

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FILED IN CLERK'S OFFICE

SEP 23 2003

By: Luther D. Williams, Clerk
Deputy Clerk

SARA LARIOS, et al. and
ERIC JOHNSON
PLAINTIFFS,

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§

CIVIL ACTION FILE
NO. 1:03-CV-693 (CAP)

v.

THREE JUDGE COURT

CATHY COX, in her official capacities
as Secretary of State of Georgia and
Chair of the State Election Board,

DEFENDANT.

PLAINTIFFS' INITIAL DISCLOSURES

COME NOW PLAINTIFFS in the above-styled case ("Plaintiffs"), and pursuant to Rule 26 of the Federal Rules of Civil Procedure and Local Rule 26.1, make their Initial Disclosures as follows:

(1) State precisely the classification of the cause of action being filed, a brief factual outline of the case, including plaintiff's contentions as to what defendant did or failed to do and a succinct statement of the legal issues in the case.

This is an action challenging the validity, under both the United States Constitution and federal statutes, of Georgia's Congressional Representative districts ("the current Congressional redistricting plan") and the constitutionality of the current electoral representational plans for the Georgia Senate and the Georgia

House of Representatives (collectively, “the current state legislative redistricting plans”).

Plaintiffs’ equality in voting strength has been diluted and debased through the enactment and continued use of the current redistricting plans by which members of the Georgia General Assembly and Georgia’s Congressional Representatives are to be elected. The dilution and debasement occurs through the overpopulation of districts, partisan gerrymandering, and, in the state Senate plan, the use of race as a predominant factor in the creation of the plan. In addition, in the current Congressional redistricting plan, Plaintiffs assert the State of Georgia exceeded its authority to regulate the times, places and manner of congressional elections and instead drew a plan that dictates election outcomes. The resulting plan gives Georgia voters little more power than to ratify the results engineered by the authors of the Georgia Congressional plan. That plan frustrates the majority’s will by drawing districts that jettison all neutral districting criteria to maximize Democratic advantage in congressional elections. Finally, Plaintiffs assert that the current state legislative redistricting plans impinge upon the freedom of association rights guaranteed by the First Amendment of the United States Constitution by packing Republican-leaning districts, thereby penalizing Republican voters and representatives solely because of their party affiliation and political beliefs.

The challenge to the current Congressional redistricting plan is brought under Article I, §§ 2 and 4 and Article IV, §2 of the United States Constitution, the First and the Fourteenth Amendments to the United States Constitution and 42 U.S.C. §§ 1983. The challenge to the current state legislative redistricting plans is brought pursuant to Article IV, §2 and the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983. Plaintiffs seek declaratory judgment that (1) the districts contained in the current Congressional and state legislative redistricting plans violate Article IV, §2 of the United States Constitution and the Fourteenth Amendment to United States Constitution in that the disproportionate sizes of the districts and the use of multimember districts in the current House redistricting plan districts violate the constitutional principle of “one person, one vote,” constitute illegal partisan gerrymandering and, with respect to the state Senate plan, violates the equal protection clause’s prohibition against using race as a predominate factor in creating redistricting plans; (2) the current Congressional redistricting plan violates Article I, §§ 2 and 4 of the United States Constitution; (3) the districts contained in the current Congressional and state legislative redistricting plans impinge upon the freedom of association rights guaranteed by the First Amendment of the United States Constitution by penalizing Republican voters and Representatives solely because of their party affiliation and

political beliefs; and (4) the continued use of the districts in the current Congressional and state legislative redistricting plans cannot be justified as furthering any legitimate state interest and is therefore unconstitutional. Upon such declarations, Plaintiffs request injunctive relief, prohibiting further qualifications or elections from being conducted under the current Congressional and state legislative redistricting plans. Plaintiffs further request that, in the event that constitutional plans are not enacted and precleared under 42 U.S.C. § 1973c in sufficient time for 2004 candidate qualifying period and elections to proceed according to the statutory schedule, the Court formulate and implement redistricting plans for Georgia's Congressional and state legislative districts that comport with constitutional and statutory requirements. Finally, Plaintiffs seek their costs and attorney's fees pursuant to 42 U.S.C. §1988.

