, it appears that there is no compromise or
13 collaboration as it relates to the things that would represent
14 the interest of all people, including those who are low income
17:26:27 15 and impoverished and in need of health care, things of those
16 nature. It seems that those things are not even considered.
17 It's just it seems that everything goes along partisan lines.

18 Q And --

19 A And race becomes a big part of that since blacks tend to
17:26:48 20 be the ones who have the higher numbers in the negative
21 categories.

22 Q Mr. Jones, are you familiar with the region called the
23 Black Belt?

24 A I am, yes.

17:27:01 25 Q Does the black community have an important history in the

1 Black Belt?

2 A Oh, no doubt. Absolute.

3 Q To what extent, if any do you think there are connections
4 between the black communities in your area and those who live
17:27:17 5 in the Black Belt?

6 A Well, those items that we talked about earlier, education,
7 is an issue in the Black Belt because of the poverty, the level
8 of poverty, the low tax base in the Black Belt, along with that
9 would be health care issues because it's very rural in the
17:27:34 10 Black Belt. And there's not a lot of quality health care
11 available to people in the Black Belt. Affordable housing
12 would be the same issue in the Black Belt, as well as criminal
13 justice is an issue in the Black Belt.

14 So Montgomery is tied to the Black Belt. It's almost one
17:27:55 15 and the same for the black population.

16 Q And joining those two areas together to enable black
17 voters in the area to elect their candidate of choice, would
18 that allow those communities to receive better representation?

19 A I think it would, yes.

17:28:19 20 MR. OSHER: Mr. Jones, I have no more questions for
21 you. Thank you.

22 JUDGE MARCUS: All right. Thank you.

23 Cross-examination, Mr. Smith?

24 MR. SMITH: Thank you, Your Honor.

17:28:26 25 CROSS-EXAMINATION

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

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

CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Christina K Decker

01-10-2022

Christina K. Decker, RMR, CRR

Date

Federal Official Court Reporter

ACCR#: 255

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

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

BOBBY SINGLETON, et al., *
Plaintiffs, * 2:21-cv-1291-AMM
vs. * January 11, 2022
* Birmingham, Alabama
* 9:00 a.m.

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

EVAN MILLIGAN, et al., *
Plaintiffs, * 2:21-cv-1530-AMM

vs. *
*

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

MARCUS CASTER, et al., *
Plaintiffs, * 2:21-cv-1536-AMM

vs. *
*

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING
VIA ZOOM CONFERENCE
VOLUME VI
BEFORE THE HONORABLE ANNA M. MANASCO,
THE HONORABLE TERRY F. MOORER,
THE HONORABLE STANLEY MARCUS

CHRISTINA K. DECKER, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, AL 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 JUDGE MARCUS: Thank you, sir, and you may proceed,
2 Mr. Osher.

3 MR. OSHER: Thank you, Your Honor.

4 DIRECT EXAMINATION

17:05:00 5 BY MR. OSHER:

6 Q Good afternoon/evening, Dr. Caster.

7 A Good afternoon. Good evening to everyone. Your Honors.

8 Q Thank you for being with us.

9 MR. OSHER: Your Honor, I apologize for the
17:05:16 10 technicalities difficulties.

11 JUDGE MARCUS: That's quite all right.

12 BY MR. OSHER:

13 Q Dr. Caster, are you a plaintiff in this lawsuit?

14 A Yes.

17:05:22 15 Q And where do you live?

16 A I live in McIntosh, Alabama, which is in Washington
17 County.

18 Q Great. And do you have family in Alabama?

19 A Yes. I have a two brothers that live in Mobile County in
17:05:39 20 the city of Mobile. My mother also stays in Mobile County and
21 Mount Vernon, Alabama, and me and if I family we reside in
22 McIntosh, which is in Washington County, Alabama.

23 Q Can you tell us a bit about your childhood, where did you
24 grow up?

17:05:56 25 A I grew up in Mount Vernon, which is a town north of

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Mobile, north of Mobile County. Very small, one red light and
2 a few stop signs, so it's very small, rural, but the
3 environment there was -- it was pretty nice and enjoined. But
4 Mobile County has a vast outskirts of communities such as Mount
17:06:26 5 Vernon, Citronelle, those are on the further north end of
6 Highway 43.

7 Q Okay. And I think you said you went to Citronelle High
8 School?

9 A Yes. I went to Citronelle High School.

17:06:39 10 Q What further education did you get after that?

