

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

ALABAMA STATE CONFERENCE OF)
THE NAACP, *et al.*,)

Plaintiffs,)

v.)

WES ALLEN, *et al.*,)

Defendants.)

No. 2:21-cv-1531-AMM

**PLAINTIFFS’ OPPOSITION TO DEFENDANT’S
MOTION FOR JUDGMENT AS A MATTER OF LAW**

Plaintiffs oppose the Secretary’s motion for judgment as a matter of law and respectfully request that the Court reject it on both grounds sought.

First, the Court should deny the motion seeking judgment as a matter of law based on the Secretary’s argument that “Section 2 of the Voting Rights Act does not create a private right of action,” Doc. 247 at 1, for all of these reasons stated in Plaintiffs’ opposition to the Defendants’ motions to dismiss, Doc. 138, and as a correctly held by the Court, Doc. 143. It should also deny the motion for the further reason that even if Section 2 of the VRA did not create a private right of action, Plaintiffs also brought their claims pursuant to 42 U.S.C. § 1983, which provides jurisdiction to enforce claims under Section 2 of the VRA. *See* Fourth Am. Compl. (Doc. 126) §§ 7, 10, 176. The Secretary fails to raise this as a basis for dismissal at

all, let alone overcome the presumption “that § 1983 can play its textually prescribed role as a vehicle for enforcing [] rights.” *Health & Hosp. Corp. of Marion Cnty. v. Talevski*, 599 U.S. 166, 187 (2023); *see also* Doc. 138 at 23-27.

Second, for all of the reasons explained in Plaintiffs’ Proposed Findings of Fact and Conclusions of Law, *see* Doc. 250 ¶¶ 103–266, 569–682, and Oppositions to Defendants’ Motions for Summary Judgment and Motion in Limine, Docs. 172, 200, the Secretary is not entitled to judgment as a matter of law for the Huntsville-based district based on the first *Gingles* precondition. Plaintiffs offered more-than ample proof at trial to meet their *Gingles* 1 burden. Regardless, a “district court’s determination regarding one of the *Gingles* prongs is . . . [reviewed] for clear error” as “a finding of fact,” *Johnson v. Hamrick*, 296 F.3d 1065, 1074 (11th Cir. 2002), and thus presents an “issue of material fact” that “require[d] the court to weigh evidence and evaluate the credibility of witnesses.” Order Denying Summary Judgment (Doc. 191) at 4.

Therefore, Plaintiffs respectfully request that the Court deny the instant motion and find for the Plaintiffs based on the evidence presented at trial and fulsome post-trial briefing.

DATED this 19th day of
December, 2024

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CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to counsel of record in this case.

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