(2) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative case law which plaintiffs contend are applicable to this action.

As set forth above, this case is brought pursuant to:

- a. Article I, §§ 2 and 4 and Article IV, §2 of the United States Constitution;
- b. the First and Fourteenth Amendments to the United States Constitution;
- c. 42 U.S.C. §1983 (and Plaintiffs seek their attorneys' fees pursuant to 42 U.S.C. § 1988); and

d. Relevant case law interpreting those constitutional statutes and provisions, including but not limited to:

Brown v. Thomson, 462 U.S. 835 (1983).

Cecere v. County of Nassau, 03-CV-1548, 2003 U.S. Dist. LEXIS 7123, *12-14 (E.D.N.Y. April 23, 2003).

Daly v. Hunt, 93 F.3d 1212, 1220 (4th Cir. 1996).

Davis v. Bandemer, 478 U.S. 109 (1986).

Farnum v. Burns, 561 F.Supp. 83 (D.R.I., 1983).

Gaffney v. Cummings, 412 U.S. 735 (1973).

Georgia v. Ashcroft 123 S.Ct. 2498, 2517 (2003).

Hulme v. Madison County, 188 F. Supp. 2d 1041, 1047 (S.D. Ill. 2001).

Karcher v. Daggett, 462 U.S. 725, 730, 734 (1983).

Kirkpatrick v. Preisler, 394 U.S. 526, 531, 89 S.Ct. 1225, 22 L.Ed.2d 519 (1969).

Licht v. Quattrochi, CA No. 82-1494 (R.I.Super.Ct., 1982).

Licht v. Quattrochi, 449 A.2d 887 (R.I. 1982).

Marylanders for Fair Representation, Inc. v. Schaefer, 849 F. Supp. 1022, 1031-32 (D. Md. 1994).

Republican Party of North Carolina v. Martin, 980 F.2d 943, 958 (4th Cir. 1992).

Reynolds v. Sims, 377 U.S. 533, 568 (1964).

Vieth v. Pennsylvania, 188 F. Supp.2d 532, 539-40 (M.D.Pa. 2002);

Vieth v. Pennsylvania, 195 F. Supp.2d 672 (M.D.Pa. 2002).

Vieth v. Pennsylvania, 241 F. Supp.2d 478 (M.D. Pa. 2003), *prob. juris. noted in Vieth v. Jubelirer*, No. 02-1580, 2003 LEXIS 5032.

Wesberry v. Sanders, 376 U.S. 1, 7-8 (1964)

White v. Crowell, 434 F.Supp. 1119 (W.D. Tenn., 1977)

(3) Provide the name and, if known, the address and telephone number of each individual likely to have discoverable information that you may use to support your claims or defenses, unless solely for impeachment, identifying the subjects of the information. (Attach witness list to Initial Disclosures as Attachment A.)

See Attachment "A" to Plaintiffs' Initial Disclosures, which is a list of such individuals known to Plaintiffs to date.

(4) Provide the name of any person who may be used at trial to present evidence under Rules 702, 703 or 705 of the Federal Rules of Evidence. For all experts described in F.R.Civ.P. 26 (a)(2)(B), provide a separate written report satisfying the provisions of that rule. (Attach expert witness list and written reports to Initial Disclosures as Attachment B.)

Pursuant to the Court's August 29, 2003 Order, Plaintiffs will designate their expert(s) on or before September 29, 2003.

(5) Provide a copy of, or description by category and location of, all documents, data, compilations, and tangible things in your possession, custody or control that you may use to support your claims or defenses, unless solely for impeachment, identifying the subjects of the information. (Attach document list and descriptions to Initial Disclosures as Attachment C.)