11 A After Citronelle, I received a basketball scholarship at
12 the University of Mobile where I received my bachelor's degree
13 in sports medicine, pre-physical therapy. I received my
14 master's degree in business administration from University of
17:07:02 15 Phoenix, and I received my doctor's of business administration
16 from Walden University, and I am now currently at Arkansas
17 State University getting an education specialist degree in
18 education leadership.

19 Q Thank you. Dr. Caster, if you could go even slower, that
17:07:20 20 would be great. The court reporter has to take down every word
21 that we say. And it's not an easy task.

22 A Sure.

23 Q What do you currently do for a living?

24 A Currently, I am a teacher educator in the Clarke County
17:07:33 25 school system. I teach kids three through five, and also I am

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 an adjunct business professor at Southern New Hampshire
2 University teaching students getting their master's degree in
3 business administration.

4 Q And where else have you taught in Alabama?

17:07:49 5 A I taught in Mobile -- I taught with the Mobile County
6 public schools systems when I first came out of college. I was
7 assistant basketball coach at Spring Hill College. I also
8 taught in Mobile at the drug education council where I was the
9 youth council coordinator for the city of Mobile and the county
17:08:07 10 of Mobile.

11 Q Can you tell us just a little bit more about the drug
12 education council?

13 A Yes. At the drug education council, I was -- where I was
14 the youth council coordinator, my job was to serve as the
17:08:23 15 liaison between the county commissioners of Mobile, the city
16 council of Mobile, and the mayor of Mobile, and the youth of
17 the city and county of Mobile County. So our job was to try to
18 identify problems that was going on in the city and county of
19 Mobile and present those problems to the mayor of Mobile, to
17:08:49 20 the county commissioners of Mobile, and to the city council
21 members of Mobile to try to strengthen the youth and -- and
22 bridge the gap between the youth and local and county, city
23 government.

24 Q In your work with the drug education council, did you get
17:09:07 25 an opportunity to learn what the communities of interests of

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 the residents of Mobile are?

2 A Yes, we did. Having to go to Government Plaza every week
3 to attend the county commissioners' meeting and having to
4 attend the city council meetings, you get a brief understanding

17:09:30 5 of what the citizens of Mobile, citizens of Mobile, what were
6 the issues in their districts, and what they are wanting for
7 their district, and also when you attend -- when we attended
8 the county commissioners' meeting, we had an opportunity to
9 find out what was going on in the rural areas, such as
17:09:53 10 Citronelle, Prichard, Alabama, Mount Vernon, and other -- other
11 towns and cities that's on the outskirts of Mobile County.

12 Q And did you get an opportunity to identify what the
13 particular needs of the black community are in those areas?

14 A Yes. I had an opportunity to listen to a lot of the
17:10:16 15 residents to come to the county, the county commissioners'
16 meeting. They was -- most of their concerns were education,
17 jobs. They was wanting to get more jobs. They was also
18 wanting to -- protection for the youth, and high-paying jobs,
19 as well. So there's a lot -- there's a variety of things that
17:10:42 20 was a concern for a lot of the citizens of the county of
21 Mobile.

22 Q So we will talk about those issues in a bit.

23 I have a couple of other questions about your background.

24 Have you ever run for political office?

17:10:57 25 A Yes, sir, I did. I ran for Alabama House of

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Representatives District 65 back in 2018.

2 Q That's in Washington County?

3 A It covers Washington County, Choctaw County, and a portion
4 of Clarke County.

17:11:13 5 Q And when running that campaign, did you have a chance also
6 to learn the unique needs of the black community in your area?

7 A Yes, I did. And the needs -- and the needs for the black
8 community area was pretty much the same as the ones that was in
9 Mobile, Mobile County. More jobs, more trades and training,
17:11:38 10 more resources, and just things dealing with trade and the
11 recreation facilities for the youth.

12 Q Dr. Caster, how do you identify in terms of your race?

13 A Black, African-American.

14 Q Okay. Are you registered to vote in Alabama?

17:11:57 15 A Yes, I am.

16 Q Do you vote regularly?

17 A Yes, I do. I vote in both primary, local, city, any type
18 of election that we have, I try to voice my opinion by casting
19 a vote. Voting is very important to me, my family. It's
17:12:14 20 something that we take very seriously and that I instill that
21 in my children. And I also try to instill that into other
22 family members and friends, as well.

23 Q Do you know which congressional district you live in?

24 A Yes, Congressional District 1.

17:12:30 25 Q Okay. And who currently represents that district?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Jerry Carl.

