

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
No. 21 CVS 015426
No. 21 CVS 500085

NORTH CAROLINA LEAGUE OF CONSERVATION
VOTERS, INC., *et al.*,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, IN HIS OFFICIAL
CAPACITY AS SENIOR CHAIR OF THE HOUSE
STANDING COMMITTEE ON REDISTRICTING, *et al.*,

Defendants.

REBECCA HARPER, *et al.*,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, IN HIS OFFICIAL
CAPACITY AS SENIOR CHAIR OF THE HOUSE
STANDING COMMITTEE ON REDISTRICTING, *et al.*,

Defendants.

COMMON CAUSE, *et al.*,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, IN HIS OFFICIAL
CAPACITY AS SENIOR CHAIR OF THE HOUSE
STANDING COMMITTEE ON REDISTRICTING, *et al.*,

Defendants.

**PROPOSED JOINT
STIPULATIONS OF FACT**

Pursuant to the Court's December 13, 2021 Case Scheduling Order, the parties hereby stipulate to the following facts:

THE PARTIES

1. The plaintiffs in this action are:

a. North Carolina League of Conservation Voters, Inc.; Henry M. Michaux, Jr.; Dandrielle Lewis; Timothy Chartier; Talia Fernos; Katherine Newhall; R. Jason Parsley; Edna Scott; Roberta Scott; Yvette Roberts; Jereann King Johnson; Reverend Reginald Wells; Yarbrough Williams, Jr.; Reverend Deloris L. Jerman; Viola Ryals Figueroa; and Cosmos George (collectively the "NCLCV Plaintiffs").

b. Rebecca Harper; Amy Clare Oseroff; Donald Rumph; John Anthony Balla; Richard R. Crews; Lily Nicole Quick; Gettys Cohen Jr.; Shawn Rush; Mark S. Peters; Kathleen Barnes; Virginia Walters Brien; Eileen Stephens; Barbara Proffitt; Mary Elizabeth Voss; Chenita Barber Johnson; Sarah Taber; Joshua Perry Brown; Laureen Floor; Donald M. MacKinnon; Ron Osborne; Ann Butzner; Sondra Stein; Bobby Jones; Kristiann Herring; and David Dwight Brown (collectively the "Harper Plaintiffs").

c. Common Cause.

2. The defendants in this action are as follows:

a. Destin Hall, in his official capacity as Chairman of the House Standing Committee on Redistricting; Ralph E. Hise, Jr., Warren Daniel, Paul Newton, in their official capacities as Co-Chairmen of the Senate Committee on Redistricting and Elections; Philip E. Berger, in his official capacity as President Pro Tempore of the North Carolina Senate; Timothy

K. Moore, in his official capacity as Speaker of the North Carolina House of Representatives (collectively “Legislative Defendants”);

b. The State of North Carolina; The North Carolina State Board of Elections; Damon Circosta, in his official capacity as Chair of the State Board of Elections; Stella Anderson, in her official capacity as Secretary of the State Board of Elections; Stacy Eggers IV, in his official capacity as Member of the State Board of Elections; Jeff Carmon III, in his official capacity as Member of the State Board of Elections; Tommy Tucker, in his official capacity as Member of the State Board of Elections; Karen Brinson Bell, in her official capacity as Executive Director of the State Board of Elections (collectively “State Defendants”)

3. The NCLCV Plaintiffs’ Complaint, filed November 16, 2021, alleges that the 2021 districting plans for Congress, the North Carolina Senate, and the North Carolina House of Representatives violate the North Carolina Constitution by establishing severe partisan gerrymanders in violation of the Free Elections Clause, Art. I, § 10, the Equal Protection Clause, Art. I, § 19, and the Freedom of Speech and Assembly Clauses, Art. I, §§ 12, 14; by engaging in racial vote dilution in violation of the Free Elections Clause, Art. I, § 10, and the Equal Protection Clause, Art. I, § 19; and by violating the Whole County Provisions, Art. II, §§ 3(3), 5(3).

4. Harper Plaintiffs’ Amended Complaint, filed December 12, 2021, alleges that the 2021 districting plans for Congress, the North Carolina Senate, and the North Carolina House of Representatives violate the North Carolina Constitution—namely its Free Elections Clause, Art. I, § 10; its Equal Protection Clause, Art. I, § 19; and its Freedom of Speech and Freedom of Assembly Clauses, Art. I, §§ 12, 14.

5. Plaintiff Common Cause’s Complaint, filed December 16, 2021, alleges that the 2021 districting plans for Congress, the North Carolina Senate, and the North Carolina House of Representatives violate the North Carolina Constitution—namely its Equal Protection Clause, Art. I, § 19; its Free Elections Clause, Art. I, § 10; and its Freedom of Speech and Freedom of Assembly Clauses, Art. I, §§ 12, 14—and seeks, among other relief, a declaratory ruling under the Declaratory Judgment Act.

6. Defendant Ralph E. Hise, Jr. is a Republican member of the North Carolina Senate, representing Senate District 47, and the Chairman of the Senate Standing Committee on Redistricting and Elections. Defendant Hise is sued in his official capacity only. Defendant Hise resides in Senate District 47 in the 2021 districting plan.

7. Defendant Warren Daniel is a Republican member of the North Carolina Senate, representing Senate District 46, and the Chairman of the Senate Standing Committee on Redistricting and Elections. Defendant Daniel is sued in his official capacity only. Defendant Daniel resides in Senate District 46 in the 2021 districting plan.

8. Defendant Paul Newton is a Republican member of the North Carolina Senate, representing Senate District 36, and the Chairman of the Senate Standing Committee on Redistricting and Elections. Defendant Newton is sued in his official capacity only. Defendant Newton resides in Senate District 34 in the 2021 districting plan.

9. Representative Destin Hall is Republican member of the North Carolina House of Representatives, representing House District 87, and the Chairman of the House Standing Committee on Redistricting. Defendant Hall is sued in his official capacity only. Defendant Hall resides in House District 87 in the 2021 districting plan.

10. Defendant Timothy K. Moore is a Republican member and the Speaker of the North Carolina House of Representatives, representing House District 111. Defendant Moore is sued in his official capacity only. Defendant Moore resides in House District 111 in the 2021 districting plan.

11. Defendant Philip E. Berger is a Republican member and the President Pro Tempore of the North Carolina Senate, representing Senate District 30. Defendant Berger is sued in his official capacity only. Defendant Berger resides in Senate District 26 in the 2021 districting plan.

BACKGROUND

12. Following each decennial census, the North Carolina General Assembly must redraw the districts for the North Carolina House of Representatives, the North Carolina Senate, and the North Carolina Congressional map.

13. In North Carolina, legislative redistricting is performed exclusively by the General Assembly. The Governor of North Carolina has no power to veto redistricting bills.

14. The State Constitution specifically enumerates four limitations upon the redistricting and reapportionment authority of the General Assembly, including that:

- a. Each Senator and Representative shall represent, as nearly as possible, an equal number of inhabitants;
- b. Each senate and representative district shall at all times consist of contiguous territory;
- c. No county shall be divided in the formation of senator or representative districts (the “Whole County Provision”); and

d. Once established, the senate and representative districts and the apportionment of Senators and Representatives shall remain unaltered until the next decennial census of population taken by order of Congress.

15. Between 1870 and 2010, Democrats at all times controlled one or both houses of the General Assembly.

16. After the 2010 election, for the first time since 1870, Republicans constituted a majority of both the North Carolina House of Representatives and the North Carolina Senate.

17. Republicans have constituted a majority in both the North Carolina House of Representatives and the North Carolina Senate from 2010 to present day and have therefore controlled each of the last two cycles of redistricting in North Carolina.

THE 2021 REDISTRICTING PROCESS

Census Data

18. On February 12, 2021, the U.S. Census Bureau announced that its release of P.L. 94-171 redistricting data would be delayed by the COVID-19 pandemic, and would not be released until the fall of 2021, and specifically that it would deliver the Public Law 94.171 redistricting data to all states by September 30, 2021.¹

19. On February 24, 2021, the North Carolina State Board of Elections Executive Director Karen Brinson Bell presented recommendations to the House Elections Law and Campaign Finance Reform Committee to move the 2022 primary to a May 3 primary, July 12 second primary, and November 8 general election.²

¹ Press Release, U.S. Census Bureau, Census Bureau Statement on Redistricting Data Timeline (Feb. 12, 2021), <https://www.census.gov/newsroom/press-releases/2021/statement-redistricting-data-timeline.html>.

² North Carolina State Board of Elections, *A Look Back at North Carolina's Historic 2020 Election & Looking Ahead at 2021, Presentation to House Election Law & Campaign Finance Reform Committee* at p. 14, Feb. 24, 2021, 2021–2022 Session (N.C. 2021),

20. On March 15, 2021, the United States Census Bureau announced that it would release a “legacy” format summary redistricting data file to all states by mid-to-late August 2021, in addition to the “tabulated” P.L. 94-171 block-level data released before September 30, 2021, “[i]n recognition of the difficulties this timeline creates for states with redistricting and election deadlines prior to Sept. 30.”³

21. On April 26, 2021, the United States Census Bureau released data indicating that North Carolina’s population increased from 9,535,483 residents in 2010⁴ to 10,439,388 residents in 2020.⁵ This 9.5 percent population increase resulted in North Carolina being given an additional Congressional seat following the 2020 Census, resulting in North Carolina’s congressional delegation growing from 13 to 14 members.⁶

22. On August 12, 2021, the U.S. Census Bureau released the 2020 Census Redistricting Data (Public Law 94-171) Summary File for all states, including North Carolina, in “legacy” format.⁷

<https://www.ncleg.gov/documentsites/committees/House2021-21/02-24-21/House%20Elections%20Committee%20Presentation%202-24-2021%20FINALv2.pdf>.

³ U.S. Census Bureau, *U.S. Census Bureau Statement on Release of Legacy Format Summary Redistricting Data File* (Mar. 15, 2021), <https://www.census.gov/newsroom/press-releases/2021/statement-legacy-format-redistricting.html>.

⁴ U.S. Census Bureau, *North Carolina: 2010: Population and Housing Unit Census* (2021), <https://www.census.gov/prod/cen2010/cph-2-35.pdf>.

⁵ See U.S. Census Bureau, *2020 Census Apportionment Results Delivered to the President* (Apr. 27, 2021); <https://www.census.gov/newsroom/press-releases/2021/2020-census-apportionment-results.html>; *North Carolina: 2020 Census*, U.S. CENSUS BUREAU (Aug. 25, 2021), <https://www.census.gov/library/stories/state-by-state/north-carolina-population-change-between-census-decade.html>.

⁶ *2020 Census: Apportionment of the U.S. House of Representatives*, U.S. CENSUS BUREAU (Apr. 26, 2021), <https://www.census.gov/library/visualizations/2021/dec/2020-apportionment-map.html>.

⁷ See U.S. Census Bureau, *U.S. Census Bureau Delivers Data for States to Begin Redistricting Efforts* (Aug. 12, 2021), <https://www.census.gov/newsroom/press-releases/2021/population-changes-nations-diversity.html>.

The Redistricting Committee Criteria & Map Drawing Process

23. On Thursday, August 5, 2021 at 2:00 PM, the Senate Committee on Redistricting and Elections convened a Joint Meeting of the Senate Redistricting and Elections Committee and the House Redistricting Committee to begin discussion on the redistricting process.⁸

24. Following this meeting, staff member Erika Churchill distributed to the joint committee members the legislative redistricting criteria ordered by the North Carolina Superior Court for Wake County in its September 3, 2019 Judgment in the matter *Common Cause v. Lewis*, No. 18 CVS 014001, 2019 N.C. Super. LEXIS 56 (the “2019 Criteria”).

25. On Monday, August 9, 2021 the redistricting chairs of the joint committees released the “2021 Joint Redistricting Committee Proposed Criteria,” a copy of which appears at <https://ncleg.gov/documentsites/committees/Senate2021-154/2021/08-09-2021/2021%20Joint%20Redistricting%20Committee%20Plan%20Proposed%20Criteria.pdf>.

26. The Joint Redistricting Committees received in-person public comment on the Proposed Criteria on Tuesday, August 10, 2021 beginning at 8:30 AM.

27. On Thursday, August 12, 2021, the Joint Redistricting Committees convened to debate and vote on the 2021 Joint Redistricting Committee Proposed Criteria.

28. That same day, the Joint Redistricting Committees adopted the final redistricting criteria, a copy of which appears at: <https://ncleg.gov/documentsites/committees/Senate2021-154/2021/08-12-2021/Criteria.adopted.8.12.pdf>.

⁸ *Joint Meeting of the Senate Redistricting and Elections Committee and the House Redistricting Committee to Begin Discussion on the Redistricting Process*, Aug. 5, 2021, 2021–2022 Session (N.C. 2021), <https://ncleg.gov/documentsites/committees/Senate2021-154/2021/08-05-2021/6683.pdf>.

