

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

GOLDEN BETHUNE-HILL, *et al.*,

Plaintiffs,

v.

VIRGINIA STATE BOARD OF ELECTIONS,
et al.,

Defendants,

v.

VIRGINIA HOUSE OF DELEGATES, *et al.*,

Intervenor-Defendants.

Civil Action No. 3:14-cv-00852-REP-
AWA-BMK

Factual Stipulation

Pursuant to the Court’s Order of July 13, 2017 (Dkt. 173), instructing the parties to “confer to attempt to reach stipulations of fact” and “file the resulting Stipulations of Fact by September 27, 2017,” the parties have conferred and present the Court with the following stipulation. The parties hereby stipulate that the following facts are true and accurate and shall be taken as true for the purposes of the trial in this matter, without the need for further factual proof or evidence.

1. The plaintiffs are each citizens of the United States and the Commonwealth of Virginia residing at the following addresses in the following House of Delegates Districts (“House Districts”):

Atiba Muse
104 South Plains Drive

Petersburg, VA 23805
House District 63

Nancy Ross
6203 Glenlivet Drive
Petersburg, VA 23803
House District 63

Ms. Cherrelle Hurt
3017 Forst Hill Ave.
Richmond, VA 23225
House District 69

Mr. Roland Winston
1370 Darbytown Road
Henrico, VA 23231
District 70

Mr. Tavaris Spinks
1722 Floyd Avenue
Richmond, VA 23220
House District 71

Ms. Christa Brooks
4508 South Kalmia Place
Henrico, VA 23075
House District 74

Ms. Mattie Mae Urquhart
31319 Charles Street, Lot 191
Franklin, VA 23851-2328
House District 75

Ms. Alfreda Gordon
4029 Spring Meadow Cres
Chesapeake, VA 23321
House District 77

Wayne Jessie Dawkins
941 Vineyard Place
Suffolk, VA 23435
House District 80

Ms. Atoy Carrington
6313 Glenoak Drive
Norfolk, VA 23513

House District 89

Mr. Thomas Calhoun
5443 Welaka Rd
Norfolk VA 23502
House District 90

Mr. Chauncey Brown
367 LaSalle Avenue
Hampton, VA 23661
House District 92

Ms. Golden Bethune-Hill
1 Ambassador Drive
Hampton, VA 23666
House District 95

2. On February 3, 2011, the United States Census Bureau released decennial census data for the Commonwealth of Virginia. That data showed that, because of population growth and population movement within the Commonwealth, Virginia’s House Districts would need to be redistricted by the Virginia General Assembly.

3. With respect to House Districts 63, 69, 70, 71, 74, 77, 80, 89, 90, 92, and 95 (collectively, the “Current Challenged Districts”), ten (10) of the eleven districts contained total population less than 80,010, which was the ideal population for House Districts.

4. At the time of redistricting in 2011, Virginia was a covered jurisdiction under Section 4 of the Voting Rights Act of 1965, and was therefore also subject to the requirements of Section 5. It was necessary to ensure that the plan did not result in a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise.

5. On April 12, 2011, the Virginia General Assembly passed HB 5001, which set forth a redistricting plan for the Virginia House of Delegates and a redistricting plan for the Virginia Senate. HB 5001 passed the Virginia House of Delegates by a vote of 85 in favor and 9 opposed.

6. On April 15, 2011, then-Virginia Governor Robert McDonnell vetoed HB 5001.

7. On April 29, 2011, the Virginia General Assembly passed HB 5005, which set

forth a redistricting plan for the Virginia House of Delegates and a redistricting plan for the Virginia Senate. On the same day, then-Virginia Governor Robert McDonnell signed HB 5005 and the redistricting plan for the House of Delegates was enacted into law (the “Enacted Plan”).

8. Delegate Chris Jones led the 2011 redistricting effort in the House of Delegates. Delegate Jones crafted a plan containing twelve majority-minority House Districts: Districts 63, 69, 70, 71, 74, 75, 77, 80, 89, 90, 92, and 95 (the “Original Challenged Districts”).

9. On May 10, 2011, the Commonwealth of Virginia submitted the Enacted Plan to the United States Department of Justice for preclearance.