See Attachment "C" to Plaintiffs' Initial Disclosures, which is a list of such documents known to Plaintiffs to date.

(6) In the space provided below, provide a computation of any category of damages claimed by you. In addition, include a copy of or describe by category and location of, the documents or other evidentiary material, not privileged or protected from disclosure on which such computation is based, including materials bearing on the nature and extent of injuries suffered, making such documents or evidentiary materials available for inspection and copying under F.R.Civ.P. 34. (Attach any copies and descriptions to Initial Disclosures as Attachment D.)

In this case, there are no monetary damages at stake; Plaintiffs do seek their attorneys' fees and costs of litigation under 42 U.S.C. § 1988, and will submit an application to recover those fees and costs if they prevail.

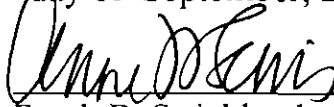
(7) Attach for inspection and copying as under F.R.Civ.P. 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments to satisfy the judgment. (Attach copy of insurance agreement to Initial Disclosures as Attachment E.)

Plaintiffs are not aware of any such insurance policy.

(8) Disclose the full name, address and telephone number of all persons or legal entities who have a subrogation interest in the cause of action set forth in plaintiff's cause of action and state the basis and extent of such interest.

Not applicable.

Respectfully submitted this 22nd day of September, 2003.



Frank B. Strickland
Georgia Bar No. 687600
Anne W. Lewis
Georgia Bar No. 737490

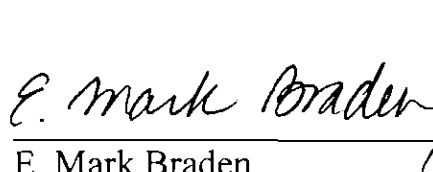
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Attorneys for Plaintiff Johnson

ATTACHMENT "A" TO PLAINTIFFS' MANDATORY DISCLOSURES

1. Each named Plaintiff – Each Plaintiff has knowledge of their residence address, fact that they are registered voters, their political affiliation and the unequal representation afforded them.
2. Senator Eric Johnson – Senator Johnson has knowledge of the redistricting process in 2001-2003 and was involved in drawing alternative plans.
3. Rep. Lynn Westmoreland – Representative Westmoreland has knowledge of the redistricting process in 2001-2003 and was involved in drawing alternative plans.
4. Georgia's Congressmen Jack Kingston, Sanford Bishop, Jim Marshall, John Lewis, Johnny Isakson, John Linder, Mac Collins, Nathan Deal, Charlie Norwood, Phil Gingrey, Max Burns, David Scott, and Congresswoman Denise Majette have knowledge of the geographical makeup of their districts and the representational issues associated with districts drawn as theirs are.
5. Bryan Tyson - Demographer for House Republican caucus, who drew plans for the House, Senate and Congressional districts. Among other things, Mr. Tyson has knowledge that all plans could have been drawn at lower population deviations while complying with traditional principles of redistricting and Section 5 of the Voting Rights Act.
6. Morgan Perry Cook - Demographer for Senate Republican caucus. Among other things, Ms. Cook has knowledge that all plans could have been drawn at lower population deviations while complying with traditional principles of redistricting and Section 5 of the Voting Rights Act.
7. Linda Meggars – Director of the Legislative Reapportionment Office, who has knowledge of the creation of the 2001 House and Congressional plans.
8. Joe Stanton – Employee of the Legislative Reapportionment Office, who has knowledge of the creation of the 2001 and 2002 Senate plans and perhaps other plans.

9. Shontae El – Employee of the Legislative Reapportionment Office, who has knowledge of the creation of the Congressional plan sponsored by Rep. Ben Allen and perhaps other plans.
10. Gina Shelton – Employee of the Legislative Reapportionment Office, who has knowledge of the creation of various redistricting plans during the 2001, 2002 and 2003 sessions of the Georgia General Assembly.
11. John Kirinchich – Has knowledge of the Senate plans drawn in 2001 and 2002, as well as the redistricting goals of the state Democratic Party.
12. Vincent Fort - Has knowledge of the 2001 and 2002 redistricting process, in particular, the Senate plans drawn in 2001 and 2002 as well as the redistricting goals of the state Democratic Party.
13. Robert Brown – Chair of the Redistricting Subcommittee in the Senate in 2001 and 2002, he has knowledge of the 2001 and 2002 redistricting process, in particular, the Senate plans drawn in 2001 and 2002 as well as the redistricting goals of the state Democratic Party.
14. Donzella James - Has knowledge of the 2001 and 2002 redistricting process, in particular, the Senate plans drawn in 2001 and 2002 as well as the redistricting goals of the state Democratic Party.
15. Charles Walker - Has knowledge of the 2001 and 2002 redistricting process, in particular, the Senate plans drawn in 2001 and 2002 as well as the redistricting goals of the state Democratic Party.
16. Regina Thomas - Has knowledge of the 2001 and 2002 redistricting process, in particular, the Senate plans drawn in 2001 and 2002 as well as the redistricting goals of the state Democratic Party.
17. Tim Golden – Chairman of the Senate Reapportionment Committee in 2001 and 2002, he has knowledge of the 2001 and 2002 redistricting process, in particular, the Senate plans drawn in 2001 and 2002 as well as the redistricting goals of the state Democratic Party.

18. Rep. Bob Hanner - Member of the House Legislative and Congressional Reapportionment Committee, he has knowledge of the House and Congressional plans drawn in 2001 and 2002, as well as the redistricting goals of the state Democratic Party.
19. Rep. Tommie Smith – Chair of the House Legislative and Congressional Reapportionment Committee, he has knowledge of the House and Congressional plans drawn in 2001 and 2002, as well as the redistricting goals of the state Democratic Party.
20. Rep. Calvin Smyre – Chair of the Conference Committee on House Bill 14EX2 (Congressional Reapportionment) and Chair of the Georgia Democratic Party; he has knowledge of the House and Congressional plans drawn in 2001 and 2002, as well as the redistricting goals of the state Democratic Party.
21. Rep. Richard Royal – Member of the House Legislative and Congressional Reapportionment Committee, he has knowledge of the House and Congressional plans drawn in 2001 and 2002, as well as the redistricting goals of the state Democratic Party.
22. Rep. Jay Shaw - Member of the House Legislative and Congressional Reapportionment Committee, he has knowledge of the House and Congressional plans drawn in 2001 and 2002, as well as the redistricting goals of the state Democratic Party.
23. Former Governor Roy E. Barnes – Governor of Georgia during 2001 and 2002, he has knowledge of the Congressional and state legislative redistricting plans drawn in 2001 and 2002, as well as the redistricting goals of the state Democratic Party.
24. Governor George E. “Sonny” Perdue – Current Governor and member of the Georgia Senate in 2001, he has knowledge of the redistricting process in 2001 and 2002, particularly the Senate plans.
25. Lt. Governor Mark Taylor – Lt. Governor now and during 2001-2003, he has knowledge of the Senate plans drawn in 2001, 2002 and 2003, as well as the redistricting goals of the state Democratic Party.

CONTACT INFORMATION FOR ABOVE-LISTED INDIVIDUALS

1. Each named Plaintiff – Addresses and phones will be provided on September 23, 2003.
2. Senator Eric Johnson
State Capitol
Room 321
Atlanta, GA
404-656-0032
3. Rep. Lynn Westmoreland
Legislative Office Building
LOB Room 408
Atlanta, GA 30334
404.656.5058
4. Georgia's Congressmen Jack Kingston, Sanford Bishop, Jim Marshall, John Lewis, Johnny Isakson, John Linder, Mac Collins, Nathan Deal, Charlie Norwood, Phil Gingrey, Max Burns, David Scott, and Congresswoman Denise Majette. Addresses and phones will be provided on September 23, 2003.
5. Bryan Tyson
LOB Room 408
Atlanta, GA 30334
404.656.5058
6. Morgan Perry Cook
State Capitol
Room 201
Atlanta, GA 30334
404-463-7483

