

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION

DYAMONE WHITE, et al.

PLAINTIFFS

v.

CAUSE NO. 4:22-CV-62-SA-JMV

STATE BOARD OF ELECTION  
COMMISSIONERS, et al.

DEFENDANTS

APPENDIX

Consistent with Rule 52(a) of the Federal Rules of Civil Procedure, the Court appends the following separately enumerated findings of fact and conclusions of law to its Order and Memorandum Opinion. The following is not intended to be an exhaustive recapitulation of the Court's analysis but rather should be construed in tandem with the Order and Memorandum Opinion, which more fully articulates the Court's holding.

*I. Findings of Fact*

1. The Mississippi Constitution provides for the existence of three Supreme Court districts from which Justices are to be elected with three Justices elected from each district.
2. The Mississippi Legislature enacted the current Supreme Court districting map in 1987 with the stated objective of correcting population malapportionment of the then-existing Supreme Court districts. The map has not been modified in any way since 1987.
3. Under the current map, the respective districts encompass the following counties:

District 1: Bolivar, Claiborne, Copiah, Hinds, Holmes, Humphreys, Issaquena, Jefferson, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Sharkey, Sunflower, Warren, Washington, Yazoo.

District 2: Adams, Amite, Clarke, Covington, Forrest, Franklin, George, Greene, Hancock, Harrison, Jackson, Jasper, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Pearl River, Perry, Pike, Simpson, Smith, Stone, Walthall, Wayne, Wilkinson.

District 3: Alcorn, Attala, Benton, Calhoun, Carroll, Chickasaw, Choctaw, Clay, Coahoma, Desoto, Grenada, Itawamba, Lafayette, Lee, Leflore, Lowndes, Marshall, Monroe, Montgomery, Oktibbeha, Panola, Pontotoc, Prentiss, Quitman, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Webster, Winston, Yalobusha.

4. Since its inception, only four Justices who have served on the Mississippi Supreme Court have been Black. All of them have held the same seat—District 1, Place 2. All of them were first appointed to the position by a sitting Governor.

5. The Plaintiffs in this case, Dyamone White, Derrick Simmons, Ty Pinkins, Constance Olivia Slaughter Harvey-Burwell, are all Mississippi citizens residing in District 1 under the current map.

6. One of the Defendants in this case is the State Board of Election Commissioners. By statute, the Board is comprised of the Governor, Attorney General, and Secretary of State. Governor Tate Reeves, Attorney General Lynn Fitch, and Secretary of State Michael Watson are also named Defendants.

7. Mississippi's demographics have changed over the last 25 years. According to the United States Census data, the overall population and population proportion of Black Mississippians has increased. In 2000, Black Mississippians accounted for 33.29% of the statewide population. That number rose to 36.14% in 2020. The Non-Hispanic White population decreased from 64.16% to 57.76% during that same time period.

8. According to the 2020 United States Census data, the Black Voting Age Population ("BVAP") of the Supreme Court districts are: 49.29% in District 1; 27.66% in District 2; and 32.65% in District 3.

9. According to the 2016-2020 5-year American Community Survey (“ACS”), the estimated Black CVAP of the Supreme Court districts are: 51.1% in District 1; 27.9% in District 2; and 33.3% in District 3.

10. Neither the United States Census data nor the ACS data takes into account voter eligibility.

11. Taking into account the estimates of Mississippians who are permanently disenfranchised due to a disqualifying felony conviction, the Black CVAP of District 1 is less than 50% utilizing the ACS data. Considering the United States Census data, the BVAP of District 1 is also less than 50%.

12. William Cooper, an expert in redistricting, demographics, and census data, created two Illustrative Plans and two Least Change Plans utilizing the Maptitude software.

13. Cooper credibly testified as to the numerosity and compactness of each of the two Illustrative Plans and one of the Least Change Plans.

14. Illustrative Plans 1 and 2 adhere to and respect traditional redistricting principles.

15. Byron D’Andra Orey, Ph. D., testified as an expert in political science, political participation behavior, racially polarized voting, and race and politics.

16. Orey utilized the ecological inference methodology to analyze the existence of racially polarized voting in endogenous, quasi-endogenous, and exogenous biracial elections since 2011—a total of 19 elections.

17. Ecological inference is widely recognized as an acceptable method to analyze this information.

18. Biracial elections are recognized by experts in the field, as well as federal courts, as the most probative elections for analyzing the existence of racially polarized voting.

19. Since 2011, there have been two biracial Supreme Court (endogenous) elections in District 1—the 2012 election between Earle Banks, a Black man, and William Waller, Jr., a White man, and the 2020 election between Latrice Westbrooks, a Black woman, and Kenny Griffis, a White man.

20. Black voters cohesively supported the Black candidate in both of these elections—supporting Banks at a rate of approximately 81.26% and Westbrooks at a rate of 90.46%. Conversely, White voters supported Banks at 5.44% and Westbrooks at 6.43%.

21. Results from the analyzed quasi-endogenous and exogenous biracial elections tell a similar story with Black support for the Black candidate never falling below 87% and White support for the Black candidate never exceeding 17%.

22. Orey characterized the racial bloc voting patterns in the analyzed elections as “extreme.” This Court credits that testimony.

23. Looking to the results of these elections, the Black candidate lost both of the analyzed endogenous elections, four of the seven analyzed quasi-endogenous elections, and five of the ten analyzed exogenous elections.

24. As indicated above, in the analyzed biracial elections, White support for the Black candidate never exceeded 17% and often fell below 10%.

25. Considering all of the elections and placing more weight on the endogenous elections, White voters vote as a bloc to usually defeat Black candidates.

26. The Court found credible Orey’s conclusion on this topic. Conversely, Christopher Bonneau, Ph. D., who testified as a defense expert and reached a different conclusion, did not testify credibly on this topic, and the Court affords his testimony on the topic minimal weight.

27. James T. Campbell, Ph. D., credibly testified as an expert in race relations in the United States, the history of Mississippi after the Civil War, and the history of racial politics in the South and Mississippi from the post-Civil War era to modern day.

28. Mississippi has a long history of discrimination against Black Mississippians in the arena of voting. This includes discrimination as to the ability to register to vote, vote, and/or otherwise participate in the democratic process.

29. Black Mississippians presently face a different, improved reality. Many of the mechanisms previously utilized to preclude or suppress Black participation, such as poll taxes and literacy tests, are no longer utilized.

30. However, Black Mississippians still face difficulties due to facially race-neutral mechanisms such as felon disenfranchisement, strict voter identification laws, and strict absentee voting requirements. Campbell credibly testified that these mechanisms disproportionately impact Black Mississippians and continue to suppress Black participation in the democratic process today.

31. Mississippi Supreme Court elections are non-partisan but do maintain some characteristics of partisan elections, such as candidates associating with political figures in campaign ads.

32. Reuben Anderson, the first Black person to serve as a Mississippi Supreme Court Justice, and Percy Watson, a long-serving member of the Mississippi House of Representatives, testified that racial polarization continues to exist in elections in the state. The Court finds this testimony credible and notes that it is supported by the data.

33. Partisanship in Mississippi was correlated with race prior to the partisan realignment during the Civil Rights Era and remains that way today.

34. External factors, such as William Waller, Jr.'s family name in 2012 and the ongoing COVID-19 pandemic in 2020, may have played some role in the outcome of the Supreme Court

elections in those respective election years, but the Court finds that race was the primary explanation for the outcomes.

35. The Plaintiffs presented credible evidence establishing the existence of polarized voting on account of race.

36. There is no formal candidate slating process in Mississippi.

37. Compared to White Mississippians, Black Mississippians experience disparities in areas of education, unemployment, income, poverty, housing, health, and criminal justice.

38. Educational attainment, income, and wealth are key indicators for voter turnout. Black Mississippians lag behind White Mississippians in educational attainment, income, and wealth.

39. Traci Burch, Ph. D., estimated voter turnout in the 2020 general election in two different ways: (1) a regression analysis utilizing the Cooperative Election Survey (“CES”) and (2) ecological inference (“EI”) based on turnout data from the state voter file and demographic data from the 2020 United States Census. Burch credibly testified as to her findings, which revealed that White voter turnout exceeded Black voter turnout in the 2020 election. The Court accepts that testimony.