29. On Wednesday, September 1, 2021, the Joint Redistricting Committees announced a Joint Public Hearing Schedule, that would consist of 13 public hearings held from September 8, 2021 through September 30, 2021.⁹

30. On Tuesday, October 5, 2021, the Senate Committee on Redistricting and Elections and the House Committee on Redistricting each convened separately. In both meetings, the Redistricting Chairs announced utilization of county groupings described in the academic paper *N.C. General Assembly County Clusterings from the 2020 Census* (the “Duke Academic Paper”), published on the Duke University website “Quantifying Gerrymandering.”¹⁰

31. In the meeting of the Senate Committee on Redistricting and Elections, Defendant Hise provided the set of sixteen possible Senate cluster options, based upon the Duke Academic Paper, that constituted the set of options eligible for adoption (the “Duke Senate Clusters”). *See* “Duke Senate Groupings Maps 11x17.”¹¹

32. In the meeting of the House Committee on Redistricting, Defendant Hall provided the set of eight possible House cluster options, based upon the Duke Academic Paper, that

⁹ 9.1.21 released Hearing schedule: <https://www.ncleg.gov/documentsites/committees/House2021-182/2021/Public%20Hearing%20Schedule.pdf>

9.13.21 released Hearing schedule with addresses:
<https://www.ncleg.gov/documentsites/committees/House2021-182/2021/Public%20Hearing%20Schedule%20with%20addresses.pdf>

¹⁰ Christopher Cooper et al., *NC General Assembly County Clusterings from the 2020 Census*, QUANTIFYING GERRYMANDERING (Aug. 17, 2021), <https://sites.duke.edu/quantifyinggerrymandering/files/2021/08/countyClusters2020.pdf>.

¹¹ *Duke Senate Groupings Maps 11x17*, North Carolina Senate Redistricting and Elections Committee, Oct. 5, 2021, 2021–2022 Session (N.C. 2021), <https://ncleg.gov/documentsites/committees/Senate2021-154/2021/10-05-2021/Duke%20Senate%20Groupings%20Maps%2011x17.pdf>.

constituted the set of options eligible for adoption (the “Duke House Clusters”). See “Duke House Groupings Maps 11x17.pdf.”¹²

33. On Friday, October 8, 2021, Legislative Defendants received a letter from Allison J. Riggs, current counsel for Plaintiff Common Cause, concerning the county clustering option maps introduced on Tuesday, October 5, 2021.¹³

34. On Monday, October 25, 2021, Legislative Defendants received a second letter from Allison J. Riggs, current counsel for Plaintiff Common Cause, concerning draft Senate map, “SST-4”.¹⁴

35. A placeholder version of the state House Map was filed on Thursday, October 28, 2021 as House Bill 976 (“HB976”) where it passed its first reading. A committee substitute (“HBK-14”) received a favorable review and, after one amendment, passed its second and third readings on the House and its first reading in the Senate on November 2, 2021. It received a favorable report from the Senate Redistricting Committee on November 3, 2021 without alteration and passed its second and third readings on November 4, 2021.

36. HB976 was ratified into law on November 4, 2021 as S.L. 2021-175.

37. A proposed version of the state Senate map (“SST-13”) was filed on Friday, October 29, 2021 as Senate Bill 739 (“SB739”) and received its first reading in the Senate that day. It was then referred to the Senate Redistricting Committee on November 1 where the Redistricting Committee adopted a substitute along party lines (“SBK-7”). On November 2,

¹² *Duke House Groupings Maps 11x17*, North Carolina House Redistricting Committee, Oct. 5, 2021, 2021–2022 Session (N.C. 2021), <https://ncleg.gov/documents/sites/committees/House2021-182/2021/October%205,%202021/Duke%20House%20Groupings%20Maps%2011x17.pdf>.

¹³ Letter from SCSJ Attorneys to Legislative Defendants, Oct. 8, 2021, https://southerncoalition.org/wp-content/uploads/2021/10/SCSJ-correspondence_NCGA-redistricting_2021.10.082.pdf.

¹⁴ Letter from SCSJ Attorneys to Legislative Defendants, Oct. 25, 2021, <https://southerncoalition.org/wp-content/uploads/2021/10/SCSJ-Letter-Senate-Map-10-25-21-FINAL.pdf>.

Senator Marcus offered an amendment entitled “SBVAmend-2” to the Senate Redistricting Committee.¹⁵ Senator Clark also offered an amendment entitled “SCGAmend-3” to the Senate Redistricting Committee.¹⁶ Both amendments were adopted and included in the final version of SB739. The bill then passed its second and third readings in the Senate by November 3 along party lines, and passed all three readings and the House Redistricting Committee without any alteration on November 3 – 4, 2021.

38. SB739 was ratified into law on November 4, 2021 as S.L. 2021-173.

39. A proposed Congressional map (“CST-13”) was filed on October 29, 2021 as Senate Bill 740 (“SB740”) and passed its first reading and received a favorable report from the Senate Redistricting Committee on November 1, 2021. It proceeded unaltered through its second and third readings in the Senate and its first reading in the House on November 2, received a favorable report from the House Redistricting Committee on November 3, and proceeded unaltered through its second and third readings in the House on November 4, 2021.

40. SB740 was ratified into law on November 4, 2021 as S.L. 2021-174.

41. The State House, State Senate and Congressional Maps all passed along party lines.

42. The State House map, HB976, passed the House on a strict party line vote, with 67 Republican Representatives in favor and 49 Democratic Representatives opposed. HB976 also passed the Senate on a strict party line vote, with 25 Republican Senators in favor and 21 Democratic Senators opposed.

¹⁵ <https://www.ncleg.gov/documentsites/committees/Senate2021-154/2021/11-02-2021/Adopted%20Amendments/S739-ATU-40.printing.pdf>

¹⁶ <https://www.ncleg.gov/documentsites/committees/Senate2021-154/2021/11-02-2021/Adopted%20Amendments/S739-ABA-40.printing.pdf>

43. The State Senate map, SB739, passed the Senate on a strict party line vote, with 26 Republican Senators in favor and 19 Democratic Senators opposed. SB739 also passed the House on a strict party line vote, with 65 Republican Representatives in favor and 49 Democratic Representatives opposed.

44. The Congressional map, SB740, passed the Senate on a strict party line vote, with 27 Republican Senators in favor and 22 Democratic Senators opposed. SB740 also passed the House on a strict party line vote, with 65 Republican Representatives in favor and 49 Democratic Representatives opposed.

GENERAL REDISTRICTING PROCESS STIPULATIONS

45. All parties stipulate and agree that any party may cite, discuss, and otherwise rely on as admitted evidence, publicly available legislative records from the website of the North Carolina General Assembly concerning SB 739,¹⁷ SB 740,¹⁸ HB 976,¹⁹ and Legislative and Congressional Redistricting,²⁰ including all materials from the House Standing Committee on Redistricting,²¹ the Senate Standing Committee on Redistricting and Elections,²² and the Joint Redistricting Committee concerning the aforementioned redistricting plans and the 2021 redistricting cycle.

46. All parties stipulate and agree that any party may cite, discuss, and otherwise rely on as admitted evidence, all transcriptions, audio and/or video recordings of: (1) the committee

¹⁷ <https://www.ncleg.gov/BillLookup/2021/S739>

¹⁸ <https://www.ncleg.gov/BillLookup/2021/S740>

¹⁹ <https://www.ncleg.gov/BillLookup/2021/H976>

²⁰ <https://www.ncleg.gov/Redistricting>

²¹ <https://www.ncleg.gov/Committees/CommitteeInfo/HouseStanding/182>

²² <https://www.ncleg.gov/Committees/CommitteeInfo/SenateStanding/154>

meetings of the House Standing Committee on Redistricting, the Senate Standing Committee on Redistricting and Elections, and the Joint Redistricting Committee, including public hearings hosted by any of those committees concerning the 2021 redistricting process, (2) the House and Senate floor votes concerning SB 739, SB 740, and HB 976, and (3) the publicly available House and Senate map drawing sessions related to SB 739, SB 740, and HB 976.

HISTORICAL ELECTION RESULTS & CENSUS DATA STIPULATIONS

47. All parties stipulate and agree to the accuracy and admissibility of historical election results publicly available on the website of the North Carolina State Board of Elections, including all election results from 2000 to 2020, sorted by precinct, available on the North Carolina State Board of Elections website.²³

48. All parties stipulate and agree to the accuracy and admissibility of the publicly available Public Law 94-171 redistricting data released by the United States Census Bureau in 2021, including data from the United States Census Bureau’s 2020 Census (Public Law 94-171) “Redistricting Data Summary Files” and “TIGER/Line Shapefiles.”²⁴

²³ <https://www.ncsbe.gov/results-data/election-results/historical-election-results-data>; <https://dl.ncsbe.gov>.

²⁴ <https://www.census.gov/data/datasets/2020/dec/2020-census-redistricting-summary-file-dataset.html>; <https://www.census.gov/geographies/mapping-files/time-series/geo/tiger-line-file.html>; https://www2.census.gov/programs-surveys/decennial/2020/data/01-Redistricting_File--PL_94-171/North_Carolina/

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