7. Linda Meggars
Legislative Reapportionment Office
LOB Room 407
Atlanta, GA 30334
656-5063
8. Joe Stanton
Legislative Reapportionment Office
LOB Room 407
Atlanta, GA 30334
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9. Shontae El
Legislative Reapportionment Office
LOB Room 407
Atlanta, GA 30334
656-5063
10. Gina Shelton
Legislative Reapportionment Office
LOB Room 407
Atlanta, GA 30334
656-5063
11. John Kirinchich
12. Vincent Fort
LOB Room 305B
Atlanta, GA 30334
404-656-5091
13. Robert Brown
State Capitol
Room 421A
Atlanta, GA 30334
404-656-5035

14. Donzella James
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404-349-3379
15. Charles Walker
1132 Monte Sano Avenue
Augusta, GA 30904
706-667-0702
16. Regina Thomas
LOB Room 313A
Atlanta, GA 30334
404-463-7784
17. Tim Golden
LOB Room 321A
Atlanta, GA 30334
404-656-0082
18. Rep. Bob Hanner
State Capitol
Room 220
Atlanta, GA 30334
404-656-5912
19. Rep. Tommie Smith
State Capitol
Room 135
Atlanta, GA 30334
404-656-5105
20. Rep. Calvin Smyre
State Capitol
Room 415
Atlanta, GA 30334
404-656-5024

21. Rep. Richard Royal
State Capitol
Room 133
Atlanta, GA 30334
404-656-5103
22. Rep. Jay Shaw
State Capitol
Room 417
Atlanta, GA 30334
404-656-5146
23. Former Governor Roy E. Barnes
The Barnes Law Group
P.O. Box 489
Marietta, GA 30061
770-419-8505
24. Governor George E. "Sonny" Perdue
State Capitol
Room 203
Atlanta, GA 30334
404-656-1776
25. Lt. Gov. Mark Taylor
State Capitol
Room 240
Atlanta, GA
404-656-5030

ATTACHMENT "C" TO PLAINTIFFS' INITIAL DISCLOSURES

1. Plan: S1999 – benchmark state Senate district plan, including maps¹ and statistical information report.
2. Plan: senplan2u – 2001 Senate Reapportionment plan, including maps and statistical information report.
3. Plan: senP01AP – 2002 Senate Reapportionment plan, including maps and statistical information report.
4. Plan: Georgia Equal – Alternative 2001 Senate Reapportionment plan, including maps and statistical information report.
5. Plan: Georgia Fair – Alternative 2001 Senate Reapportionment plan, including maps and statistical information report.
6. Plan: coalition1 – Alternative 2001 Senate Reapportionment plan, including maps and statistical information report.
7. Plan: coalition2 – Alternative 2001 Senate Reapportionment plan, including maps and statistical information report.
8. Plan: senplan3 – Alternative 2001 Senate Reapportionment plan, including maps and statistical information report.
9. Plan: senfair6 – Senate Reapportionment plan, passed by the Georgia State Senate in 2003, including maps and statistical information.
10. Plan: H1998RE – benchmark state House of Representative district plan, including maps and statistical information report.
11. Plan: HSEPLN 2 - 2001 House Reapportionment plan, including maps and statistical information report.

¹ Each map exhibit is a set of two maps (the entire state and the metro-Atlanta area).