2 Q Do you know who represented that district prior to
3 Mr. Carl?

4 A Priority to Mr. Carl, it was Bradley Byrne.

17:12:43 5 Q Did you vote for Jerry Carl in the last election?

6 A No, I did not. I actually voted for James Averhart.

7 Q And James Averhart was a -- he's a black man?

8 A That's correct.

9 Q And Mr. Carl won that campaign, though, right?

17:13:00 10 A Yes, he did.

11 Q Did you vote for Bradley Byrne when he was running for
12 Congress?

13 A No, I did not.

14 Q Why didn't you support Mr. Byrne in his congressional
17:13:15 15 campaigns?

16 A Well, just by the values and things that my community
17 need, I felt as though my community, people in Washington
18 County, people that are north of Mobile County, and some people
19 that are also in Mobile County, the things that we want for our
17:13:33 20 community I felt as though the other candidates that were --
21 James Averhart, Robert Kennedy, Jr., those individuals, I felt
22 like those were the ones that were better -- was better
23 representative of what the needs of my community was looking
24 for. And I felt as though that the other Representative
17:13:58 25 Bradley Byrne and Representative Carl, they didn't represent

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 the needs of my community.

2 Q And, Dr. Caster, you made several references to my
3 community there. Are you specifically referring to the black
4 community?

17:14:10 5 A Yes, that's correct.

6 Q Do you know whether the congressional elections in
7 District 1 have been competitive recently?

8 A No, they have not.

9 Q In light of that, do you feel like you have a voice in
17:14:27 10 congressional elections in Alabama?

11 A No, I don't. I -- we continue -- I continue to vote, but
12 I do not feel as though that my voice is being heard because
13 we're not getting someone that's representing the black
14 community. I mean, so, no, I don't feel like my vote is being
17:14:47 15 heard -- is being heard at all.

16 Q Dr. Caster, what result are you trying to achieve in this
17 lawsuit with respect to your congressional district?

18 A A voice. A voice. I was -- I mean, my ancestors fought
19 for us to have a right and opportunity to vote. And, you know,
17:15:09 20 and it's already difficult from -- it's difficult having to
21 talk to blacks and try to get them out to vote. And but when
22 they feel like their vote is not counted, it distracts them and
23 discourages them from going back to the polls. And I try to --
24 I try to be an activist in my community in a positive way. And
17:15:33 25 then when I'm going out trying to talk to people about

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 registering to vote and being prepared to vote, they kind of
2 feel as though it's falling on deaf ears because they don't
3 feel like their vote don't count when they have someone in
4 office that doesn't represent them at all.

17:15:52 5 Q Now, you don't mean literally not counted, right? They're
6 able to cast a vote --

7 A Yeah. They're able to cast a vote, but when I say don't
8 count, it's by getting someone in office that does not
9 represent them.

17:16:06 10 Q And if you were to live in a -- if you were to succeed in
11 this lawsuit and the state was ordered to create a second
12 majority-black district, do you think it's likely that your
13 current representative would change as a result of that?

14 A Could you repeat the question, please?

17:16:26 15 Q Would you think the individual who represents your
16 district would change if you were moved into a second
17 majority-black congressional district?

18 A I'm sorry. I'm trying my best to hear you on this
19 computer. I got my volume turned up, but I am still having
17:16:44 20 problems.

21 Q No problem. Thank you for letting me know.

22 So if you were to succeed in this lawsuit and the state
23 drew a second majority-black congressional district that you
24 lived in, do you think the person who currently represents your
17:16:57 25 district would change as a result of that?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Would they change? Would the person that's currently the
2 representative would they change or the new person?

3 Q Would you elect someone else besides Mr. Carl to represent
4 your congressional district?

17:17:14 5 A Oh. Yes. I would -- I would elect someone else besides
6 Representative Carl to represent my district.

7 Q And would that change in representation, would it benefit
8 or harm the black community in your area?

9 A I think it would be more beneficial to the black community
17:17:33 10 to have someone in that will be able to listen to the citizens
11 in our community, that would visit the citizens in our
12 community, that would go to Washington to represent us and to
13 vote on bills that represent our community would be very
14 beneficial to the district, our district, and the citizens --
17:17:59 15 the black citizens in the community, as well.

16 Q And so just to be clear, you talked about feeling like you
17 -- your vote doesn't count in congressional elections based on
18 where you live. Do you think the black community in your area
19 has even an opportunity to elect their representative of choice
17:18:19 20 right now?

