

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
ALBANY DIVISION

MATHIS KEARSE WRIGHT, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO.: 1:14-cv-42 (WLS)
	)	
SUMTER COUNTY BOARD OF	)	
ELECTIONS AND REGISTRATION,	)	
	)	
Defendant.	)	
_____	)	

DEFENDANT’S MOTION FOR JUDICIAL NOTICE OF CENSUS DATA

Pursuant to Rule 201(b)(2) of the Federal Rules of Evidence, Defendant respectfully asks the Court to take judicial notice of the following facts based on data produced by the Census Bureau. The facts below reflect data from the December 2017 release of the 2012-2016 five-year American Community Survey (“ACS”). Data supporting these facts are publicly available on the Census Bureau’s website through the American Factfinder application and are identified in tables attached as Exhibit 1. The Court previously took judicial notice of data from the 2011-2015 ACS (ECF 125 at 2-3). As of the date of this filing, the 2012-2016 ACS is the most recent set of five-year ACS data available.

At trial, the Court asked for the most recent Census data from the ACS for Sumter County, and accepted a stipulation to supplement the record with regard to ACS data. The Parties agreed to work together and file with the Court a Joint Motion for Judicial Notice by this Friday, January 12, 2018.

By agreement, Plaintiff prepared a proposed joint motion for Defendant’s review. Defendant agreed to all of the substance of Plaintiff’s proposed facts for judicial notice, with

minor edits to the wording of the motion for accuracy, and asked to add one additional ACS table and one additional fact. Plaintiff refused. Specifically, Plaintiff is unwilling to agree to the joint submission of Table B03002, (Exhibit 1 at 3), and related fact number 2, because the Table was not included in *Plaintiff's* motion for judicial notice filed, and granted, in the Fall (“Plaintiff’s Fall Motion”). (See Dkt. 110 and Dkt. 125) We understand that Plaintiff may be willing to agree to the remainder of the facts to be noticed and tables in Exhibit 1 because those facts and tables were proposed by Plaintiff.

The Court’s request for the most current Census data was never limited to the data selected by *Plaintiff* and included in his Fall Motion.<sup>1</sup> In discussions about the ACS data at trial, the Court noted that it did not want stale information, like data from the 2010 Census, for topics relevant to its decision. (Trial Tr., Dec. 13, 2017, 203:14-16). The data in Table B03002, detailing the population of Sumter County by Hispanic or Latino origin by race, was a topic of examination throughout the trial and is relevant to this Court’s determinations about Sumter County’s demographics. Fed. R. Evid. 401 (“Evidence is relevant if (a) it has any tendency to make a fact more or less probable than it would be without the evidence, and (b) the fact is of consequence in determining the action.”).

For the same reasons Plaintiff moved this Court to take judicial notice of census data in the Fall, Table B03002 is suitable for judicial notice. See *Hollinger v. Home State Mut. Ins. Co.*, 654 F.3d 564, 572-73 (5th Cir. 2011) (“United States census data is an appropriate and frequent subject of judicial notice.”); *Benavidez v. City of Irving*, 638 F. Supp. 2d 709, 721 (N.D. Tex. 2009) (taking judicial notice of an American Community Survey publication and observing

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<sup>1</sup> Similarly, the Parties never agreed or even discussed that the Census data for judicial notice would be limited by *Plaintiff's* selection of data for its Fall Motion.

“that the Census Bureau considers ACS data reliable and intends for it to be relied upon in decisions such as Voting Rights Act compliance”), *see also United States v. Phillips*, 287 F.3d 1053, 1055 n.1 (11th Cir. 2002) (taking judicial notice of census data); *Hollis v. Davis*, 941 F.2d 1471, 1474 (11th Cir. 1991) (same); *Moore v. Comfed Sav. Bank*, 908 F.2d 834, 841 n.4 (11th Cir. 1990) (same); *Wilson v. Ill. Cent. R.R. Co.*, No. 09-cv-7392, 20120 WL 135446, at \*3 (N.D. Ill. Jan 12, 2012) (taking judicial notice of ACS data and collecting cases).

For these reasons, Defendant respectfully requests that this Court take judicial notice of the following facts. A proposed order is attached.

Defendant asks the Court to take judicial notice of the following:

1. According to the 2012-2016 ACS, Sumter County has a total population of 31,070 persons, of whom 13,095 (42.1%) are white and 16,159 (52.0%) are black. Ex. 1 at 1 (Table B02001).
2. According to the 2012-2016 ACS, Sumter County has a total population of 31,070 persons, of whom 12,399 (39.9%) are non-Hispanic white and 16,122 (51.9%) are non-Hispanic black. Ex. 1 at 3 (Table B03002).
3. According to the 2012-2016 ACS, Sumter County has a voting-age population of 23,541 persons, of whom 10,991 (46.7%) are white and 11,652 (49.5%) are black. Ex. 1 at 5-10 (Tables B01001, B1001A, and B1001B).
4. According to the 2012-2016 ACS, 22.2% of Sumter County's population aged 25 years and over lacks a high-school diploma or its equivalent. Among white persons, 13.6% lack a high-school diploma, whereas 29.9% of black persons lack a high-school diploma. Ex. 1 at 11-17 (Table S1501).
5. According to the 2012-2016 ACS, 19.9% of Sumter County's population aged 25 years and over has a bachelor's degree or higher. Among white persons, 30.9% have a bachelor's degree or higher, whereas 8.8% of black persons have a bachelor's degree or higher. Ex. 1 at 11-17 (Table S1501).
6. According to the 2012-2016 ACS, Sumter County has an unemployment rate of 12.7% among people in the labor force aged 16 years and over. The unemployment rate is 7.1% for white persons and 18.2% for black persons. Ex. 1 at 18-21 (Table S2301.)

7. According to the 2012-2016 ACS, Sumter County has a poverty rate of 33.6%. The poverty rate is 15.3% for white persons and 46.2% for black persons. Ex. 1 at 22-25 (Table S1701).
8. According to the 2012-2016 ACS, the median household income in Sumter County is \$33,534. The median income is \$48,672 for households headed by white persons and \$22,736 for households headed by black persons. Ex. 1 at 26-27 (Table S1903).
9. According to the 2012-2016 ACS, the per capita income in Sumter County is \$18,487. The per capita income is \$27,675 for white persons and \$11,891 for black persons. Ex. 1 at 28-30 (Tables B19301, B19301A, and B19301B).
10. According to the 2012-2016 ACS, 27.7% of all households in Sumter County receive Supplemental Nutrition Assistance Program (“SNAP”) benefits (also known as food stamps). Among households headed by a white person, 19.1% receive SNAP benefits, while 76.8% of households headed by a black person do. Ex. 1 at 31-35 (Table S2201).

Date: January 10, 2018

Respectfully submitted by:

s/ Katherine L. McKnight

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ATTORNEYS FOR DEFENDANT SUMTER  
COUNTY BOARD OF ELECTIONS AND  
REGISTRATION

CERTIFICATE OF SERVICE

I hereby certify that on this 10<sup>th</sup> day of January, 2018, I have served the foregoing Defendant's Motion For Judicial Notice Of Census Data with the Clerk of Court using the CM/ECF system which will automatically send email notification to all counsel of record.

s/ Katherine L. McKnight  
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