

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)

**ALBC PLAINTIFFS' REFILED MOTION FOR SUMMARY JUDGMENT
IN COMPLIANCE WITH SUPREME COURT MANDATE**

Plaintiffs Alabama Legislative Black Caucus et al., through undersigned

counsel, pursuant to Rule 56, Fed.R.Civ.P., move for summary judgment in compliance with the mandate of the Supreme Court in *Alabama Legislative Black Caucus v. Alabama*, 135 S.Ct. 1257 (2015), which vacated and remanded this Court's December 20, 2013, opinion and judgments, Docs. 203 and 205, 989 F.Supp.2d 2013 (M.D. Ala. 2013) (three-judge court), for proceedings consistent with the Supreme Court's opinion.

There is no genuine dispute with respect to any material fact relating to the district-specific racial gerrymandering issues remanded for reconsideration by this Court, and plaintiffs are entitled to declaratory and injunctive relief as a matter of law.

If they are not rendered moot by this Court's reconsideration of the racial gerrymandering claims, the plaintiffs should be given an opportunity to submit additional briefs and evidence in support of their claims that the indiscriminate splitting of county boundaries in Acts 2012-602 and 2012-603 violate the one-person, one-vote rights of all county residents in Alabama.

As grounds for their motion, plaintiffs would show as follows:

1. The Supreme Court mandate instructs this Court "to allow appellants to reargue their racial gerrymandering claims" under *Shaw v. Reno*, 509 U.S. 630 (1993), utilizing the correct legal and constitutional standards set out in the

Supreme Court's opinion.

2. Time is of the essence. The next statewide primary election will be held in March 2016. The general election will be held on the first Tuesday after the first Monday in November 2016. Ala. Code § 17-14-3. The deadline for candidates to qualify for the March 1, 2016, primary elections is November 6, 2015. Doc. 245.

3. When this Court declares Acts 2012-602 and 603 unconstitutional, it must afford a reasonable opportunity for the Legislature to meet constitutional and statutory requirements by adopting a substitute measure, rather than this Court undertaking to devise and order into effect its own plan. *Wise v. Lipscomb*, 437 U.S. 535, 540 (1978); *Reynolds v. Sims*, 377 U.S. 533, 586 (1964); *Sims v. Amos*, 336 F. Supp. 924, 930 (M.D. Ala.), *aff'd*, 409 U.S. 942 (1972). The 2015 regular session of the Alabama Legislature has ended. A special session is expected to be called by the Governor this summer.

4. In support of their motion for summary judgment plaintiffs rely on the documents already in the record of this action and on the additional documents marked as supplemental exhibits by the ALBC and ADC plaintiffs. These documents show there is no genuine dispute with respect to the material facts based on which this Court should hold that all 28 majority-black House districts in

Act 2012-602 and all 8 majority-black Senate districts in Act 2012-603, considered separately, subordinate Alabama's traditional districting principles to considerations of race, that they are not narrowly tailored to serve a compelling state interest, and thus they violate the Equal Protection standards of *Shaw v. Reno* and its progeny.

WHEREFORE, plaintiffs pray that summary judgment be granted against all defendants and in favor of all plaintiffs.

Upon the entry of an order granting plaintiffs' motion for summary judgment, plaintiffs further pray that the Court will:

(1) Enter a judgment declaring that the redistricting plans set out in Acts 2012-602 and 2012-603 are unconstitutional in violation of the Equal Protection standards of *Shaw v. Reno*, and enjoining the State from enforcing these plans in future elections.

(2) In the alternative, following such additional proceedings as this Court may order, enter on behalf of plaintiffs and all county residents of Alabama whose county boundaries have been split unnecessarily among House or Senate districts a judgment declaring that Acts 2012-602 and 2012-603 are unconstitutional in violation of the one-person, one-vote, Equal Protection standards of *Reynolds v. Sims* and enjoining defendants from implementing said

plans in future elections.

(3) Retain jurisdiction of this action, giving the Legislature an opportunity to draw new House and Senate redistricting plans with 2010 census data that comply with all state and federal constitutional and statutory standards.

(4) Require that the new, constitutional plans be implemented no later than the March 2016 statewide primary elections and November 2016 general election. To allow the Court sufficient time to review the plans proposed by the parties or to review the plans proposed by the Legislature, require the Legislature to adopt a plan no later than September 1, 2015.

(5) If the Legislature is unable to draw constitutional House and Senate plans in time for use in the March 2016 primary elections, give the parties an opportunity to propose new plans, and, thereafter adopt this Court's own redistricting House and Senate plans for use in the 2016 elections.

(6) Award Plaintiffs their reasonable attorneys' fees and expenses, pursuant to 42 U.S.C. § 1988 and 52 U.S.C. § 10310(e).

(7) Grant such other and further equitable relief as the Court may deem just and equitable.

Respectfully submitted this 12th day of June, 2015.

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CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2015, I served the foregoing on the following electronically by means of the Court's CM/ECF system:

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