21 A No. No, we don't.

22 Q Are you having issues hearing me right now? I think --

23 A I can hear you. Yeah. It just kind of -- I have to try
24 to lean in, but I can hear you.

17:18:36 25 Q Okay. My apologies if I'm cutting out.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 All right. Dr. Caster, you identified a few issues that
2 people -- that people in the black community have identified as
3 particular needs that they have in the area that you live in.

4 You talked about employment. Can you tell us more about
17:18:56 5 what the specific employment-related needs of the black
6 community are in your area?

7 A Well, in my area, we have -- we have three to four
8 multibillion dollar plants. And in they generate billions of
9 dollars each year. And these plants employ a lot of people in
10 our -- in the state. Unfortunately, a lot of individuals that
11 stay in the community that are black does not work for the
12 plants themselves because they don't have the training -- they
13 don't have the trades in order to get inside of these plants.
14 But our white counterparts are able to get these positions, get
17:19:40 15 positions at these plants, and we are not able to get positions
16 at the plants.

17 Q Is the result of that, that the black -- members of the
18 black community have to get lower paying and less flexible
19 jobs?

17:19:55 20 A That's pretty much -- that's pretty much throughout our
21 community, yes. They -- we work at low-wage organizations and
22 companies where others -- whites get paid more. And it just --
23 it just the way it is -- that's just where we are right now.
24 Sad to say, but that's the truth.

17:20:19 25 Q Do you think that the COVID-19 pandemic has made that

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 issue worse for the black community?

2 A Definitely, yes. COVID has impacted our community very
3 hard. Deaths and sickness, yes. It has definitely impacted
4 our community.

17:20:37 5 Q And in terms of employment, as well?

6 A Yes.

7 Q Are you familiar with the American Rescue Plan or the 2021
8 COVID Relief Bill?

9 A Yes, I'm familiar with it.

17:20:49 10 Q Do you know whether that legislation provided assistance
11 to people who lost their job during the pandemic?

12 A Yes, it did.

13 Q And how did Representative Carl vote on that legislation?

14 A Against it.

17:21:03 15 Q Did you want him to support it?

16 A Yes.

17 Q Did you think that his vote against it served or disserved
18 the black community?

19 A It was a disservice to the black community.

17:21:15 20 Q What about transportation? Is that a unique need of the
21 black community in your area?

22 A Yes, it is. Transportation is a -- we don't have public
23 transportation. We don't have cabs. We don't have Uber. We
24 don't have Lyft, anything, to get our people -- even if they

17:21:40 25 didn't have a vehicle to get them to, you know, transportation

Christina K. Decker, RMR, CRR
Federal Official Court Reporter

101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 to a job even if they did have one. So, yes, lack of
2 transportation is really a problem.

3 MR. OSHER: Mr. Walker, I think your --

4 BY MR. OSHER:

17:22:00 5 Q Are you familiar with the infrastructure bill that
6 President Biden recently signed into law?

7 A Yes, I'm familiar with it.

8 Q Do you know whether that legislation had any provisions
9 pertaining to expanding access to public transit?

17:22:17 10 A Yes.

11 Q Would that be something that your community would benefit
12 from?

13 A Yes. Yes, definitely.

14 Q My apologies. I didn't mean to talk over you.

17:22:30 15 Do you know how Representative Carl voted on the
16 infrastructure bill?

17 A Against it.

18 Q Did you want him to support it?

19 A Yes.

17:22:36 20 Q And did his vote serve or disserve the black community in
21 your area?

22 A It was a disservice to the black community.

23 Q What about access to quality and affordable health care,
24 is that an issue for the black community in particular in your
17:22:57 25 area?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Yes, it is.

2 Q Can you tell us a little bit more about that?

3 A Yes. We -- our community is -- first of all is -- we need
4 health care, more affordable health care. And because our
17:23:15 5 communities is particularly in an area -- when I mentioned
6 those four multibillion dollar plants, they -- they also emit
7 pollution in the area, and a lot of individuals from our
8 community get sick from it. Most of -- in fact, just about
9 everyone that I know stays around these plants, and they're
17:23:42 10 predominantly black that stays in these areas right around
11 these plants, and they get sick easy from cancer, easy from
12 lung disease and different ailments that they might have, and
13 we definitely need health care because, you know, they can't
14 afford to move out from these places. So it is very important.

17:24:01 15 Q Are you familiar with the Build Back Better Act?

16 A Yes, I'm familiar with it.

17 Q Do you know whether any provisions of that legislation are
18 aimed to reduce pollution in disadvantaged communities?

