

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

DARRYL SINKFIELD, QUINTON)
ROSS, BERNEST BROOKS, RUBIN)
MCKINNON AND ANDREW HAYDEN)
on behalf of themselves and)
others similarly situated)
)
Plaintiffs,)
)
V.) CIVIL ACTION NO. 93-689-
PR)
)
BILLY JOE CAMP, in his)
official capacity as)
Secretary of State of)
Alabama,)
)
Defendant.)

PARTIAL CONSENT DECREE REGARDING
LEGISLATIVE REDISTRICTING AND REQUIRING
VOTING RIGHTS ACT PRECLEARANCE

Plaintiffs Darryl Sinkfield, Quinton Ross, Bernest Brooks, Rubin McKinnon and Andrew Hayden and defendant Secretary of State of the State of Alabama Billy Joe Camp, having submitted the following terms of settlement and for good cause shown, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. Plaintiffs Sinkfield, Ross, Brooks, McKinnon and Hayden are hereby certified to represent a class of all African-American citizens of Alabama, pursuant to Rules 23(a) and 23 (b)(2), A.R.C.P.
2. The Court finds that, based on 1990 census data, the current districting plan for the election of members of the House and Senate of the Legislature of the State of Alabama prescribed by Act No. 83-154 would violate the rights of plaintiffs and the class they represent under the Constitution of the State of Alabama and the Fourteenth and Fifteenth Amendments to the U.S. Constitution and 42 U.S.C. Secs. 1973 and 1983 if used in the 1994 primary and general elections for the Alabama Legislature.
3. The Court further finds that the Legislature of the State of Alabama has failed to pass a redistricting plan for use in the 1994 primary and general elections for members

of the Alabama Legislature which is based on the 1990 census and which meets the requirements of the Constitution of the State of Alabama and the Fourteenth and Fifteenth Amendments to the U.S. Constitution and 42 U.S.C. Secs. 1973 and 1983.

4. The Court concludes that the courts of Alabama have concurrent jurisdiction with federal courts to afford relief for violations of federal voting rights. *Hathorn v. Lovorn*, 457 U.S. 255 (1982). Authority to order judicial relief for violations of these federally protected rights is provided by 42 U.S.C. Sec. 1983.

5. The Court further concludes that, pursuant to fundamental principles of federalism in the United States, the courts of Alabama have the primary responsibility to order judicial relief if the Legislature of the State of Alabama fails to adopt a legislative redistricting plan that complies with the Constitution and laws of Alabama and the United States. *Grove v. Emison*, 113 S.Ct. 1075 (1993).

6. The Court hereby enters a declaratory judgment that, based on 1990 census data, the current districting plan for the election of members of the House and Senate of the Legislature of the State of Alabama prescribed by Act No. 83-154 will violate the rights of plaintiffs and the class they represent under the Constitution of the State of Alabama and the Fourteenth and Fifteenth Amendments to the U. S. Constitution and 42 U.S.C. Secs. 1973 and 1983 if used in the 1994 primary and general elections for members of the Alabama Legislature.

7. The Court finds that the legislative redistricting plan attached to this Decree as Exhibit A fully complies with all requirements of the laws and constitutions of Alabama and the United States, including one-person, one-vote requirements and the rights of the class of African-American citizens of Alabama to an equal opportunity to participate in the political process and elect candidates of their choice, which plan the Court hereby approves and adopts for use in the 1994 primary and general elections of members of the Alabama Legislature, subject to that plan receiving preclearance under Section 5 of the Voting Rights Act, 42 U.S.C. Sec. 1973C.

8. Defendant Secretary of State Camp, his successors, officers, agents, attorneys, employees and those acting in concert with him or at his direction are hereby ENJOINED as follows:

A. The Office of the Attorney General of the State of Alabama, as counsel for defendant Secretary of State Camp, shall within two weeks from the date of this Decree, make a formal submission of the redistricting plan approved herein to the appropriate federal authority for preclearance under Section 5 of the Voting Rights Act, 42 U.S.C. Sec. 1973c.

B. The Office of the Attorney General of the State of Alabama shall promptly report to this Court when it receives notice of objection or of no objection to the Section 5 submission.

C. If there is an objection to the Section 5 submission of the redistricting plan approved herein, the Court will conduct such additional proceedings as necessary to develop and adopt another plan that cures such objections.

D. Defendant, Secretary of State Billy Joe Camp, shall within three days after entry of this Partial Consent Decree issue a press release announcing the entry of said Decree and informing the public that the legislative redistricting plan announced therein is available for review at the Office of the Circuit Clerk of Montgomery County, Alabama. The Court hereby finds that this mandatory press release by the defendant satisfies the notice requirement of Rule 23(e), A.R.C.P.

E. The regularly scheduled 1994 primary and general elections for members of the Alabama Legislature shall be conducted according to the plan approved herein by the Court and attached to this Decree as Exhibit A, subject to that plan having obtained Section 5 preclearance. Except as otherwise provided by this Decree, the elections shall be conducted as provided by Alabama law.

F. Subject to its having obtained Section 5 preclearance, the legislative redistricting plan approved herein shall be used for the conduct of all future elections for members of the Alabama Legislature until and unless the Legislature enacts a new and different plan that complies fully with all requirements of the laws and constitutions of Alabama and the United States, including Section 5 of the Voting Rights Act, or until data are available for redistricting according to the next federal decennial census.

G. Plaintiffs are the prevailing parties for purposes of an award of attorneys' fees and expenses. If after ninety days from the date of this decree the parties have been unable to reach agreement on the amount of said fees and expenses, plaintiffs may, within one-hundred and twenty days from the date of this decree, file an appropriate motion, and the Court will promptly schedule a hearing and determine the amount of an award of attorneys' fees and expenses.

H. The Court retains jurisdiction of this action and this Decree, for purposes of enforcement of the terms of the Decree and for such further and additional relief as may be equitable and just, until such time as the defendant submits evidence that a new redistricting plan for the Alabama Legislature meeting all the requirements of the Constitution and laws of Alabama and the United States has been adopted pursuant to Alabama law and has received preclearance under Section 5 of the Voting Rights Act, 42 U.S.C. Section 1973c.

DONE this 12th day of May, 1993.

(signed) Charles Price
CIRCUIT JUDGE, MONTGOMERY COUNTY