

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

ALABAMA LEGISLATIVE BLACK *
CAUCUS; BOBBY SINGLETON; *
ALABAMA ASSOCIATION OF BLACK *
COUNTY OFFICIALS; FRED *
ARMSTEAD, GEORGE BOWMAN, *
RHONDEL RHONE, ALBERT F. *
TURNER, JR., and JILES WILLIAMS, JR., *
individually and on behalf of others *
similarly situated, *

Plaintiffs,

v.

THE STATE OF ALABAMA; JOHN H. *
MERRILL in his official capacity as *
Alabama Secretary of State, *

Defendants. *

ALABAMA DEMOCRATIC *
CONFERENCE et al., *

Plaintiffs, *

v. *

THE STATE OF ALABAMA et al., *

Defendants. *

* Civil Action No.
* 2:12-CV-691-WKW-MHT-WHP
* (3-judge court)
*

* Civil Action No.
* 2:12-cv-1081-WKW-MHT-WHP
* (3-judge court)
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**ALBC PLAINTIFFS' AMENDMENT TO OBJECTIONS TO
ENACTED REMEDIAL HOUSE AND SENATE PLANS**

Plaintiffs Alabama Legislative Black Caucus et al., through undersigned

counsel, amend their objections to the remedial Senate redistricting plan, Act 2017-347 (SB403), and the remedial House redistricting plan, Act 2017-348 (HB571), Doc. 345, as follows:

1. The ALBC plaintiffs' objections to the Jefferson County gerrymanders allege that this Court "must make a sensitive inquiry into all circumstantial and direct evidence of intent to assess whether the plaintiffs have managed to disentangle race from politics and prove that the former drove a district's lines." Doc. 345 at 23 (quoting *Cooper v. Harris*, 137 S.Ct. 1455, 1473 (2017)) (internal quotation marks and citations omitted).

2. The defendant State has alleged that partisan reasons explain why the Legislature refused to remove either HD 14, HD 16, or SD 5 from Jefferson County. Doc. 354 at 15-16 ("the Republicans in the Legislature had no reason to cede control over Jefferson County's delegation to Democrats. ... [T]hese districts were originally drawn, not for racial reasons, but so 'the county would be controlled by the people in [the Republican] party.'") (citations omitted).

3. The Supreme Court has scheduled oral argument for October 3, 2017, in the Wisconsin partisan gerrymandering case, *Gill v. Whitford*, No. 16-1161. See https://www.supremecourt.gov/oral_arguments/calendars/MonthlyArgumentCalendar2017.html.

4. The partisan purposes of the Jefferson County gerrymanders in the instant action would violate many of the constitutional standards that have been proposed to the Supreme Court. In particular, see Michael S. Kang, *Gerrymandering and the Constitutional Norm Against Government Partisanship*, Emory Legal Studies Research Paper Forthcoming, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3019390 (“[A] government purpose to discriminate on the basis of either party or race ought to be unconstitutional, provided government decisionmaking cannot otherwise be justified with reference to legitimate state interests.”); Brief of Bernard Grofman and Ronald Keith Gaddie as Amici Curiae in Support of Neither Party, <http://www.campaignlegalcenter.org/sites/default/files/16-1161acBernardGrofmanAndRonaldGaddie.pdf> (“Any constitutional test for partisan gerrymandering will thus have to . . . isolate the degree of asymmetry that is ‘unrelated to the [legitimate] aims of apportionment,’ or to residential patterns or chance. *Vieth*[v. *Jubelirer*], 541 U.S. [267,] 313 [(2004)] (Kennedy, J., concurring).”

WHEREFORE, the ALBC plaintiffs hereby amend their objections to allege, in the alternative, that the Jefferson County gerrymanders are based on partisan discrimination that violates the First and Fourteenth Amendments.

Respectfully submitted this 18th day of August 2017.

Edward Still
Bar No. ASB-4786-I 47W
429 Green Springs Hwy
STE 161-304
Birmingham, AL 35209
205-320-2882
fax 205-320-2882
E-mail: still@votelaw.com

Joyce White Vance
Bar No. 1201N75J
829 Linwood Road
Birmingham, AL 35222
Telephone: (205) 305-9511
joycevance4@gmail.com

Attorneys for Plaintiffs

s/ James U. Blacksher
Bar No. ASB-2381-S82J
P.O. Box 636
Birmingham AL 35201
205-591-7238
Fax: 866-845-4395
E-mail: jblacksher@ns.sympatico.ca

U.W. Clemon
Bar No. ASB-0095-076U
5202 Mountain Ridge Pkwy
Birmingham, Alabama 35222
(205) 837-2898
E-mail: clemonu@bellsouth.net

CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2017, I served the foregoing on the following electronically by means of the Court's CM/ECF system:

Andrew L. Brasher
Megan A. Kirkpatrick
Misty S. Fairbanks Messick
James W. Davis (ASB-4063-I58J)
Assistant Attorneys General
Post Office Box 300152
Montgomery, Alabama 36130-0152
email: mmessick@ago.state.al.us
email: jimdavis@ago.state.al.us
email: abrasher@ago.state.al.us
email: mkirkpatrick@ago.state.al.us

Bryan M. Taylor
OFFICE OF THE GOVERNOR
600 Dexter Avenue, Suite NB-05
Montgomery, AL 36130
Bryan.Taylor@governor.alabama.gov
John J. Park, Jr.
Deputy Attorney General
Strickland Brockington Lewis LLP
Midtown Proscenium Suite 2200
1170 Peachtree Street NE
Atlanta, GA 30309
email: jjp@sblaw.net

Dorman Walker
dwalker@balch.com
Louis M. Calligas
lcalligas@balch.com
BALCH & BINGHAM LLP
Post Office Box 78
Montgomery, AL 36101-0078
dwalker@balch.com

J. Cecil Gardner
The Gardner Firm, P.C.
210 South Washington Ave.
Montgomery, AL 36602
(251) 433-8100
email: jcg@thegardnerfirm.com

Joe M. Reed, Esq.
Joe M. Reed & Associates, LLC
524 South Union Street
Montgomery, AL 36104-4626
email: joe@joereedlaw.com

Algert S. Agricola
60 Commerce Street, Suite 1400
Montgomery, AL 36104
(334) 834-5290 P
(334) 834-5297 F
aagricola@rdafirm.com

Walter S. Turner, Esq.
Post Office Box 6142
Montgomery, AL 36106-0142
email: wsthayer@juno.com

John K. Tanner, Esq.
3743 Military Road NW.
Washington, DC 20015
email: john.k.tanner@gmail.com

Richard H. Pildes
40 Washington Square South
New York, NY 10012-1005
email: pildesr@juris.law.nyu.edu

Robert D. Segall
Joel T. Caldwell
Copeland, Franco, Screws & Gill, P.A.
P.O. Box 347
Montgomery, AL 36101-0347
Email: segall@copelandfranco.com
caldwell@copelandfranco.com

s/ James U. Blacksher

Attorney for ALBC plaintiffs