19 A Yes. Yes. Parts of the bill was for pollution and things
17:24:25 20 like that. But, you know, once again, the -- our
21 representative votes against all the bills that supposed to
22 serve our community.

23 Q And so Jerry Carl voted against the Build Back Better Act?

24 A Yes.

17:24:38 25 Q And that legislation failed -- or currently is not

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 enacted, right?

2 A Correct.

3 Q Those provisions would have helped your community when it
4 comes to the pollution that the factories in your area cause
17:25:00 5 for the black community?

6 A Yes, sir, that's correct. We have our housing, child
7 care, and everything.

8 Q Does the proximity of the factories to the black
9 neighborhoods in your area affect the quality of drinking
17:25:18 10 water?

11 A Yes. Actually, yes. There was -- mercury was found in
12 the water I think back in 2013. And -- and back then, the
13 drinking water was almost compared to that of Michigan. And a
14 lot of individuals from the community actually received some
17:25:39 15 type of pay behind it, but the water is still not up to par.
16 So right now, people in the community now, they just put a
17 filter on their water faucet and pray for the best.

18 Q And you referenced Michigan. You're referring to Flint,
19 Michigan?

17:26:02 20 A That's correct.

21 Q Do you know whether the Build Back Better Act has
22 provisions meant to improve the quality of drinking water in
23 disadvantaged communities?

24 A Yes.

17:26:13 25 Q And, again, Representative Carl voted against it?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A That's correct.

2 Q You spoke about your work in Mobile with specifically the
3 younger individuals who live there. Did you notice any issues
4 related to criminal justice specifically in the city of Mobile?

17:26:38 5 A Yes. I mean, Mobile -- Mobile has been going through a
6 lot when it comes to criminal justice right now. A lot of -- a
7 lot of blacks being incarcerated more so than the whites.

8 And a lot of the bills in the -- the bills that was -- the
9 first step bill, you know, was supposed to help with some of
17:27:13 10 these issues. And, again, our representative just don't
11 support these bills that is supposed -- you know, that's to
12 help our community.

13 Q And was that a reference to the First Step Act?

14 A Yes.

17:27:27 15 Q From a few years ago?

16 A Yes.

17 Q And am I understanding you that Representative Byrne voted
18 against that?

19 A That's correct.

17:27:35 20 Q One more, Dr. Caster. Access to high speed Internet. Is
21 that an issue for the black community in your area?

22 A Yes. That's why I -- yes. Yeah. I'm at work now, so
23 high speed Internet at my house is -- is almost like dial up.

24 So we definitely need access to high speed Internet, more
17:28:04 25 broadband connections, things of that nature to try to -- you

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 know, the more you have that, the more people can seek jobs
2 online, things that you can just do a lot more by having high
3 speed Internet. And like I said, we don't have -- we don't
4 have access to a lot of that being in the rural area that we're
17:28:22 5 located in.

6 Q And with the COVID pandemic, did that lack of access to
7 Internet harm students when they had to stay home?

8 A Yes. Yes. In -- in Mobile County, and Mobile County
9 actually had to -- they actually put the access on a bus and
17:28:48 10 had parents to if they wanted -- if they didn't have Internet
11 at home, they could pull up by the bus and get the Internet
12 access from the -- from there.

13 And in my area, which is the rural area of Washington
14 County, you know, Washington County and Mobile County, they
17:29:07 15 butt right up against one another, so in the rural Mobile
16 County, like I say the Internet access, we just don't have --
17 we just don't have the resources right now.

18 Q And I just want to be clear here.

19 You're talking about the black community specifically,
17:29:23 20 blacks' access to high speed Internet?

21 A Yes.

22 Q Do you know whether the infrastructure bill we talked
23 about earlier has provisions that would increase access to high
24 speed Internet around the country?

17:29:41 25 A About \$65 billion.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q And Representative Carl vote against the bill, did that
2 serve or disserve the black community with respect to that
3 issue?

4 A Disserve.

17:29:51 5 Q And just to be clear, some of these bills passed, some did
6 not?

7 A Right.

8 Q Representative Carl consistently voted against them,
9 right?

17:29:59 10 A That's correct.

11 Q Do you mean to say that white residents of Alabama don't
12 have needs in the areas that we've been talking about?

13 A No. No. Everyone. Everyone have a needs, you know, it's
14 black, white, Hispanic, everyone have them. But when I speak
17:30:17 15 to you, I'm talking about as far as our representative in our
16 congressional district and a disservice to blacks.

