

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

JAMES THOMAS, LAQUISHA  
CHANDLER, KHADIDAH STONE, EVAN  
MILLIGAN, GREATER BIRMINGHAM  
MINISTRIES, and the ALABAMA STATE  
CONFERENCE OF THE NAACP,

*Plaintiffs,*

vs.

JOHN H. MERRILL, in his official capacity  
as Secretary of State of Alabama, and JIM  
MCCLENDON and CHRIS PRINGLE, in  
their official capacities as Co-Chairs of the  
Alabama Permanent Legislative Committee

**THREE-JUDGE PANEL REQUESTED**

COMPLAINT

1. The State of Alabama carries a sordid record of using racial discrimination to maintain the political power of its white citizens. While Alabama's elected officials have made important changes over the past fifty years—mostly as a result of court orders or U.S. Department of Justice intervention—Defendants continue to run afoul of the law when it comes to redistricting, even after a three-judge court struck down 12 state legislative districts as unconstitutional racial gerrymanders in the last, 2010, redistricting cycle.

2. Despite deploying new tricks and tools to justify their actions during redistricting, Defendants cannot conceal their use of race as a predominant factor in drawing many state legislative districts. Those districts are not drawn in a way that is narrowly tailored to comply with

Section 2 of the Voting Rights Act (“VRA”) or justified by any other compelling governmental interest.

3. Considering race in drawing district lines, including as a predominant factor, may be permissible and indeed necessary in many areas of Alabama to ensure compliance with Section 2 of the VRA, but that was not what Defendants carried out in this cycle. Rather, the challenged districts use race as a means to maintain power through the packing and cracking of Black voters in certain districts while paying lip service to non-discriminatory districting obligations by purporting to have ignored race in the initial draft maps and nominally and inconsequentially unpacking Black voters in some districts.

4. Behind this subterfuge, the challenged districts employ race as a primary tool in determining district lines. They do so without proper regard for what Section 2 actually requires—analyzing whether there is racially polarized voting in different localities and, if so, drawing effective districts for Black voters and other voters of color without unnecessarily diminishing their political influence in neighboring districts. Instead, Alabamians were prevented from participating in a secretive map drawing process, and at the eleventh hour, presented with racially gerrymandered maps.

5. The Legislature enacted Alabama Senate Districts 7, 11, 12, 18, 19, 20, 21, 23, 24, 25, 26, and 33 (enacted in SB1) (the “Challenged Senate Districts”), and State House Districts 52, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 70, 71, 72, 75, 76, 78, 98, 99, 101, and 103, (enacted in HB2) (the “Challenged House Districts” and together with the Challenged Senate Districts, “the Challenged Districts”), using race as a predominant factor in a manner not narrowly tailored to comply with Section 2 of the VRA or any other compelling governmental interest. As a result,

these districts violate the Fourteenth Amendment of the United States Constitution and must be enjoined.

### **JURISDICTION AND VENUE**

6. This Court has jurisdiction to hear this case under 28 U.S.C. §§ 1331, 1343, and 1357 because the matters in controversy arise under the Constitution and laws of the United States, as well as under 42 U.S.C. §§ 1983 and 1988.

7. The Court has jurisdiction to grant declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202.

8. The Court has personal jurisdiction over the Defendants, who are all citizens of Alabama.

9. A three-judge panel is requested pursuant to 28 U.S.C. § 2284(a), as this action challenges “the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body.”

10. Venue is proper in this Court under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims occurred in this district and because at least one Defendant resides in this district and all Defendants are Alabama residents.

### **PARTIES**

11. Plaintiff James Thomas is a registered voter who lives in Mobile, Alabama, in State Senate District 33 and State House District 97. He is and will continue to be irreparably harmed by living and voting in unconstitutionally racially gerrymandered districts.

12. Plaintiff Laquisha (Que) Chandler is a registered voter who lives in Tuscaloosa, Alabama, in State Senate District 24 and State House District 71. She is and will continue to be irreparably harmed by living and voting in unconstitutionally racially gerrymandered districts.



House Districts 52, 54, 55, 56, 57, 58, 59, 60, 70, 71, 72, 98, and 99. If not enjoined, these members will be harmed by living and voting in unconstitutionally racially gerrymandered districts.

18. Plaintiff Alabama State Conference of the N.A.A.C.P. (“Alabama NAACP”) is a state subsidiary of the National Association for the Advancement of Colored People, Inc. The Alabama NAACP is the oldest and one of the most significant civil rights organizations in

candidates for the State Legislature as well as issuing Certificates of Election following tabulation of vote results. Ala. Code §§ 17-13-5(b), 17-9-3(b), 17-12-21.