40. The Court rejects the testimony of defense expert, David Swanson, Ph. D., who concluded that Black voter turnout exceeded White voter turnout in 2020.

41. Racial appeals have been utilized in Mississippi—both in the distant past and in more recent times.

42. Racial appeals have been utilized in Mississippi Supreme Court elections, as well as other elections throughout the state.

43. No Black candidate has been elected to statewide office in Mississippi since 1875.

44. Since 1875, only two Black Mississippians, Mike Espy and Bennie Thompson, have served in Congress.

45. Throughout the entirety of Mississippi's history, a total of five out of 140 Congress members have been Black.

46. Out of the 125 Justices who have served on the Mississippi Supreme Court in its history, only four have been Black.

47. No Black candidate has ever been elected to the Mississippi Supreme Court without first being appointed to the court by a sitting Governor.

48. Marvin King credibly testified that elected officials in Mississippi are not responsive to the particularized needs of Black Mississippians. One example of such unresponsiveness is the Mississippi Legislature's failure to expand Medicaid.

49. The Mississippi Legislature's stated objective of correcting population malapportionment at the time it enacted the current map is no longer being furthered in light of the shifting demographics in the state.

50. There was no credible evidence presented at trial to illustrate that the particular east-west configuration of the district lines is necessary to keep the Mississippi Supreme Court functioning properly and independently.

51. Kyle Kirkpatrick, who holds the title of assistant secretary of state for elections at the Office of the Mississippi Secretary of State, and Ann Lamar, who formerly served as a Mississippi Supreme Court Justice, both of whom testified as defense witnesses, admitted that they had no reason to believe that a Justice elected from a majority BVAP district could not be fair and impartial.

## *II. Conclusions of Law*

1. There is a sufficiently large and compact Black majority population such that a reasonably configured majority BVAP Supreme Court district can be drawn.
2. Illustrative Plans 1 and 2 adhere to and respect traditional redistricting principles.
3. Black voters in District 1 and statewide usually vote for the same candidate such that they could elect a representative of their choice in a majority BVAP district.
4. White voters typically vote as a bloc such that they are usually able to defeat the Black-preferred candidate.
5. The Plaintiffs carried their burden of proof as to all three *Gingles* preconditions.
6. There is a long history of voting-related discrimination against Black citizens in Mississippi in the voting arena.
7. Although Black Mississippians today do not face the same challenges as in times past, facially race-neutral mechanisms that remain in place today disproportionately impact Black Mississippians in the voting arena.
8. Race, not partisanship, best explains the divergent voting patterns between Black and White Mississippians.
9. Mississippi does not have in place a formal candidate slating process.
10. Black Mississippians bear the effects of discrimination in areas such as education, employment, and health. These disparities hinder Black Mississippians from participating effectively in the political process.
11. Political campaigns in Mississippi—for Mississippi Supreme Court seats as well as for other positions—have been characterized by racial appeals.



12. The success of Black candidates for the Mississippi Supreme Court is limited. No Black candidate has ever been elected to the Mississippi Supreme Court without first being appointed to the position by a sitting Governor and thereby possessing the incumbency advantage.

13. Whether elected officials have been responsive to the minority's particularized needs is not applicable considering that this case involves judicial districts. But to the extent it is applicable, elected officials in Mississippi have been unresponsive to Black Mississippians' particularized needs.

14. The Mississippi Legislature's stated objective at the time it adopted the current map (correcting population malapportionment) is no longer being furthered by continued utilization of the map.

15. Continued utilization of the current map is not necessary to keep the Mississippi Supreme Court functioning properly.

16. The Plaintiffs carried their burden of proof as to Senate Factors 1, 2, 3, 5, 6, 7, and 9. Senate Factors 4 and 8 are inapplicable in this case.

17. The current Mississippi Supreme Court electoral map illegally dilutes the votes of Black Mississippians in District 1 in violation of Section 2 of the Voting Rights Act.

THIS the 19th day of August, 2025.

/s/ Sharion Aycock  
SENIOR UNITED STATES DISTRICT JUDGE