17 Q And is it that the level of need among the black community
18 the just significantly higher than those in the white
19 community?

17:30:33 20 A No. No. It's not that it's higher. It's just the fact
21 that it's important and it matters.

22 Q Okay. And will the issues that we talked about earlier in
23 terms of employment, in terms of education, that desperately
24 impact black residents of your area, does that result in a
17:30:51 25 higher need in these areas for the black community?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter

101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Yes. It's definitely s higher need because we don't have.
2 And so if you don't have them, have the resources, then you
3 know, those who don't have, there's a higher need for -- to try
4 to get them to catch up with everyone else. And a lot of, you
17:31:13 5 know, a lot of people in, you know, neighboring us, they have
6 access to some of these things, and we just don't.

7 Q All right. Dr. Caster, I just have a few more questions
8 for you. I want to talk about where you live and your
9 understanding of Washington County and Mobile County.

17:31:33 10 Do you understand the Washington, Mobile, and Baldwin
11 counties are all currently in the same congressional district?

12 A Yes.

13 Q Based on your work in Washington and Mobile counties,
14 would you say that black residents of those areas have a lot in
17:31:48 15 common with those who live in Baldwin County?

16 A From what I see, the people from my area, my community,
17 they frequently visit Mobile County for entertainment, the
18 Mardi Gras, things of that nature. That's where we go for to
19 support Mobile, and in the same time, Mobile comes to our area
17:32:15 20 and support us, as well, so, yes.

21 Q Would you say that black residents of your area in the
22 city of Mobile have more in common with the Black Belt region
23 and the counties in the Black Belt than they do with Baldwin
24 County?

17:32:32 25 A Yes.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q In fact, you were very patient with us on Friday when we
2 thought that you were going to testify then. When you didn't,
3 where did you go after that?

4 A I was actually in the Black Belt. My son had two
17:32:46 5 basketball games in the Black Belt last week in Marengo County
6 Tuesday, and then I think it was Friday we was in Camden in
7 Wilcox County.

8 Q And so just to be clear. So I'm sorry.

9 What's your view about whether the -- or the economies of
17:33:13 10 the city of Mobile and the economies of Baldwin County in your
11 view, are they similar, independent, how do they compare to one
12 another?

13 A Well, when you look at the simple fact that Mobile County
14 -- they both on the Gulf Coast, okay, and a bridge separates
17:33:36 15 the two. Baldwin County is more tourists. And Mobile County
16 is through the ports and blue collar. So, therefore, the
17 economies are totally different from one another. If anything
18 is incumbent, it would be Mobile County and Washington County
19 where I stay, where you talk about blue collar workers when you
17:34:04 20 come to the factories and the plants and also the Black Belt.

21 Q That was the case that people go from Mobile to Baldwin
22 County and from Baldwin County to Mobile, right, people --
23 people go between those counties all the time, right?

24 A Yes. Yes.

17:34:18 25 Q But you're saying that the nature of the economies are

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 different?

2 A Correct.

3 Q Do you think that black residents of Washington and Mobile
4 County would be better served if they were a part of the
17:34:34 5 congressional district that covered the Black Belt?

6 A Yes, I do.

7 Q And is that because the representative that would
8 represent that district would better serve the interests of the
9 black community?

17:34:45 10 A That would be correct.

11 MR. OSHER: Your Honor, just a moment?

12 JUDGE MARCUS: Sure.

13 MR. OSHER: Dr. Caster, that's all I have for you.
14 Thank you for your time.

17:35:22 15 JUDGE MARCUS: Thank you. Mr. Walker, you may
16 proceed.

17 MR. WALKER: Thank you, Your Honor. And I apologize
18 to Mr. Osher and the Court for interrupting his examination.

19 CROSS-EXAMINATION

17:35:26 20 BY MR. WALKER:

21 Q Dr. Caster, hello. I am Dorman Walker. I represent the
22 chairs of the reapportionment committee.

23 A Nice to meet you.

24 Q Nice to meet you, sir. I will ask you a few questions.

17:35:41 25 You talked about a representative who would represent the

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

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

CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Christina K Decker

01-11-2022

Christina K. Decker, RMR, CRR

Date

Federal Official Court Reporter

ACCR#: 255

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

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

BOBBY SINGLETON, et al., *
Plaintiffs, * 2:21-cv-1291-AMM
vs. * January 12, 2022
* Birmingham, Alabama
* 8:30 a.m.

