

2023 Sep-28 PM 4:03
U.S. DISTRICT COURT
N.D. OF ALABAMA

Exhibit 1

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

BOBBY SINGLETON, <i>et al.</i>,)	
)	
Plaintiffs,)	No.: 2:21-cv-01291-AMM
)	
WES ALLEN, <i>et al.</i>)	Three-Judge Court
)	
Defendants.)	
)	
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EVAN MILLIGAN, <i>et al.</i>,)	
)	
Plaintiffs,)	No.: 2:21-cv-01530-AMM
)	
WES ALLEN, <i>et al.</i>)	Three-Judge Court
)	
Defendants.)	
)	
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MARCUS CASTER, <i>et al.</i>,)	
)	
Plaintiffs,)	No.: 2:21-cv-01536-AMM
)	
WES ALLEN, <i>et al.</i>)	
)	
Defendants.)	
)	
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***SINGLETON* PLAINTIFFS' RESPONSE TO THE
REPORT AND RECOMMENDATION OF THE SPECIAL MASTER**

The *Singleton* Plaintiffs respectfully submit this response to the Report and Recommendation of the Special Master. *Singleton*, ECF No. 201 (“Report”). The *Singleton* Plaintiffs still believe that their plan is best for the reasons they have submitted to the Special Master, *In re Redistricting 2023*, ECF Nos. 5, 24. The Special Master has confirmed that the Singleton Plan provides two performing crossover opportunity districts without dividing either Jefferson County or Mobile County, and it complies meticulously with the State’s own redistricting standards. But if the Court selects one of the three plans the Special Master has recommended, it should select Remedial Plan 3, which performs as well as or better than Remedial Plans 1 and 2 on every criterion the Court has laid out. Notably, Remedial Plan 3 splits the fewest counties and best respects the municipal boundaries of Birmingham and Mobile.

ARGUMENT

The Court ordered the Special Master to propose three remedial plans that do the following:

1. Remedy the State’s likely Section 2 violation by including either an additional majority-Black congressional district, or an additional district in which Black voters otherwise have an opportunity to elect a representative of their choice.
2. Comply with the U.S. Constitution and the Voting Rights Act.

3. Comply with the one-person, one-vote principle guaranteed by the Equal Protection Clause.

4. Respect traditional redistricting principles to the extent reasonably practicable. These principles include compactness, contiguity, respect for political subdivisions, and maintenance of communities of interest. The Special Master may not consider incumbency protection or political affiliation.

Singleton, ECF No. 192 at 7–9.

The *Singleton* Plaintiffs join the *Milligan* and *Caster* Plaintiffs in seeking a court-ordered plan that will ensure that in 2024 Black voters will have an equal opportunity to elect candidates of their choice in two congressional districts. Consequently, without abandoning positions they have taken in this Court and in the Supreme Court, the *Singleton* Plaintiffs do not here dispute that all three of the Special Master’s remedial plans may satisfy all four criteria. But if the Special Master’s plans must respect traditional redistricting principles “to the extent reasonably practicable,” as the Court said, then Remedial Plan 3 is the clear winner. Remedial Plan 3 outperforms the other two plans on compactness, respect for political subdivisions, and maintenance of communities of interest. (All three plans are contiguous.)

I. Compactness

The Special Master's Report gives the following compactness scores for the three remedial plans:

Plan	Reock	Polsby-Popper	Population Polygon	Cut Edges
Remedial Plan 1	0.35	0.23	0.68	3,829
Remedial Plan 2	0.35	0.24	0.68	3,647
Remedial Plan 3	0.35	0.24	0.69	3,597

Report at 37.

For the Reock, Polsby-Popper, and Population Polygon measures, higher scores mean that the districts are more compact. For the Cut Edges measure, lower scores mean that the districts are more compact. Therefore, Remedial Plan 3 is the most compact, or tied for the most compact, on all four measures.

II. Respect for Political Subdivisions

Counties

Counties have been the building blocks of Alabama's congressional districts for two centuries. They have never been split except as necessary to comply with the U.S. Constitution and the Voting Rights Act. Currently, it is possible to create districts of equal population by splitting no more than six counties, which is the number of counties split by Remedial Plans 2 and 3. Report at 23. Remedial Plan 1 splits seven counties in order to ensure that the individual *Milligan* and *Caster*

Plaintiffs in Dothan, Montgomery, and Mobile would reside in Districts 2 and 7. But as the Special Master noted, “the law does not require that result, and pursuing that result should not undermine traditional redistricting principles.” *Id.* at 21. Therefore, Remedial Plan 3 best preserves counties (along with Remedial Plan 2), with Remedial Plan 1 splitting an additional county for reasons the Special Master found unnecessary.

Municipalities

The *Singleton* Plaintiffs have alleged that the districts the State enacted in 2021 and 2023 were racially gerrymandered because the State employed specific racial targets for District 7 at least until 2021, and because the State admittedly has taken a “least change” approach to redrawing District 7 since 1992, despite Secretary Merrill’s own assertion that the 1992 version of District 7 was a racial gerrymander. *Singleton*, ECF No. 189 at 5–13. One way in which the State effected that gerrymander was to exclude White Birmingham residents from District 7. In pursuit of a racial quota, the State refused to respect Birmingham as a political subdivision.

All three of the Special Master’s plans work to reduce the gerrymander of Birmingham, but Remedial Plan 3 goes farthest. While 74.7% of the population of Birmingham was in District 7 in the 2023 Plan, Remedial Plans 1 and 2 increase this figure to 89.6%. Report at 23. Remedial Plan 3 does even better, keeping 93.3% of Birmingham’s population within a single district. *Id.*

In addition, Remedial Plan 3 best respects the City of Mobile. In Remedial Plans 1 and 2, 70.8% and 71.9% of Mobile residents are in a single district, respectively. Report at 23. Remedial Plan 3 does significantly better, with 90.4% of Mobile residents sharing a single district. *Id.*

Beyond Birmingham and Mobile, Remedial Plan 3 also splits the fewest municipalities among the Special Master's plans. Report at 40.

III. Maintenance of Communities of Interest

Remedial Plan 3 outperforms the others in maintaining communities of interest. While the *Singleton* Plaintiffs take no position on whether the Wiregrass is an important community of interest, the Special Master was cognizant of the effects of his plans on the Wiregrass. *See* Report at 22–23. He noted that Remedial Plan 3 was the only one of his plans that keeps Henry County, a Wiregrass county, with the rest of the Wiregrass. *Id.* Remedial Plan 2 excludes Henry County from the Wiregrass district, and Remedial Plan 1 excludes not only Henry County but most of the City of Dothan (in Houston County). *Id.* at 16, 22. The Special Master stated that excluding Dothan from the Wiregrass appeared to derive from the desire of a single *Milligan* Plaintiff in Dothan to vote a Black Belt district, but that “the law does not require that result, and pursuing that result should not undermine traditional redistricting principles.” *Id.* at 21. Thus, if keeping the Wiregrass together is

desirable, then Remedial Plan 3 performs best on this criterion, and Remedial Plan 1 performs worst.

Otherwise, the Special Master's plans treat communities of interest similarly. They all take the same approach to the Black Belt: "Every core Black Belt county is preserved unsplit within the proposed remedial plans, each of which situates all of these counties in one of the two Black opportunity districts (Districts 2 and 7)." Report at 41. They all split the Gulf Coast in similar ways. And in Jefferson County, which the *Singleton* Plaintiffs maintain is an important community of interest, the number of residents assigned to District 6 and District 7 is identical in all three plans (plus or minus one person).

Overall, because Remedial Plan 3 best respects the Wiregrass, and all three plans treat the remaining communities of interest similarly, Remedial Plan 3 best respects communities of interest.

CONCLUSION

Among the Special Master's plans, Remedial Plan 3 stands above. It best preserves counties, it best respects two of the largest municipalities in the State, it best preserves communities of interest, and it is slightly more compact.

Dated: September 28, 2023

Respectfully submitted,

/s/ Henry C. Quillen

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