10. The Department of Justice precleared the Enacted Plan on June 17, 2011.

11. A more complete timeline of the legislative history and preclearance of the Enacted Plan is incorporated into the Factual Stipulations and attached hereto as Exhibit A.

12. Plaintiffs filed the Complaint in this action on December 22, 2014.

13. Plaintiffs requested that the case be heard by a three-judge district court pursuant to 28 U.S.C. § 2284(a). That request was granted by the Chief Judge of the United States Court of Appeals for the Fourth Circuit.

14. Plaintiffs filed a Corrected Amended Complaint on June 16, 2015 after one of the original plaintiffs changed residences.

15. Plaintiffs filed a Second Amended Complaint on August 8, 2017, after one of the original plaintiffs passed away and another of the original plaintiffs changed residences.

16. The Virginia House of Delegates and the Virginia House of Delegates Speaker William Howell moved to intervene in the case on January 23, 2015. That motion was granted.

17. As of the dates that HB 5005 was enacted into law, the delegates representing the Challenged Districts were as follows:

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District	Delegate
63	Rosalyn Dance
69	Betsy Carr
70	Delores McQuinn
71	Jennifer McClellan
74	Joseph Morrissey
77	Lionell Spruill Sr.
80	Matthew James
89	Kenneth Alexander
90	Algie Howell Jr.
92	Jeion Ward
95	Mamye BaCote

18. Under HB 5005, in the Original Challenged Districts, the average Reock score was .320, the average Polsby-Popper Score was .192, and the average Schwartzberg score was 2.365. In the remaining House Districts, the average Reock score was .360, the average Polsby-Popper Score was .243, and the average Schwartzberg score was 2.128. Under the Reock and Polsby-Popper measures, higher scores represent more compact districts. Under the Schwartzberg measure, lower scores represent more compact districts. Of the 100 House Districts, seven of the Original Challenged Districts are in the “bottom 50” - with the lowest Reock scores - and five of the Original Challenged Districts are in the “top 50” - with the highest Reock scores.

19. District 63 had Reock and Polsby-Popper scores of .61 and .48 under the Benchmark Plan and scores of .25 and .16 under the Enacted Plan. The district’s Schwartzberg score is 2.506.

20. District 69 had Reock and Polsby-Popper scores of .37 and .20 under the Benchmark Plan, and scores of .52 and .34 under the Enacted Plan. The district's Schwartzberg score is 1.712.

21. District 70 had Reock and Polsby-Popper scores of .47 and .14 under the Benchmark Plan, and scores of .40 and .19 under the Enacted Plan. The district's Schwartzberg score is 2.290.

22. District 71 had Reock and Polsby-Popper scores of .24 and .19 under the Benchmark Plan, increasing to scores of .33 and .24 under the Enacted Plan. The district's Schwartzberg score is 2.045.

23. District 74 had Reock and Polsby-Popper scores of .16 and .10 under the Benchmark Plan, and scores of .16 and .12 under the Enacted Plan. The district's Schwartzberg score is 2.839.

24. District 77 had Reock and Polsby-Popper scores of .18 and .17 under the Benchmark Plan, and scores of .19 and .15 under the Enacted Plan. The district's Schwartzberg score is 2.542.

25. District 80 had Reock and Polsby-Popper scores of .39 and .26 under the Benchmark Plan, which dropped to scores of .26 and .11 under the Enacted Plan. The district's Schwartzberg score is 3.054.

26. District 89 had Reock and Polsby-Popper scores of .58 and .31 under the Benchmark Plan, and scores of .40 and .20 under the Enacted Plan. The district's Schwartzberg score is 2.263.

27. District 90 had Reock and Polsby-Popper scores of .35 and .24 under the Benchmark Plan, and scores of .46 and .20 under the Enacted Plan. The district's Schwartzberg score is 2.221.

28. District 92 had Reock and Polsby-Popper scores of .28 and .15 under the Benchmark Plan, and scores of .34 and .26 under the Enacted Plan. The district's Schwartzberg score is 1.970.

29. District 95 had Reock and Polsby-Popper scores of .43 and .28 under the Benchmark Plan, and scores of .14 and .14 under the Enacted Plan. The district's Schwartzberg score is 2.657.

DATED: September 27, 2017

By /s/ Katherine L. McKnight

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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of September, 2017, I filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to the counsel of record in this case.

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