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

EVAN MILLIGAN, et al., *
Plaintiffs, * 2:21-cv-1530-AMM

vs. *
*

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

MARCUS CASTER, et al., *
Plaintiffs, * 2:21-cv-1536-AMM

vs. *
*

JOHN MERRILL, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendants. *

TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING
VIA ZOOM CONFERENCE
VOLUME VII
BEFORE THE HONORABLE ANNA M. MANASCO,
THE HONORABLE TERRY F. MOORER,
THE HONORABLE STANLEY MARCUS

CHRISTINA K. DECKER, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, AL 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q And you further testified that you never paid attention to
2 what extent your black constituents supported or opposed you in
3 your congressional races; isn't that right?

4 A That's right. It didn't matter. I still had to represent
09:53:33 5 them, whether they voted for me or not.

6 Q Sure. But you didn't pay attention to whether they
7 actually supported or opposed you?

8 A No. Wouldn't matter.

9 Q So during your seven years in Congress, and I think you
09:53:47 10 already talked about this, you got to know the other members of
11 the Alabama delegation; isn't that right?

12 A Our delegation worked together very well, very closely.

13 Q And I -- in Ms. Welborn's cross-examination, you talked
14 about this a little bit, but I'd like to dig down a little
09:54:08 15 more.

16 MR. OSHER: Jeff, can I have you pull up Caster
17 Plaintiffs' Exhibit 12? Thanks.

18 BY MR. OSHER:

19 Q And, Representative, I will represent to you that this is
09:54:26 20 a map of the congressional plan that was in place I believe the
21 whole time that you were in office?

22 A That's correct.

23 Q Over a decade between 2012 and this year, or I should say
24 last year.

09:54:41 25 So Robert Aderholt represented District 4, right?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A That's correct.

2 Q So looking at his district -- and let's see.

3 MR. OSHER: Jeff, could you focus in on the purple
4 district there? Yeah. Perfect.

09:54:59 5 BY MR. OSHER:

6 Q So looking at that district, it spans the width of the
7 state. It has corners in Colbert County in northwest down to
8 Lamar and Tuscaloosa counties, then over east to Etowah,
9 Marshall, and Dekalb County; isn't that right?

09:55:22 10 A Yes, sir.

11 Q Would you say that's an accurate description of that
12 description?

13 A Yes, sir.

14 Q Did Representative Aderholt ever express to you that it
09:55:32 15 was too difficult for him to travel to the different parts of
16 his district?

17 A No. I actually know that area fairly well because I have
18 campaigned in there twice running for statewide office, and
19 that area, it has an awful lot in common with one another.

09:55:49 20 Q Sure. That --

21 JUDGE MARCUS: Just let him finish his answer.

22 THE WITNESS: I said they're very similar.

23 BY MR. OSHER:

24 Q My apologies for -- I didn't mean to talk over you,
09:56:02 25 Representative.

1 That wasn't my question. My question was: Did
2 Representative Aderholt ever express to you that it was too
3 difficult for him to travel to the different parts of his
4 district when he represented them?

09:56:13 5 A No. When you are in Congress and you are delegated to a
6 district like that, you do what you have to do, and I am sure
7 he does an excellent job of it.

8 Q And he is an effective representative of his district?

9 A Yes. Very much so.

09:56:28 10 Q And you testified that you got to know Representative
11 Sewell pretty well during your time in Congress?

12 A Actually, I knew her before I got to Congress. But she
13 and I worked very closely together when I was in Congress.

14 Q She is also a very effective Representative of her
09:56:42 15 district?

16 A Very effective.

17 MR. OSHER: Jeff, can we focus on District 7 in the
18 map?

19 BY MR. OSHER:

09:56:53 20 Q So, again, looking at this district, her district started
21 out in -- well, it goes down to the south in Clarke County,
22 then to Montgomery in the east, up to Birmingham in the
23 northeast in Jefferson County, and then over to Pickens County
24 in the west. Do you see that? Did I describe her district
09:57:13 25 accurately?

Christina K. Decker, RMR, CRR
Federal Official Court Reporter

101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 A Yes.

2 Q In your time in Congress, did Representative Sewell ever
3 express to that you it was too difficult for her to travel to
4 the different parts of her district?

09:57:26 5 A She never said it was too difficult, but she said it was
6 pretty difficult.

7 Q When did she say that?

8 A On several different occasions. She would talk about what
9 her schedule was and how difficult it was for her to be able to
09:57:39 10 go from Birmingham to Clarke County to Lowndes County to
11 Choctaw County, just the difficulty in travel, and the fact
12 that, you know, she's got parts of Jefferson County an urban
13 county, parts of Montgomery County another urban county
14 together with the rural Black Belt counties. It's tough, it's
09:58:01 15 real tough on her, but she is very smart and very capable, and
16 she does -- she works hard.

17 Q And you said she's a very effective representative?

18 A Oh, yes very effective.

19 Q And let's look at District 3.

09:58:17 20 As you spoke a bit about earlier, looking at that district
21 -- and I'm sorry. Who represents District 3?

22 A It's Mike Rogers.

23 Q And he did the whole time you were in office; is that
24 right?

09:58:29 25 A Oh, yes. Yeah.

1 Q So looking at his district, it has at least half of the
2 eastern border of the state running all the way up from
3 Cherokee County and all the way down to Russell County; isn't
4 that right?

09:58:41 5 A That's right.

6 Q Okay. Did Representative Rogers ever say to you that it
7 was too difficult for him to travel to the different parts of
8 his district?

9 A No. I think he felt like his district had a lot of
09:58:52 10 commonality -- not necessarily easy to get from Cherokee County
11 to Russell County, but the commonality of interests they had
12 made it a little bit easier on him.

13 He does have the Anniston Army Depot, so he is going to be
14 focused on that. But in Russell County, he has got people that
09:59:11 15 are across the river from a major Army base, so he's got that
16 to contend with, too. But he's a ranking member of the House
17 Armed Services Committee now, soon to be the chairman, and so
18 he will be in a unique position to help both of those.

19 Q Sure. That wasn't my question. My question was about the
09:59:29 20 difficulty of travel to the different parts of the district.

21 And --

22 A Yeah. He would say, I have had a long day or a long
23 couple of three days because I have to go from Cherokee County
24 all the way down to Pike Road in Montgomery. That's a long
09:59:44 25 way.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801
256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q But he's -- you think he's a very effective representative
2 in his district?

3 A Oh, yeah, yeah.

4 Q Okay.

09:59:51 5 MR. OSHER: You can take that down, Jeff, thank you.

6 BY MR. OSHER:

7 Q In your direct examination, do you recall talking to
8 Mr. Davis about how the illustrative plans that the plaintiffs
9 have offered in this case may result in no congressional
10:00:06 10 representative living in Mobile? Do you remember that?

11 A Yes.

12 Q And I think -- I can't remember. It might have been
13 Mr. Davis or you said that that would be a tragedy?

14 A It would be a tragedy if we didn't have somebody from
10:00:16 15 Mobile representing the Mobile area, yeah.

16 Q Okay.

17 MR. OSHER: Jeff, could I have you pull up Defendants'
18 Exhibit 2, which I believe is Mr. Bryan's report that was
19 offered by the state in this case?

10:00:37 20 Can you go to page 27? Next page, please. And can you
21 zoom in on the Figure 5.6, Alabama enacted plan. Any way to
22 zoom in further.

23 BY MR. OSHER:

24 Q Representative, can you see that map?

10:01:08 25 A I can.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

1 Q Okay. I will represent to you that this is the current
2 enacted map, and it has dots as to where each of the current
3 Representatives live. Do you see that?

4 A I do.

10:01:19 5 Q Can you tell me which congressional representative
6 currently lives in Montgomery?

7 A I don't think anybody currently lives in Montgomery.

8 Q And you would agree that Montgomery is the third biggest
9 city in Alabama?

10:01:38 10 A Actually, now, I think it's the fourth.

11 Q Fair enough. You would say that Montgomery is a very
12 important city in the state of Alabama?

13 A Oh, yes, very important city.

14 Q Okay.

10:01:50 15 MR. OSHER: You can take that down, Jeff. Thank you.

16 BY MR. OSHER:

17 Q You spoke a bit about District 5 in the State Board of
18 Education plan. Do you remember that?

19 A I can't remember which district it was.

10:02:03 20 Q District 5 is the one that connects Montgomery to Mobile
21 with the Black Belt?

22 A Okay. I remember that one.

23 Q And up until a few years ago, Ella Bell represented that
24 district for a long time; is that right?

10:02:17 25 A She did, yes.

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
101 Holmes Avenue, NE
Huntsville, Alabama 35801

256-506-0085/ChristinaDecker.rmr.crr@aol.com

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

CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Christina K Decker

01-12-2022

Christina K. Decker, RMR, CRR

Date

Federal Official Court Reporter

ACCR#: 255