

**IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE  
AT NASHVILLE**

**AKILAH MOORE, TELISE TURNER, )  
and GARY WYGANT, )**

**Plaintiffs, )**

**v. )**

**No. 22-0287-IV**

**BILL LEE, Governor, )  
TRE HARGETT, Secretary of State, )  
and MARK GOINS, Tennessee )  
Coordinator of Elections, all in their )  
official capacity only, )**

**Defendants. )**

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**AFFIDAVIT OF DOUG HIMES**

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State of Tennessee    )  
County of Davidson    )

I, Doug Himes, being first duly sworn, depose and say:

1.     I am over 18 years of age, legally competent to give this affidavit and have personal knowledge of the facts set forth in this affidavit.

2.     I currently serve as House Ethics Counsel for the Tennessee State House of Representatives, as well as Counsel to the House Select Committee on Redistricting.

3.     On March 30, I received a copy of the Affidavit of Jonathan Cervas filed by the Plaintiffs in support of their Motion for Temporary Injunction. In his Affidavit, Mr. Cervas states that he was asked to create demonstrative plans adhering to certain criteria with the goal of creating

as few county-dividing districts as possible maintaining a maximum overall population deviation of 9.9% or less, while keeping Shelby County whole.

4. Mr. Cervas further stated in his affidavit that in creating these plans, he used a “Markov chain Monte Carlo algorithm that generates random plans,” and that each plan is “built from aggregating contiguous precincts, and the resulting maps are contiguous.” In particular, Mr. Cervas testified that he “constrained the algorithm to ensure that each plan had a minimum of 1 Black-majority district”. Mr. Cervas attached ten sample plans to his affidavit: five plans that have 13 districts in Shelby County (the “Apple plans”) and five plans that have 14 districts in Shelby County (the “Orange plans”). With respect to the “Apple plans”, Mr. Cervas testified that these plans have a Black-majority VAP district of 51.17% and that the “Orange” plans have a Black-majority VAP district above 51.35%.

5. Using the criteria set forth in his Affidavit, Mr. Cervas testified that he generated 60,000 plans “via Markov chain simulation” and that none of the “Apple” plans ended up with fewer than 26 “TN County splits.” With respect to the “Orange” plans, Mr. Cervas testified that the “TN County Splits” range from 28 to 34.

6. It is important to note that Mr. Cervas did not generate any plans that are comparable to the plan enacted by the Tennessee General Assembly—specifically, a plan that keeps all the urban counties whole, as well as Montgomery and Rutherford, and with 13-districts in Shelby County.

7. I have reviewed each of the test plans attached to Mr. Cervas’ affidavit by following the link to Dave’s Redistricting computer program included with each test plan.

8. In reviewing the detail of each of these plans, I have determined that these plans have three common problems:


- The test plans contain districts that are non-contiguous; and/or
- The test plans double and/or triple split counties by detaching multiple non-contiguous parts to an adjoining district; and/or
- The test plans have districts with bizarre shapes.

9. Additionally, a quick review of these plans indicates that these plans do not take into account the geography of the State of Tennessee.

10. Attached as Exhibits 1-10 are copies of sample counties from these ten plans illustrative of the problems that I have identified above. For example, attached as Exhibit 1 is Warren County from the test labeled "TN\_Apple\_Test\_1\_9383," which shows a double split in that county, and Washington County, which shows that the district is non-contiguous.

11. In my opinion, these maps do not appear to fully comply with the guidelines set forth in Tenn. Code Ann. § 3-1-103(b) and the Voting Rights Act, as well as the state constitutional requirements as interpreted by the Tennessee Supreme Court in *State ex rel. Lockert v. Crowell*, 631 S.W.2d 702 (Tenn. 1982) ("*Lockert I*"), *State ex rel. Lockert v. Crowell*, 656 S.W.2d 836 (Tenn. 1983) ("*Lockert II*"), *Lincoln County v. Crowell*, 701 S.W.2d 602 (Tenn. 1985), and *State ex rel. Lockert v. Crowell*, 729 S.W.2d 88 (Tenn. 1987) ("*Lockert III*").

FURTHER AFFIANT SAITH NOT.

  
DOUG HIMES

Sworn to and subscribed before me this 31<sup>st</sup> day of March, 2022.