22. Defendants Jim McClendon and Chris Pringle are sued in their official capacities as Co-Chairs of the Alabama Permanent Legislative Committee on Reapportionment (“the Committee”). In that capacity, Defendants McClendon and Pringle prepared and developed redistricting plans for the State following the decennial census and presided over the meetings of the Committee. The Committee was tasked with making a “continuous study of the reapportionment problems in Alabama seeking solutions thereto” and reporting its investigations, findings, and recommendations to the Legislature as necessary for the “preparation and formulation” of redistricting plans for the Senate and House districts in the State of Alabama. Ala. Code §§ 29-2-51, 29-2-52. Defendants McClendon and Pringle led the drawing of the challenged districts. They will likely lead efforts to re-draw the districts to remedy their unconstitutionality if the Court orders the State to do so.

### **STATEMENT OF FACTS**

23.

scheme was struck down for violating the principle of One-Person-One-Vote. *Reynolds v. Sims*, 377 U.S. 533, 568 (1964).

25. Following *Reynolds* and the 1970 Census, the Legislature failed to redistrict and a three-judge federal court was forced to draw new district lines to protect voters' rights under the Fourteenth Amendment. *Sims v. Amos*, 336 F. Supp. 924, 940 (M.D. Ala. 1972).

26. In the 1980s, the United States Attorney General denied preclearance under Section 5 of the VRA to maps drawn by the Legislature to redistrict State House and Senate seats, finding the maps improperly retrogressive for Black voters, with specific examples cited in Jefferson







37. The criteria next require compliance with the Alabama Constitution, including that:
- a. Districts are “drawn to reflect the democratic will of all the people concerning how their governments should be restructured;”
  - b. Districts are drawn based on total population except that voting-age population may be considered to comply with Section 2 of the VRA and other laws;
  - c. The number of Senate districts is set at 35 and House districts at 105;
  - d. All districts must be single-member districts; and
  - e. All districts must be contiguous with each other.

38. The criteria next require compliance with redistricting policies that are “embedded in the political values, traditions, customs, and usages of the State of Alabama . . . to the extent that they do not violate or subordinate the foregoing policies prescribed by the Constitution and laws of the United States and of the State of Alabama,” including:

- a. Avoiding contests between incumbents where possible;
- b. Permitting contiguity by water but not point-to-point or long-lasso contiguity;
- c. Respect for “communities of interest, neighborhoods, and political subdivisions to the extent practicable,” with a community of interest “defined as an area with recognized similarities of interests, including but not limited to ethnic, racial, economic, tribal, social, geographic, or historical identities;”
- d. Minimization of the number of counties in each district; and
- e. Preservation of the cores of existing districts.

39. The Committee did not provide an order of importance for each of the criteria, except that “equality of population among districts and compliance with the Voting Rights Act of 1965” take priority when they conflict with other criteria.

### **The 2021 Legislative Process for Redistricting**

40. On August 12, 2021, the U.S. Census Bureau released the results of the 2020 Census. Alabama’s population grew by 5.1% between 2010 and 2020. Alabama’s current

population identifies as 63.1% non-Hispanic white, 26.9% as any part Black, 5.3% as Hispanic or Latino, 2.3% as any part American Indian/Alaska Native, and 2% as any part Asian. Communities of color drove this population growth. The Black population grew by 3.5%, the Hispanic/Latino population grew by 42.3%, and the Asian-American population grew by 43.4%, while the white population shrunk by 1%. The population identifying as solely Native American shrank as well, while the proportion of Alabamians identifying as multi-racial tripled.

41. Once census data was released, the Committee, under the leadership of Defendants McClendon and Pringle, began to develop redistricting plans for State Senate and State House of Representatives districts. *See* Ala. Code § 29-2-50(2).

42. The Committee consists of members of both the State House and Senate, with the Speaker of the House appointing one House member from each of the seven congressional districts and four additional House members and the Lieutenant Governor appointing one Senator from each of the seven congressional districts and four additional Senators. *See* Ala. Code § 29-2-51(c). The 2021 Committee includes 21 members—15 of whom are white and six of whom are Black.<sup>2</sup>

43. All Committee meetings must be open to the public, and the Committee must provide a “[r]easonable opportunity” for members of the public to give comments and input regarding redistricting.

---

<sup>2</sup> Ala. Legis., *Permanent Legislative Committee on Reapportionment*, [http://www.legislature.state.al.us/aliswww/ISD/JointIntCommResults.aspx?OID\\_COMM=1300&COMMITTEE=PERMANENT%20LEGISLATIVE%20COMMITTEE%20ON%20REAPPORTIONMENT](http://www.legislature.state.al.us/aliswww/ISD/JointIntCommResults.aspx?OID_COMM=1300&COMMITTEE=PERMANENT%20LEGISLATIVE%20COMMITTEE%20ON%20REAPPORTIONMENT) (last visited Nov. 13, 2021). An additional Republican committee member left the Legislature in July 2021. *See* Eddie Burkhalter, *Governor appoints Rep. Bill Poole as state finance director*, Ala. Pol. Rep. (July 16, 2021), <https://www.alreporter.com/2021/07/16/governor-appoints-rep-bill-poole-as-state-finance-director/>.

44. Between September 1 and 16, 2021, well before the Committee released any draft maps or proposals, the Legislative Reapportionment Office held 28 public hearings across the State. All but one hearing—held at 6:00 pm at the Statehouse in Montgomery—were held between the normal workday hours of 9:00 a.m. to 5:00 p.m.

45. Although Committee Co-Chair Sen. Jim McClendon said that the public hearings served “to try to give the opportunity for any citizen to have input into the process,” before the public hearings even began, he told the press that the new maps would not cause “any surprises for the candidates or for the voters,”<sup>3</sup> suggesting that the contours of the maps had already been decided and that the public input process was, at best, a formality rather than a meaningful opportunity for public input.

46. On October 19, 2021, Plaintiffs Alabama NAACP and Greater Birmingham Ministries, along with other advocacy organizations, sent a letter to the Committee reminding them of their obligations under Section 2 and the Constitution, highlighting the Committee’s obligation

day before—October 25, 2021— long after the last of the public redistricting hearings. A member of the Committee, Rep. Chris England, published the proposed maps on Twitter.<sup>5</sup>

50. Rep. Laura Hall moved to postpone any vote on the proposed maps until the Committee members could be published back in the (top) (v) (s) (t) (i) (n) (p) (s) (i) (t) (c) (b) (p) (a) (n) (d) (g) (s) (c) (t) (l) (2) (t) (2) go80 polarization analysis. That motion failed along racial lines.

51. It is illustrative that no racial-polarization analysis was conducted for Congressional District 7—the single majority-minority congressional district in the state. Defendant Pringle told the Committee that Mr. Walker said that such analysis was unnecessary because the district has a Black voting age population (“BVAP”) of around 54%, but did not explain the significance of that number, and when Rep. England asked Sen. McClendon to explain the relationship between a BVAP of 54% and the actual or poten30 (a)3.10 (sl)-1.90 9.20 (544P <</MCID.90 ( )-









of splits in Jefferson County even though the map reduced the number of splits in multiple other counties. Sen. Singleton echoed the concern over “unnecessary splits” in Jefferson County. The Senate nonetheless passed the State Senate map.

70. Meanwhile, the full House of Representatives debated the State House map.

71. Rep. Mary Moore discussed how Jefferson County in a manner that split communities of interest. As a result, voters in some districts have “little, if anything, in common.”





86. No compelling governmental interest, including compliance with Section 2 of the VRA, justifies the use of race to crack Black voters among three districts and impair such voters from having a meaningful chance at electing candidates of choice. Indeed, District 7 appears to violate the principles the Committee bound itself to by splitting a community of interest in the center of Huntsville. Had the Committee followed its own districting principles and prioritized race only in a narrowly tailored manner to consider VRA compliance, Black voters could form an effective plurality, if not majority, in Huntsville. Yet the irregular lines drawn for District 7 appear designed to prevent that very possibility.

State Senate Districts 25 and 26:

87. Race was the predominant factor in drawing both State Senate Districts 25 and 26, and it was not employed in a narrowly tailored manner to advance compliance with Section 2 of the VRA or any other compelling governmental interest.

88.

91. No compelling governmental interest, including compliance with Section 2 of the VRA, justifies the use of race to pack Black voters into one district and white voters into another, thereby diluting the voting power of Black voters in the Montgomery area. An effectiveness

analysis—an examination that identifies whether and to what degree voting is racially polarized and analyzes based on votes for Black-preferred candidates and turnout percentages across elections what percentage BVAP is required for Black voters to usually elect candidates of choice in that region—shows that District 26 is drawn with a BVAP that is more than 15% higher than necessary for Black voters to elect their candidates of choice.

State Senate District 33

92. Race was the predominant factor in drawing State Senate District 33, and it was not employed in a narrowly tailored manner to advance compliance with Section 2 of the VRA or any other compelling governmental interest.

93. Butterfly-shaped District 33 straddles the boundary line between Mobile and Baldwin Counties. The district lines are drawn to pull in nearly every majority-Black precinct in Mobile as well as the majority-Black City of Prichard. The figure below reveals how district lines in Mobile County pack Black voters into District 33.





99. The figure below reveals how these districts combine to split Talladega County down the middle, using bizarre shapes and jumping across county lines to crack Black communities.

100. No compelling governmental interest, including compliance with Section 2 of the VRA, justifies the use of race to draw district lines that divide Black communities throughout an entire county to prevent a greater showing of political power. Had the Committee followed its own districting principles, it could have, for example, kept Talladega County intact and included the city of Anniston in Calhoun County, which would have provided more influence to Black voters in that district. Yet the irregular lines drawn for Districts 11 and 12 appear designed to prevent that very possibility.

State Senate Districts 21 and 24

101. Race was the predominant factor in drawing State Senate Districts 21 and 24, and it was not employed in a narrowly tailored manner to advance compliance with Section 2 of the VRA or any other compelling governmental interest. District 21 begins on the western state border in Pickens County, narrows to bisect the center of the city of Tuscaloosa, and then widens again in the more rural, eastern portions of Tuscaloosa County. Along the way, Senate District 21 is expressly crafted to include precincts with predominantly white residents, while excluding the precincts with a majority of Black residents in the city, which are then placed in District 24. District 24 begins further south in Choctaw County, and despite working its way up to Tuscaloosa through

103. Other indicators show establish race was the predominant factor in drawing Senate Districts 21 and 24. District 21 is among the least compact in the Senate as well. District 21 would be more compact if it included precincts in the city of Tuscaloosa with higher concentrations of Black residents in exchange for the precincts in the southeast corner of Tuscaloosa County with higher concentrations of white residents. These precincts are also of nearly identical populations, demonstrating that equal population constraints combined with attempts to minimize precinct splits do not explain these choices. Moreover, despite the area around the University of Alabama is more Democratic, but it is also majority-white and it was included in majority-white District 21.

104. Based on its population, Tuscaloosa County is entitled to 1.58 Senate districts—ideally, one district entirely within the county and another that spills into another county. But instead, Tuscaloosa County has three Senate districts, all of which split into other counties, further emphasizing the lack of regular districting principles at play in creating these districts.

105. No compelling governmental interest, including compliance with Section 2 of the VRA, justifies the use of race to pack Black voters into District 24 and prevent Black voters from increasing their influence in District 21. District 24 instead has a BVAP of 57%, approximately 10 percentage points higher than necessary for Black voters to elect candidates of choice. This targeted grouping of Black voters from a large swath of the state into one district is not narrowly tailored to comply with the VRA.



110. Jefferson County's ideal number of Senate districts based on its population is 4.7, a number that could be achieved with four districts lying entirely within the county and another that takes in part of another county. Drawn that way, it would be almost impossible to avoid having three out of five of the county's delegation elected from majority-minority districts. But instead, Jefferson has seven Senate districts, four of which are split across county lines, further emphasizing the departure from the Committee's declared districting principles in Jefferson County.

111. The figure below reveals how the three challenged districts draw in all of the Black population centers of the county, leaving the edges for majority-white precincts and allowing those other districts to cross county lines.

112. No compelling governmental interest, including compliance with Section 2 of the VRA, justifies the use of race to pack Black voters into District 18, 19, and 20. These districts are drawn at levels approximately 10-20% higher than necessary.



117. District 75 could become more compact by including more precincts with higher BVAP in the northern portion of the city of Montgomery instead of going south to include more precincts with higher white VAP. The districts around Montgomery could be easily shifted to avoid the need for one district to snake around the city. The use of race patently explains the shape of these three districts.

118. No compelling governmental interest, including compliance with Section 2 of the VRA, justifies the use of race to pack Black voters into Districts 76 and 78 while creating an overwhelmingly white District 75. Districts 76 and 78 pack Black voters with BVAPs approximately 12-18% higher than necessary to elect candidates of choice. And because District 75 has a significant white majority, the VRA cannot justify its predominant use of race. Instead, these districts appear drawn to prevent Black voters from exercising political power in an additional Montgomery-area district.



State House Districts 98, 99, 101, and 103

119. Race was the predominant factor in drawing State House Districts 98, 99, 101, and 103, and it was not employed in a narrowly tailored manner to advance compliance with Section 2 of the VRA or any other compelling governmental interest. 3.80 (a) 1 0 0 1 72 626.0[0 (i)-2 s.80 8w)1.90 (a.)-

122. Districts 98, 99, 101, and 103 are quite non-compact. District 101 could be made significantly more compact by swapping Black precincts for white precincts in western Mobile. The district lines also repeatedly cross over the Mobile city border, demonstrating no respect for municipal boundaries or the Committee other avowed redistricting principles.

123. No compelling governmental interest, including compliance with Section 2 of the VRA, justifies the use of race to pack Black voters into Districts 98, 99, and 103 and prevent those voters from any chance at electing candidates of choice in District 101. Districts 98, 99, and 103 have BVAPs of 8-10% higher than necessary to allow Black voters to elect candidates of choice. By packing Black voters into Districts 98, 99, and 103, this map attempts to diminish the political power of Black voters in neighboring District 101.

Districts 52, 54, 55, 56, 57, 58, 59, 60

124. Race was the predominant factor in drawing State House Districts 52 and 54–60, and it was not employed in a narrowly tailored manner to advance compliance with Section 2 of the VRA or any other compelling governmental interest.

125. All eight of these districts are located within Jefferson County and all have BVAP percentages above 55%, ranging from 55.5% up to 70.3%. Specifically, District 52 has a 65.9% BVAP, District 54 has a 55.5% BVAP, District 55 has a 60.7% BVAP, District 56 has a 58.5% BVAP, District 57 has a 57.6% BVAP, District 58 has a 65.2% BVAP, District 59 has a 70.3% BVAP, and District 60 has a 65.5% BVAP. A number of these districts have low compactness scores, especially Districts 52, 54, 55, 57, and 59.

126.

another that spills into another county. But instead, Jefferson has seventeen House districts in the County, five of which cross county lines, further emphasizing the departure from the Committee's

districts are drawn at levels approximately 10-25% higher than necessary for Black voters to elect candidates of choice. This haphazard lumping of Black Alabamians into the challenged districts is not narrowly tailored to comply with the VRA.

House Districts 61, 62, 63, 70, 71, 72

131. Race was the predominant factor in drawing State House Districts 61–63 and 70–72, and it was not employed in a narrowly tailored manner to advance compliance with Section 2 of the VRA or any other compelling governmental interest.

132. These six districts all exist in whole or in part in Tuscaloosa County. Districts 63 and 70 exist mostly within the City of Tuscaloosa, with the former including the mostly white parts

out on its east side to encompass the parts of Bibb County that have the highest BVAP, and on its

138. No compelling governmental interest, including compliance with Section 2 of the VRA, justifies the use of race to pack Black voters into House Districts 70–72 and white voters into Districts 61–63. Districts 70–72 are drawn at BVAP levels approximately 6-12% higher than necessary for Black voters to elect candidates of choice. This haphazard lumping of Black voters into several districts while carving out white voters to this extent is not narrowly tailored to comply with the VRA.

**CLAIMS FOR RELIEF**

**Count One**

**SB1's violations the Fourteenth Amendment to the U.S. Constitution  
U.S. Const. amend. XIV; 42 U.S.C §1983  
(Racial Gerrymandering)**

139. The allegations contained in the preceding paragraphs are alleged as if fully set forth herein.

140. The Fourteenth Amendment to the U.S. Constitution provides in relevant part: “No







New York, NY 10006  
(212) 965-2200  
laden@naacpldf.org  
snaifeh@naacpldf.org  
ksadasivan@naacpldf.org

Jessica L. Ellsworth\*  
Shelita M. Stewart\*  
HOGAN LOVELLS US LLP  
555 Thirteenth Street, NW  
Washington, DC 20004  
(202) 637-5600  
jessica.ellsworth@hoganlovells.com  
shelita.stewart@hoganlovells.com

David Dunn\*  
HOGAN LOVELLS US LLP  
390 Madison Avenue  
New York, NY 10017  
(212) 918-3000  
david.dunn@hoganlovells.com

***Attorneys for Plaintiffs***

Janette McCarthy Wallace\*  
Anthony Ashton\*  
Anna-Kathryn Barnes\*  
NATIONAL ASSOCIATION FOR THE  
ADVANCEMENT OF COLORED PEOPLE  
(NAACP)  
4805 Mount Hope Drive  
Baltimore, MD 21215  
(410) 580-5777  
jlouard@naacpnet.org  
aashton@naacpnet.org  
abarnes@naacpnet.org

***Attorneys for Plaintiff Alabama State  
Conference of the NAACP***

(404) 521-6700  
careen.short@splcenter.org  
jack.genberg@splcenter.org  
liza.weisberg@splcenter.org

Michael Turrill\*  
Harmony R. Gbe\*  
HOGAN LOVELLS US LLP  
1999 Avenue of the Stars  
Suite 1400  
Los Angeles, CA 90067  
(310) 785-4600  
michael.turrill@hoganlovells.com  
harmony.gbe@hoganlovells.com