12. Plan: Westmoreland1 – Alternative 2001 House Reapportionment plan for all districts, including maps and statistical information report.
13. Plan: Westmoreland2 – Alternative 2001 House Reapportionment plan for all districts, including maps and statistical information report.
14. Plan: Westmoreland3r – Alternative 2001 House Reapportionment plan for all districts, including maps and statistical information report.
15. Plan: Westmoreland5r – Alternative 2001 House Reapportionment plan for all districts, including maps and statistical information report.
16. Plan: Westmoreland7 – Alternative 2001 House Reapportionment plan for all districts, including maps and statistical information report.
17. Plan: Westmoreland 9 – Alternative 2001 House Reapportionment plan for all districts, including maps and statistical information report.
18. Plan: FCTCONG – benchmark Congressional district plan, including maps and statistical information report.
19. Plan: HCONF12 – 2001 House Conference Committee Reapportionment plan, including maps and statistical information report.
20. Plan: RHudgensplan2 – Alternative 2001 Congressional Reapportionment plan, including maps and statistical information report.
21. Plan: Bharbin2 – Alternative 2001 Congressional Reapportionment plan, including maps and statistical information report.
22. Plan: Congress3 – Alternative 2001 Congressional Reapportionment plan, including maps and statistical information report.
23. 2001-02 Guidelines for the House and Senate Committees on Congressional and Legislative Redistricting and Reapportionment.

24. Proposed amendments to Guidelines for the House and Senate Committees on Congressional and Legislative Redistricting and Reapportionment.
25. All exhibits, declarations, sworn statements, testimony and deposition designations tendered by any party in *Georgia v. Ashcroft*, 195 F. Supp.2d 25 (D.D.C. 2002) and *Georgia v. Ashcroft*, 204 F. Supp.2d 4 (D.D.C. 2002).
26. Transcripts from all Public Hearings on Reapportionment conducted in 2001.
27. Transcripts and/or audiotapes from all meetings of the Georgia General Assembly's Senate Reapportionment Committee, the House Congressional and Reapportionment Committee and the Conference Committee on Congressional Redistricting in 2001, 2002 and 2003.
28. Transcripts and/or videotapes from the Georgia General Assembly's Floor debates on redistricting in 2001, 2002 and 2003.
29. Plaintiffs' Demonstrative Exhibits used in oral argument on August 26, 2003.
30. All exhibits attached to parties' submission in response to August 20, 2003 show cause order in *Georgia v. Ashcroft*, Case No. 01-2111, United States District Court for the District of Columbia.
31. Information from Georgia General Assembly's website http://www.legis.state.ga.us/legis/2001_02/reapp/, sponsored by the Legislative Reapportionment Services Office.
32. Miscellaneous Data from the website www.georgia2000.org sponsored by the University of Georgia, Carl Vinson Institute of Government.
33. Election Data: Data from the Georgia Secretary of State and/or local election officials for Primary and General Elections.

34. Census Data: Population and geographic data from the U.S. Bureau of the Census for the 1990 and 2000 Censuses.
35. Charts showing incumbent pairings in current state legislative and Congressional plans.
36. Plans: Westmoreland 10, 11, 13- Alternative 2002 and 2003 House Reapportionment plans for all districts, including maps and statistical information report.
37. Various press reports (2000-2004) regarding redistricting process in Georgia.

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SARA LARIOS, et al.	§	
PLAINTIFFS,	§	CIVIL ACTION FILE
	§	NO. <u>1:03:CV 693 (CAP)</u>
v.	§	
	§	
CATHY COX, in her official capacities	§	
as Secretary of State of Georgia and	§	
Chair of the State Election Board,	§	
	§	
DEFENDANT.	§	

CERTIFICATE OF SERVICE

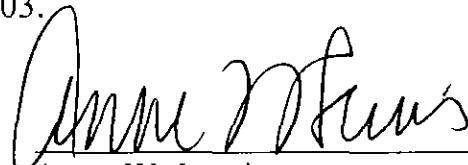
I HEREBY CERTIFY that I have this day served the within and foregoing **PLAINTIFFS' INITIAL DISCLOSURES** upon counsel of record for all parties by email and by depositing a copy of same in the United States Mail, with adequate postage affixed thereto, addressed as follows:

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