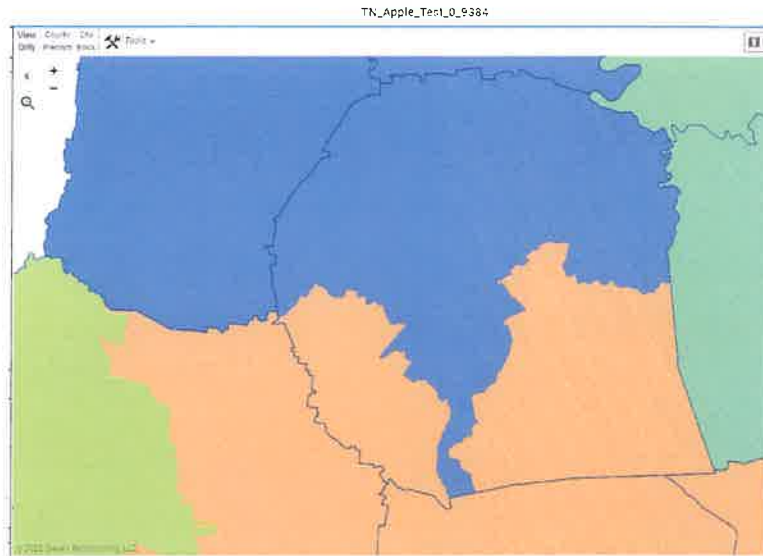


  
NOTARY PUBLIC

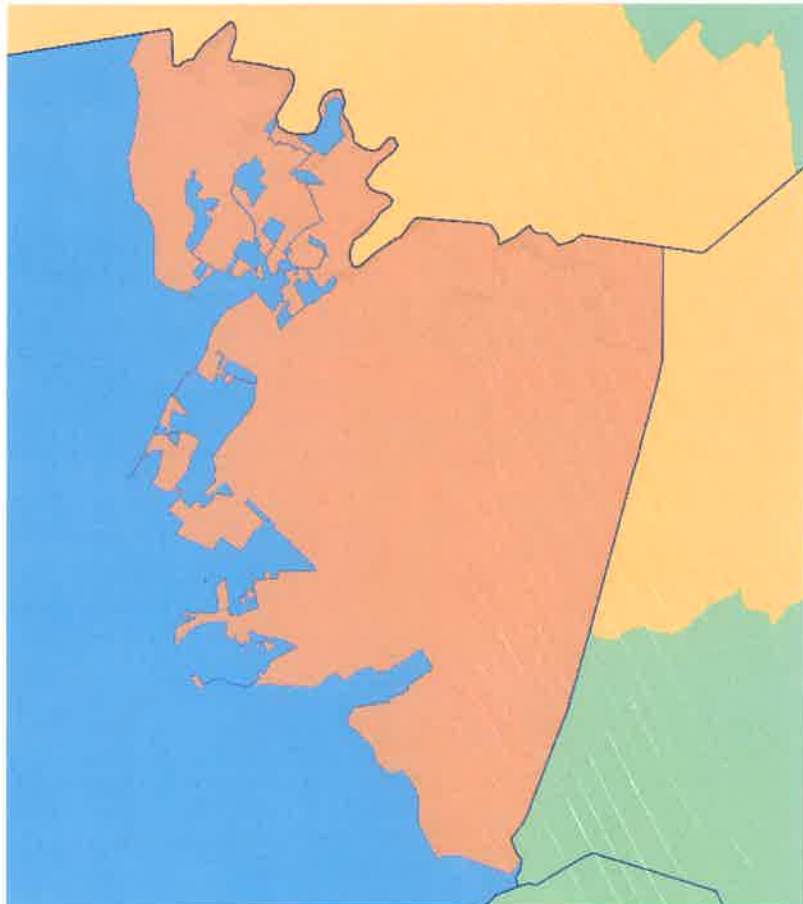
My Commission Expires: 03/03/25

APPLE PLANS:

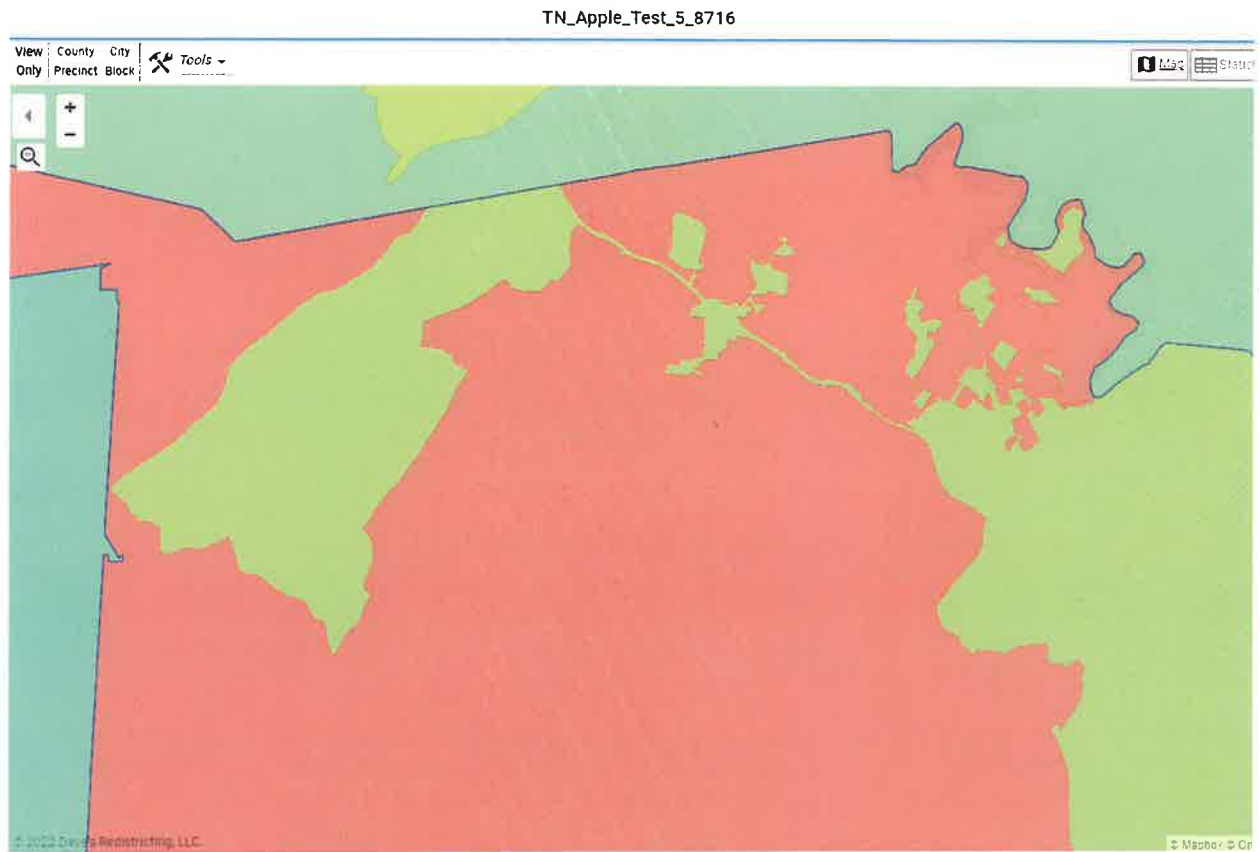
- Labeled in Affidavit "TN\_Apple\_Test\_1\_9383" and labeled in DR as "TN\_Apple\_Test\_0\_9384" in Warren County – double split; bizarre shape:



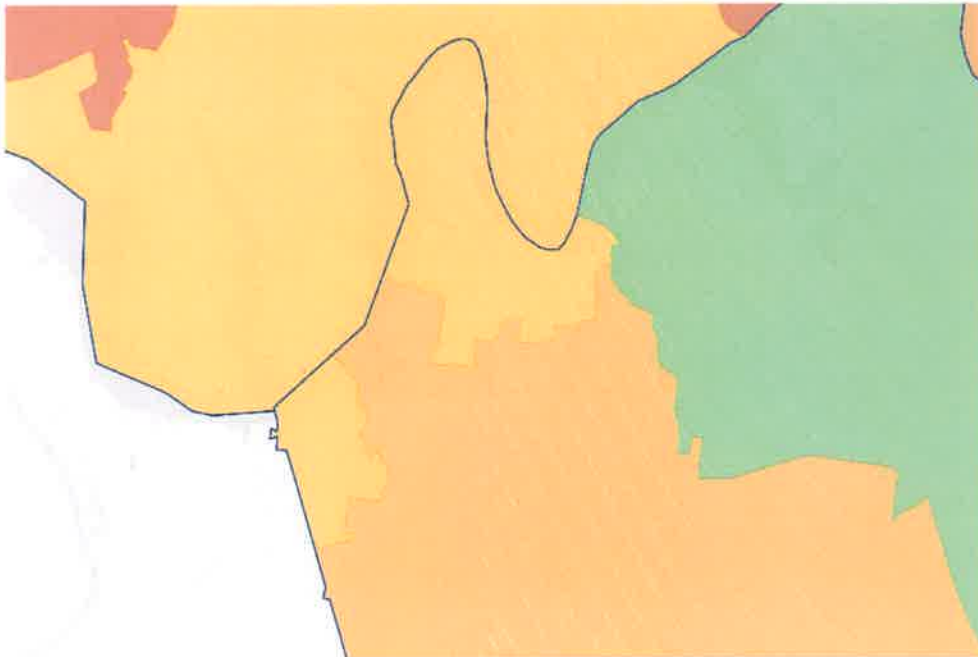
And in Washington County – non-contiguous; bizarre shape:



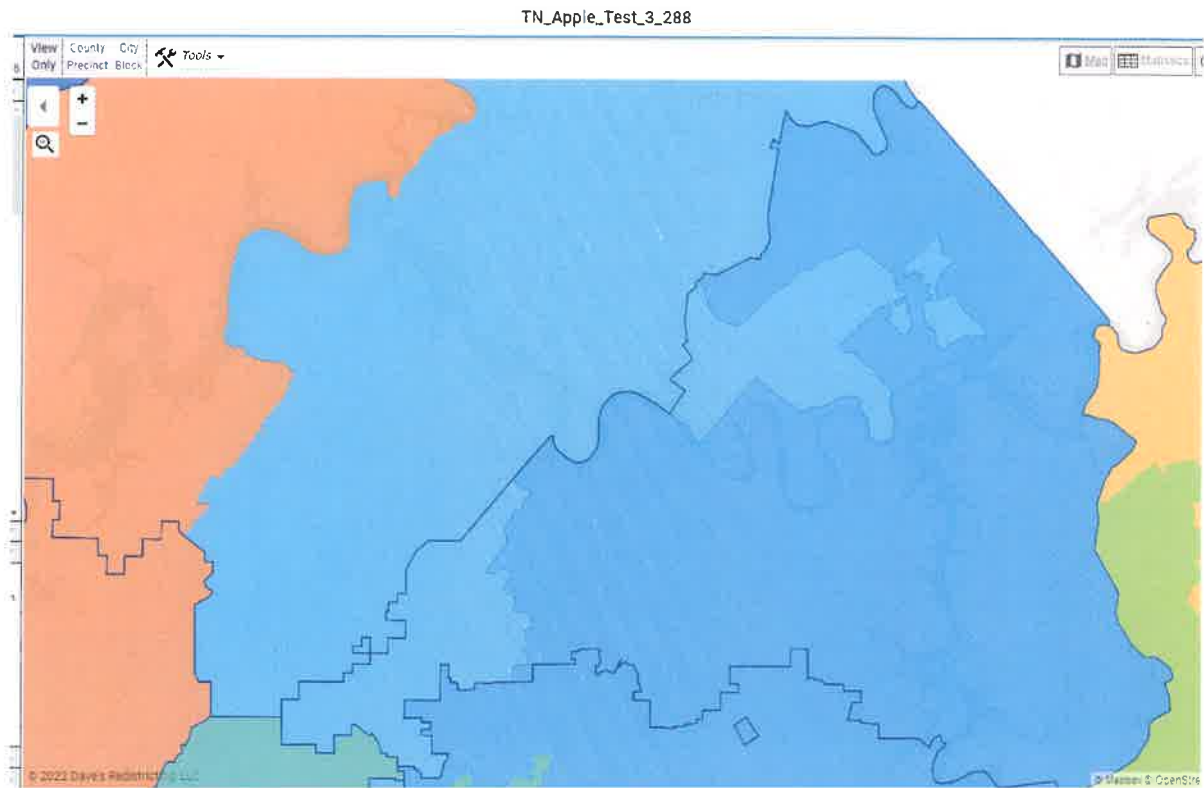
- Labeled in Affidavit “TN\_Apple\_Test\_5\_8716” and labeled in DR as “TN\_Apple\_Test\_5\_8716” in Washington County – non-contiguous; bizarre shape:



And in Wilson County – double split:



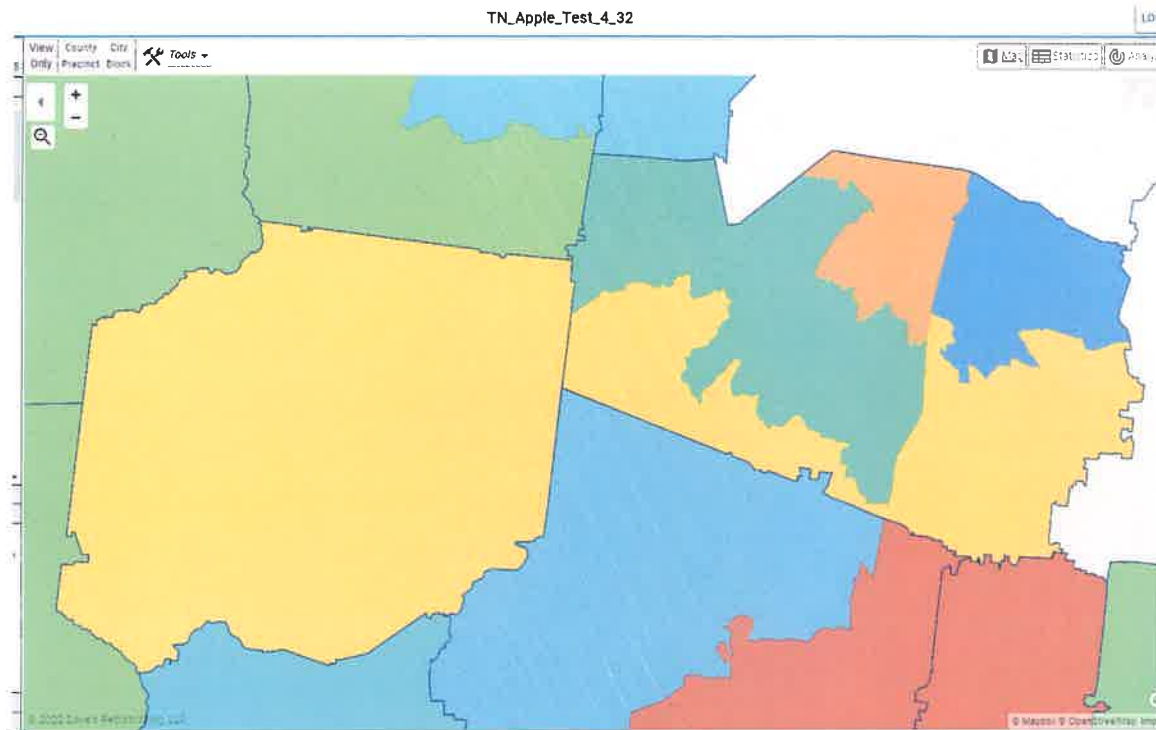
- Labeled in Affidavit “TN\_Apple\_Test\_3\_0288” and labeled in DR as “TN\_Apple\_Test\_3\_288” in Loudon County – non-contiguous; double splits; bizarre shape:



And in Monroe County – non-contiguous; double split; bizarre shape:



- Labeled in Affidavit as “TN\_Apple\_Test\_4\_0032” and labeled in DR as “TN\_Apple\_Test\_4\_32” in Hickman and Williamson County – bizarre shape:

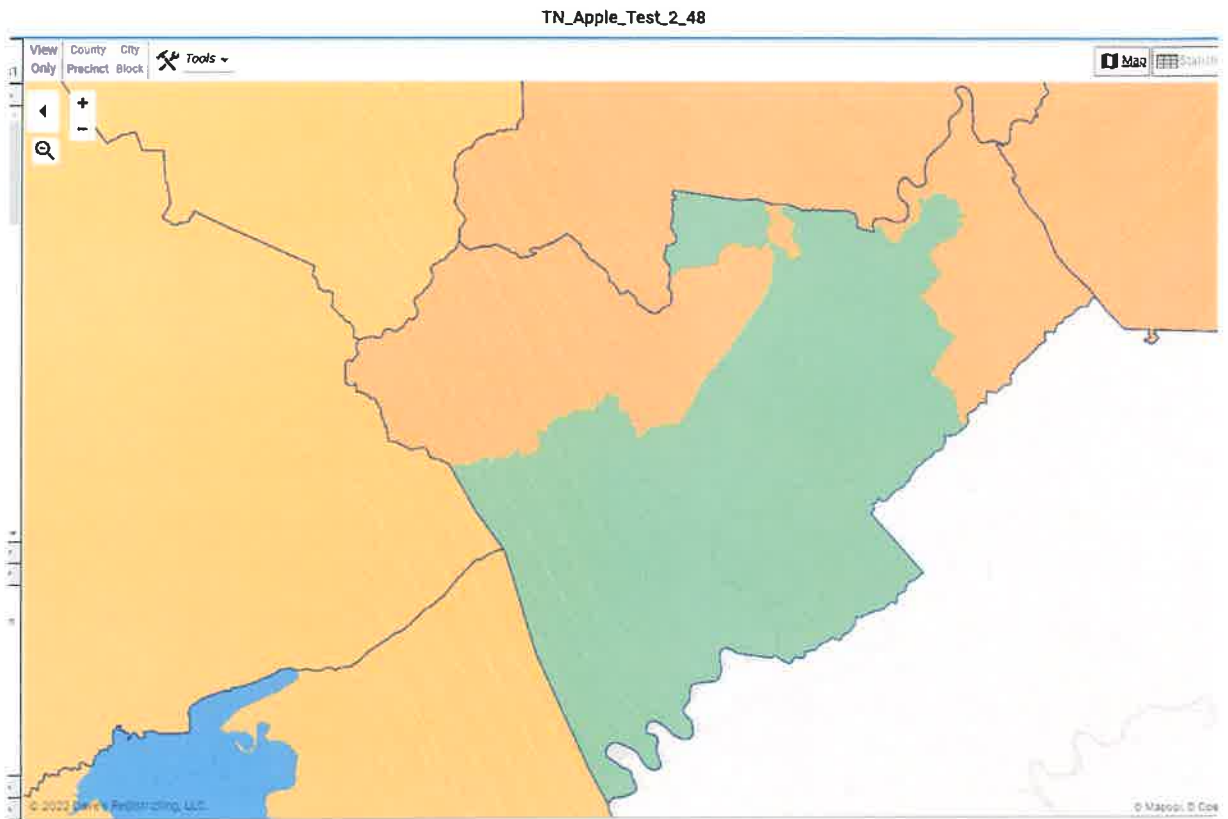


And in Sumner County – bizarre shape:

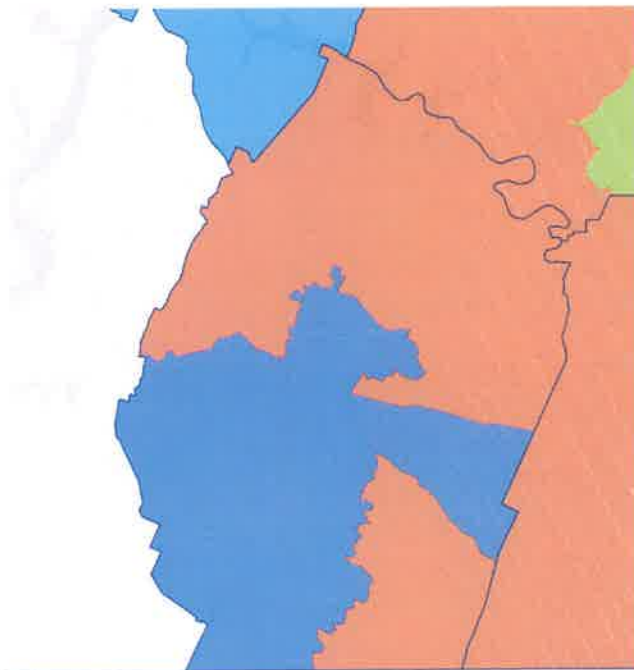




- Labeled in Affidavit as “TN\_Apple\_Test\_2\_0048” and labeled in DR as “TN\_Apple\_Test\_2\_48” in Anderson County – triple split; bizarre shape:



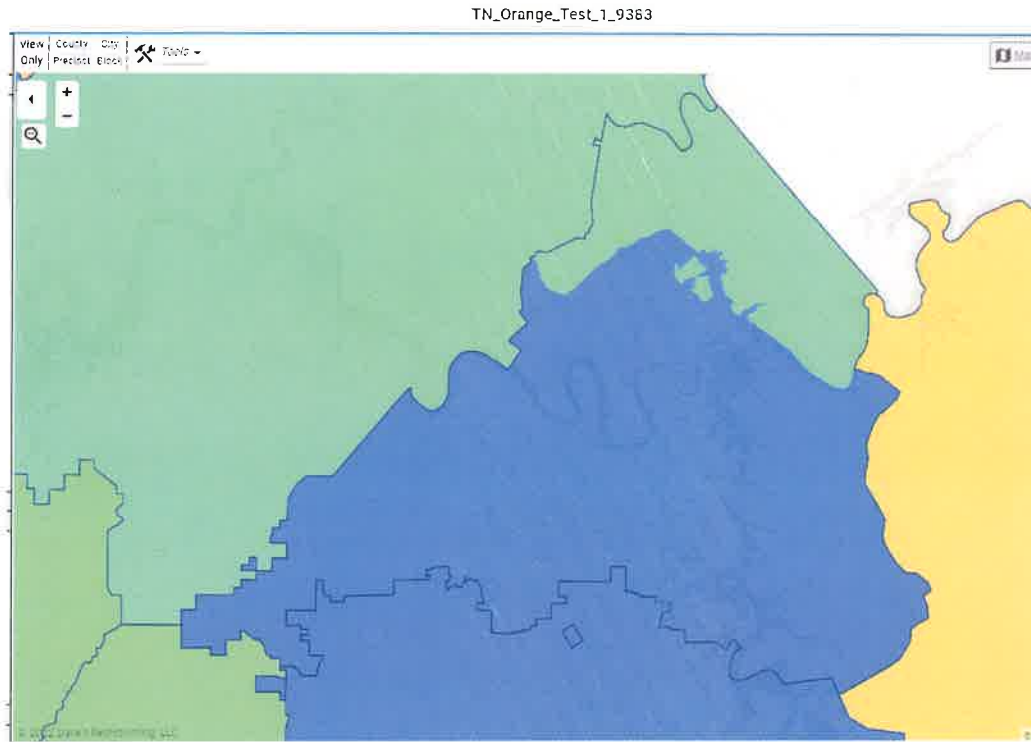
And in Bradley County – double split:



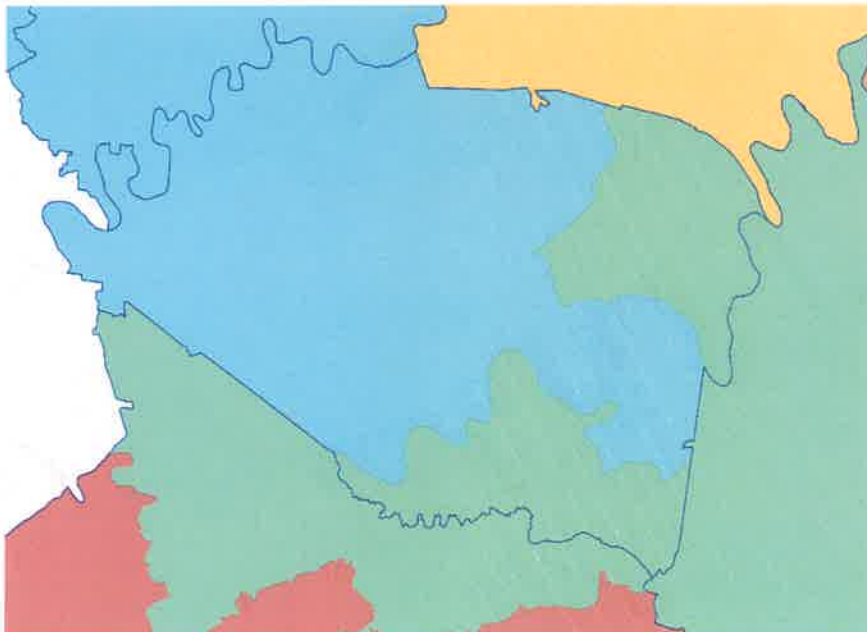


## ORANGE PLANS:

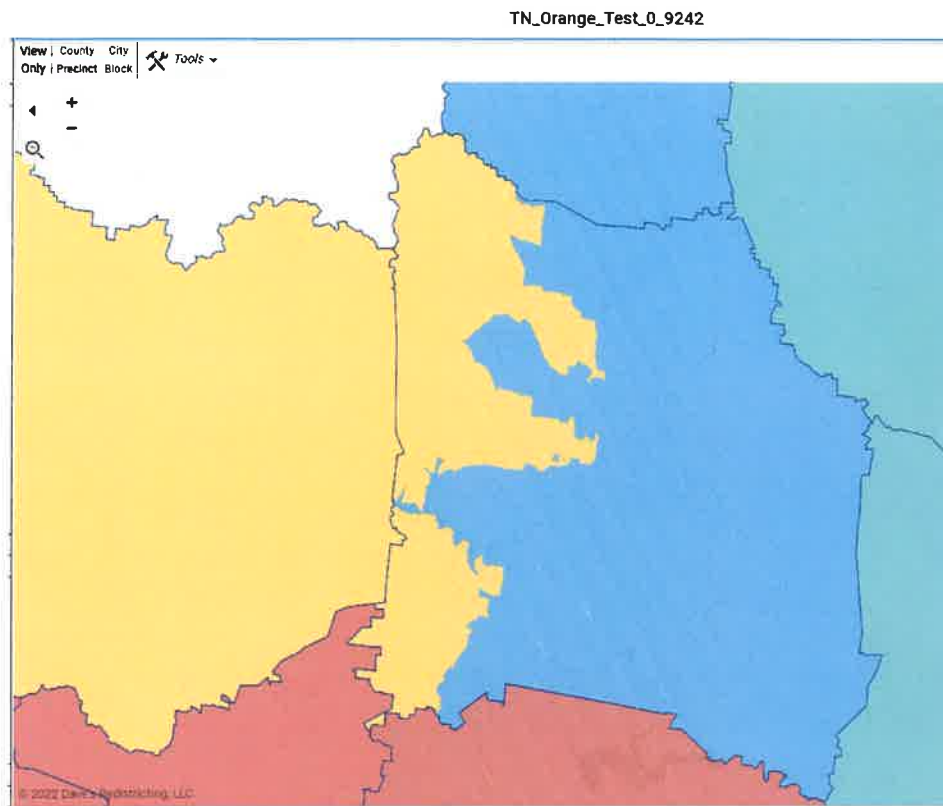
- Labeled in Affidavit as “TN\_Orange\_Test\_1\_9383” and labeled in DR as “TN\_Orange\_Test\_1\_9383” in Loudon County – non-contiguous:



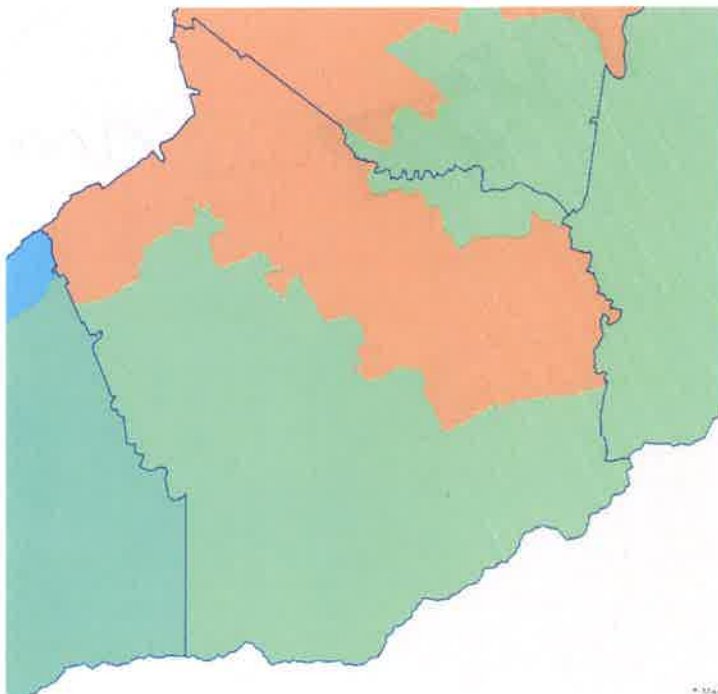
And in Jefferson County – double split; bizarre shape:



- Labeled in Affidavit as “TN\_Orange\_Test\_0\_9242” and labeled in DR as “TN\_Orange\_Test\_0\_9242” in Coffee County – double split; bizarre shape:



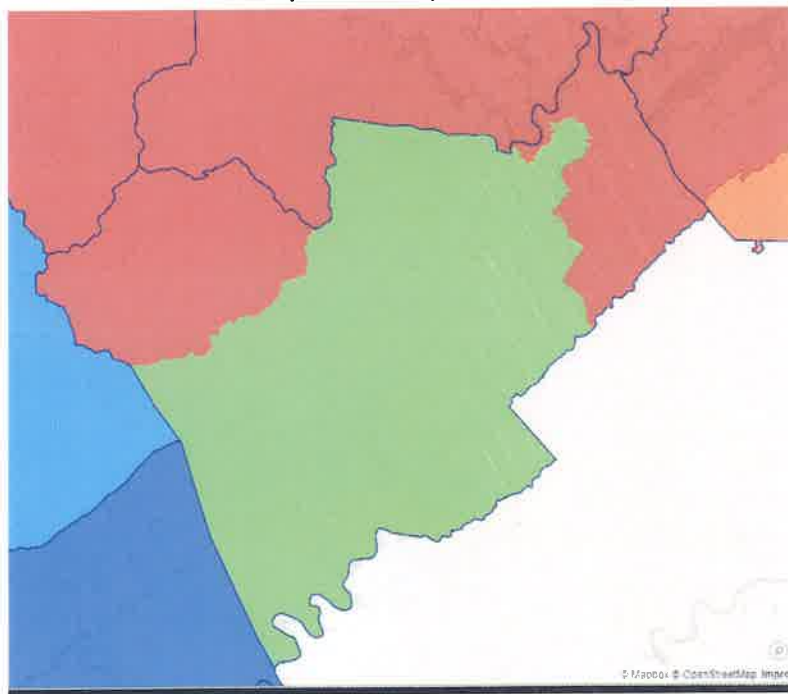
And in Sevier County – double split; bizarre shape:



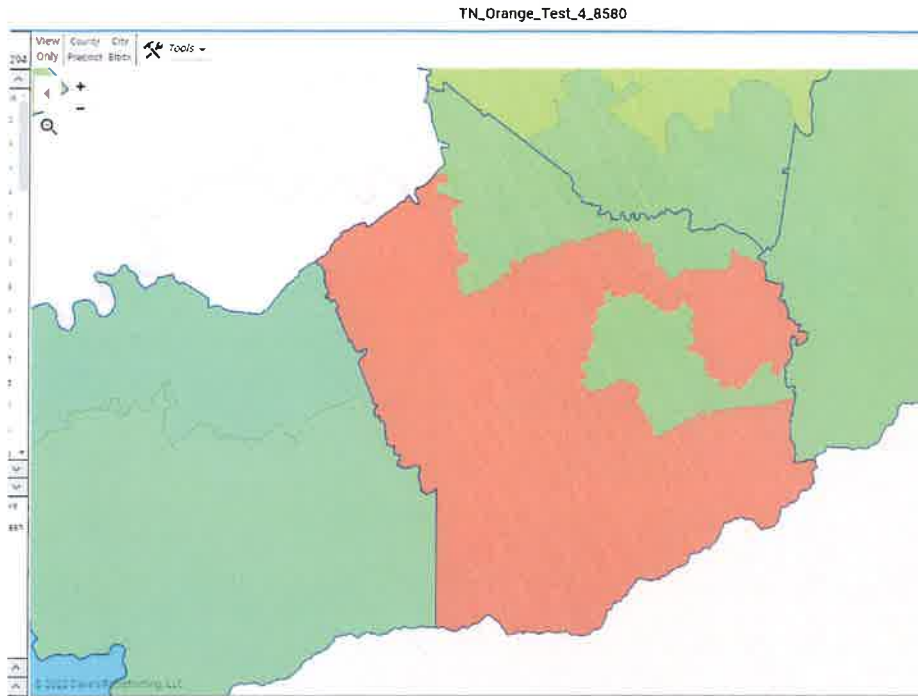
- Labeled in Affidavit as “TN\_Orange\_Test\_2\_9501” and labeled in DR as “TN\_Orange\_Test\_2\_9501” in Washington County – non-contiguous; bizarre shape:



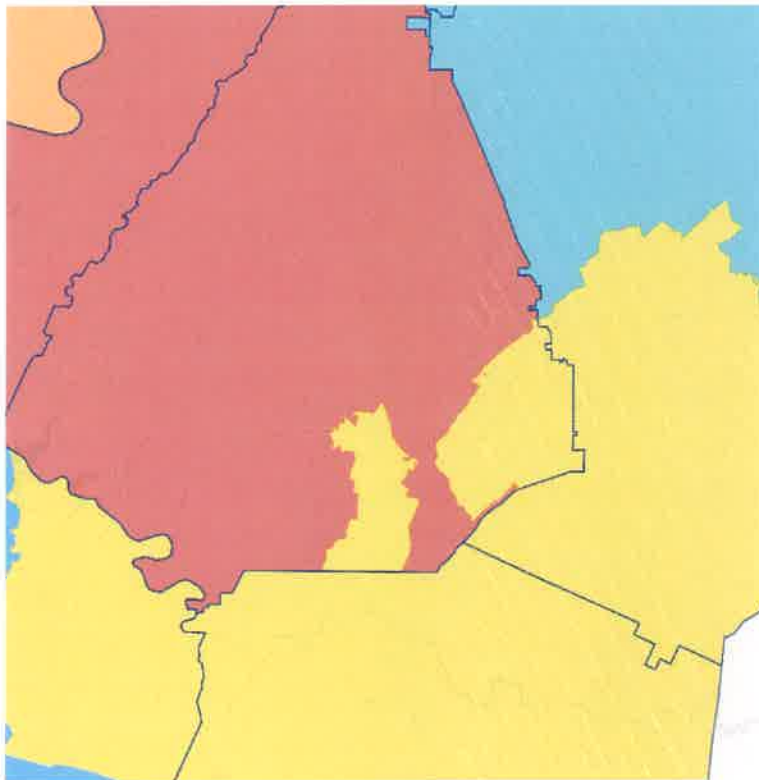
And in Anderson County – double split:



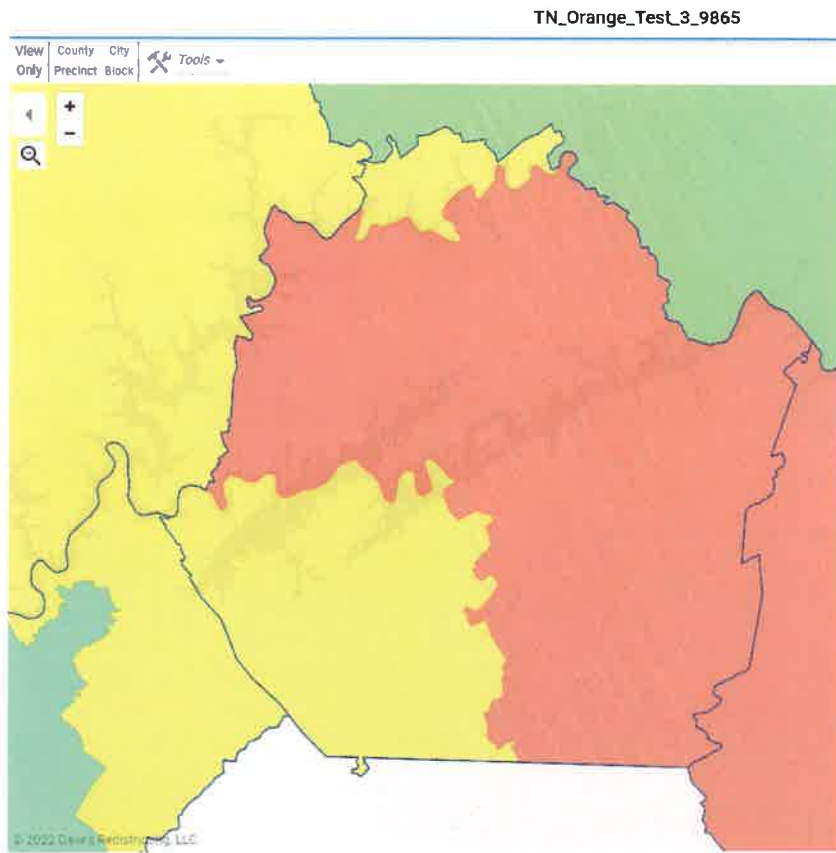
- Labeled in Affidavit as "TN\_Orange\_Test\_4\_8580" and labeled in DR as "TN\_Orange\_Test\_4\_8580" in Sevier County – double split; bizarre shape:



And in McMinn County – double split; bizarre shape:



- Labeled in Affidavit as “TN\_Orange\_Test\_3\_9865” and labeled in DR as “TN\_Orange\_Test\_3\_9865” in Union County – double split:



And in Chester County – double split:

