

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**IN RE REDISTRICTING 2023

SPECIAL MASTER**

Misc. No. 2:23-mc-1181-AMM

**MEMO IN SUPPORT OF GROFMAN/CERVAS/GRIGGY
REMEDIAL PROPOSALS**

TO: Richard Allen, Special Master
CC: David Ely, Court appointed expert cartographer

FROM: Bernard Grofman, Jonathan Cervas, Zachary Griggy

In re: Redistricting 2023, Misc. Act. No. 2:20-mc-1181-AMM (N.D. Ala.)

Dear Hon. Richard Allen,

Both the 2021 and the 2023 congressional plans proposed by the Alabama legislature have been struck down by the Court for failing to satisfy Section 2 of the Voting Rights Act. Nonetheless, each legislative map can be viewed as reflecting some legitimate legislative preferences about the structure of congressional districts. Enclosed are two illustrative maps. One map takes as its initial configuration the “2021 Plan” enacted by the legislature and is then redrawn in a narrowly tailored fashion to match the court’s instructions; the other takes as its initial configuration the legislature’s “2023 Plan” and is then redrawn in a narrowly tailored fashion to match the court’s instructions that “any remedial plan will need to include two districts in which Black voters either comprise a voting-age majority or something quite close.” *Singleton v. Merrill*, 582 F. Supp. 3d 924, 1033.

Each of our two illustrative maps is a minimum change map in that it only makes changes needed to permit the drawing of two districts that are Black majority in citizen voting age percentage. Each map redraws only four of the seven congressional districts in the state — the existing majority-minority district plus three additional districts adjacent to the majority-minority district — while keeping 100% of the district unchanged in three of the seven congressional

districts as they have been configured by the legislature in 2021 and 2023, respectively. Each map also seeks to satisfy traditional redistricting criteria such as “they contain equal populations, are contiguous, and respect existing political subdivisions, such as counties, cities, and towns.” *Allen v. Milligan*, 143 S. Ct. 1487, 1504 (2023)(cleaned up). We believe that both of these maps are fully responsive to the concerns raised by this court.

These maps demonstrate that, regardless of whether we use the legislature’s 2021 Plan or the legislature’s 2023 Plan, the legislature could have drawn a map with two Black majority districts while keeping wholly intact three of the seven congressional districts in its enacted map, and while still largely keeping intact most of the other districts in that legislative map. Both our maps “affords Black Alabamians, like everyone else, a fair and reasonable opportunity to elect candidates of their choice.” *Singleton v. Allen*, No. 2:21-CV-1291-AMM, 2023 WL 5691156, at *4 (N.D. Ala. Sept. 5, 2023). The first plan we present to the court maintains 81.8% of the population in the legislature’s 2021 map configuration; the second plan we present keeps 87.5% of the population in the 2023 configuration. This represents a substantial overlap of our plans with the plans struck down by the Court. By comparison, the population overlap between the legislative 2023 Plan and the legislative 2021 Plan is only 84.8%; but unlike our plans, neither of those legislatively drawn plans satisfies the requirements of the Voting Rights Act.

Because each of these two maps is drawn in accordance with the guidelines laid out by the court and each satisfies the strictures of the Voting Rights Act, either map could be used either as a remedial map directly or used as the basis for configuring a court-approved remedial map. To aid the special master, in addition to visual representation of maps, we provide accompanying block equivalency files and some key information about map characteristics in tabular form.

These maps reflect our experience in service to federal and state courts. Grofman has recently served as Special Master, mapping consultant, or voting rights consultant to federal or state courts in Georgia, New York, North Carolina, Utah, and Virginia, including three congressional cases where maps he has proposed have been adopted by the court and used in very recent elections. Cervas has served as Special Master in New York congressional redistricting, with the map he proposed adopted by the state court and used in the 2022 election. In addition, he served as a senior mapping consultant to the Pennsylvania Legislative Reapportionment Commission and has worked with Professor Grofman in many of the latter’s recent cases. Griggy has drawn maps for several local jurisdictions in California, three of which were adopted. He has also assisted both Grofman and Cervas in their capacities as special master. The remedial plans we have proposed that have adopted by other courts address similar types of concerns to those raised in the various litigation about proposed Alabama congressional maps.

Figure 1: Plan Maps

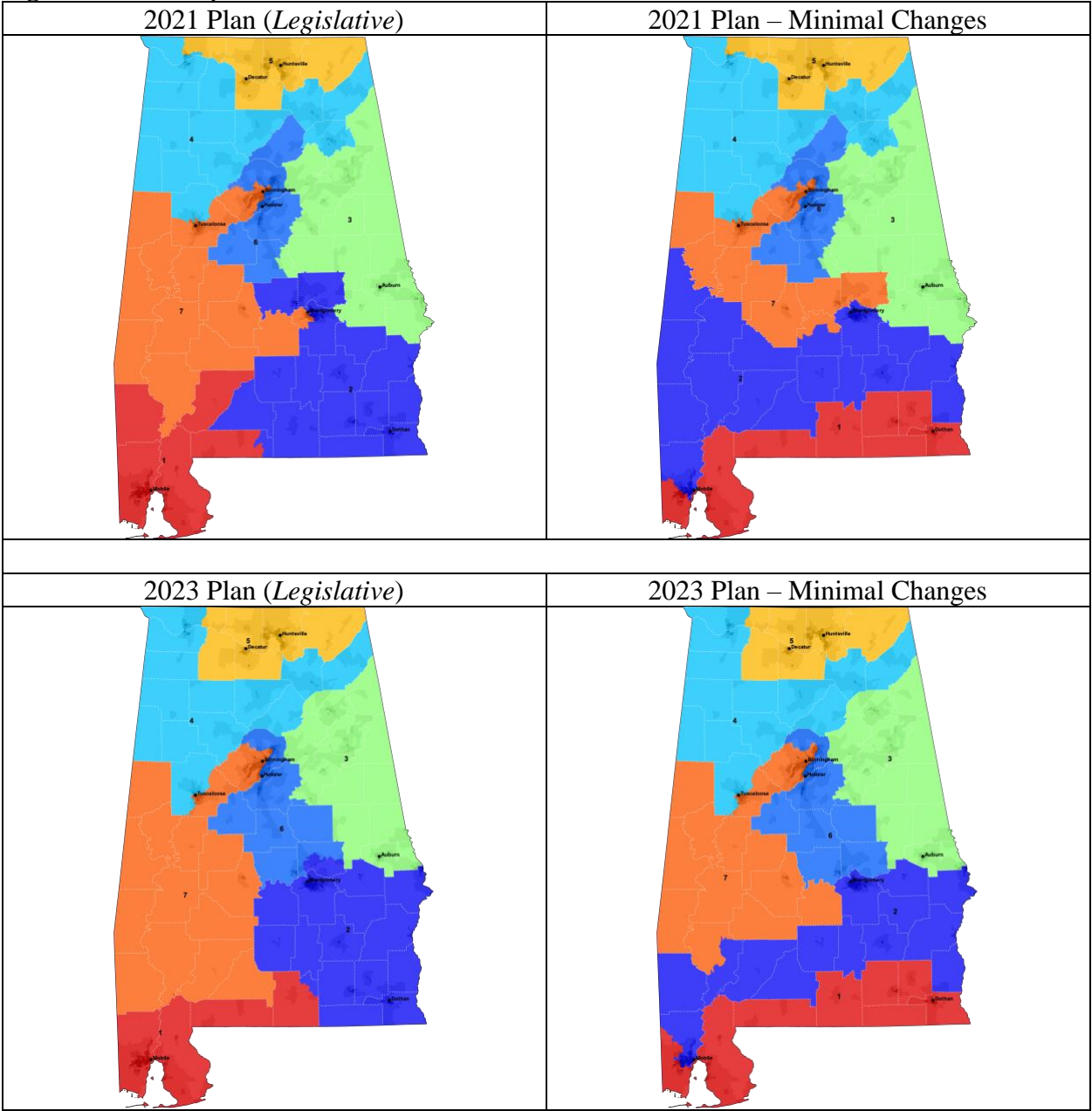


Figure 2: Black resident population by census tract

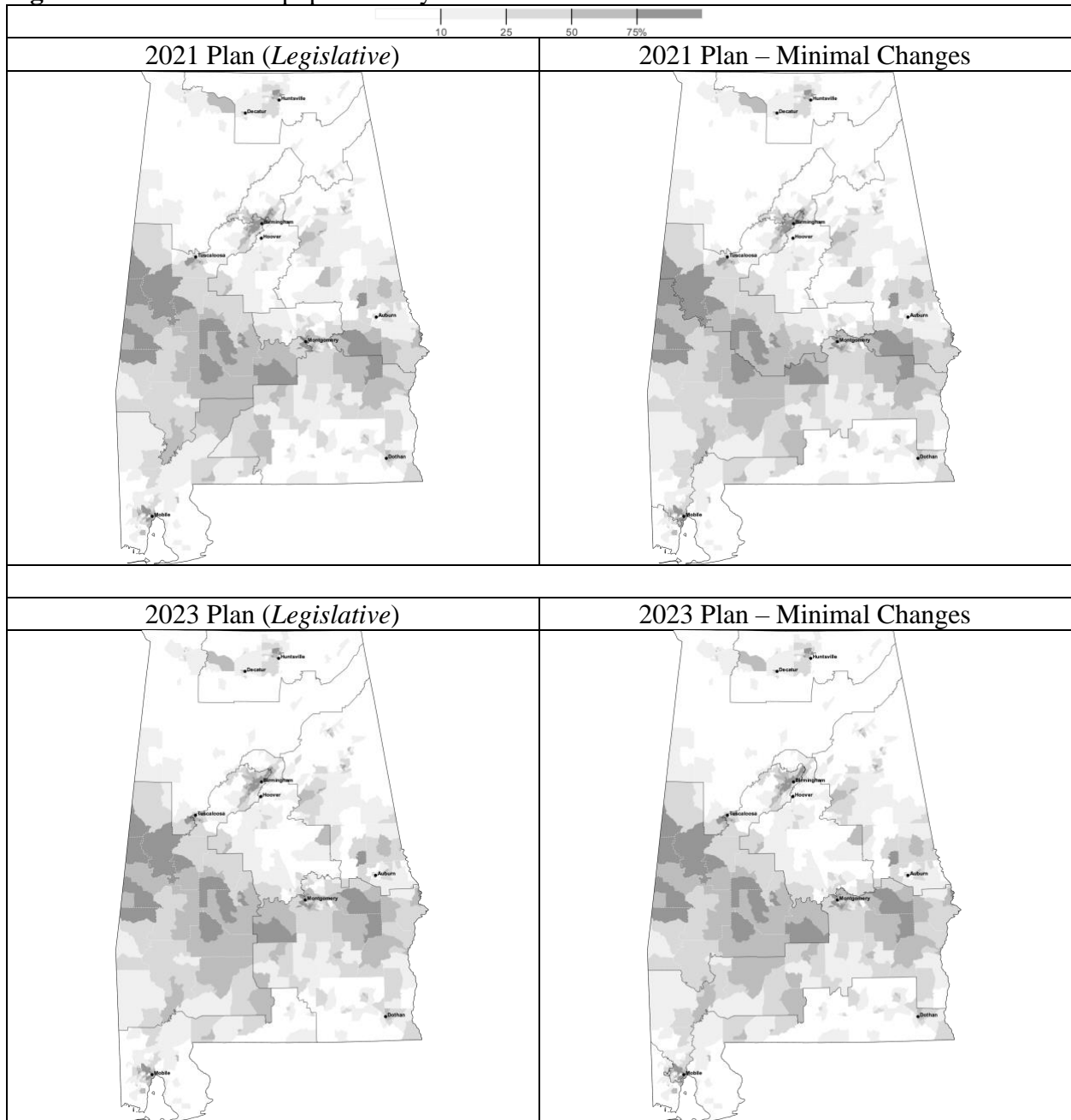


Table 1: Map Characteristics and Comparisons

Plan Name	Plan Description	Reock	Polsby-Popper	County Splits	City Splits	Black Opportunity Districts	Core Retention
<i>Legislative 2021 Plan</i>	Baseline – (passed by Legislature)	0.39	0.22	6	21	1	-
<i>AL 2021 – Minimum Change¹</i>	Makes small adjustments to the previous map to reduce city splits	0.31	0.19	6	17	2	81.8%
<i>Legislative 2023 Plan</i>	Baseline – (passed by Legislature)	0.41	0.28	6	19	1	-
<i>AL 2023 – Minimum Change²</i>	Start from 2023 Plan and make only adjustments to satisfy court requirements	0.35	0.23	6	15	2	87.5%

Table 2: District Demographics (Black citizen voting age percentage)

Citizen Black Voting Age Population	Legislative 2021 Plan	AL 2021 – Minimum Change	Legislative 2023 Plan	AL 2023 – Minimum Change
1	26.5%	16.3%	25.4%	16.3%
2	30.8%	50.1%	40.9%	50.0%
3	25.0%	25.0%	20.6%	20.6%
4	7.7%	7.7%	6.8%	6.8%
5	18.2%	18.2%	18.5%	18.5%
6	19.5%	17.2%	19.5%	17.1%
7	57.1%	50.2%	52.6%	54.6%

Note: Majority-minority districts highlighted.

Jonathan Cervas

¹ This plan can be view and downloaded at <https://davesredistricting.org/join/9cd90b03-08ee-4a5e-bcf4-69ecf790422b>

² This plan can be view and downloaded at <https://davesredistricting.org/join/14744489-febf-4f9f-b9cf-1e40e72b74f7>