

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

BOBBY SINGLETON, et al.,)
)
Plaintiffs,)
)
v.)
)
WES ALLEN, in his official)
capacity as Alabama Secretary of)
State, et al.,)
)
Defendants.)

Case No.: 2:21-cv-1291-AMM

THREE-JUDGE COURT

EVAN MILLIGAN, et al.,)
)
Plaintiffs,)
)
v.)
)
WES ALLEN, in his official)
capacity as Alabama Secretary of)
State, et al.,)
)
Defendants.)

Case No.: 2:21-cv-1530-AMM

THREE-JUDGE COURT

MARCUS CASTER, et al.,)
)
Plaintiffs,)
)
v.)
)
WES ALLEN, in his official)
capacity as Secretary of State of)
Alabama, et al.,)
)
Defendants.)

Case No.: 2:21-cv-1536-AMM

Before MARCUS, Circuit Judge, MANASCO and MOORER, District Judges.

BY THE COURT:

ORDER

In 2022, this Court preliminarily enjoined the Alabama Secretary of State from conducting elections using the 2021 congressional districting plan enacted by the Alabama Legislature (“the 2021 Plan”) upon finding that the 2021 Plan likely violated Section 2 of the Voting Rights Act, 52 U.S.C. § 10301 (“Section Two”). *See Singleton Doc. 88; Milligan Doc. 107; Caster Doc. 101.*

Although this Court gave the Alabama Legislature the first opportunity to enact a remedial plan, the Court notified the parties of its intent to appoint Mr. Richard Allen as a Special Master and Dr. Nathaniel Persily as an expert cartographer in the event the Court was required to order its own remedial districting plan. *See Singleton Doc. 101; Milligan Doc. 129; Caster Doc. 119.* The parties were afforded an opportunity to object, and no party objected to these appointments. Accordingly, on February 7, 2022, the Court appointed Mr. Allen and Dr. Persily as Special Master and expert cartographer, respectively. *Singleton Doc. 102; Milligan Doc. 130; Caster Doc. 120.* That same day, and before either Mr. Allen or Dr. Persily had conducted any work, the Supreme Court stayed our preliminary injunction.

On June 8, 2023, the Supreme Court affirmed our preliminary injunction in all respects. *Milligan v. Allen*, 143 S. Ct. 1487, 1504–06 (2023). Soon after, we held a status conference to discuss the nature and timing of the remainder of the proceedings in these cases. *See Milligan* Doc. 165; *Caster* Doc. 153; *Singleton* Doc. 132. The Defendants requested that the Court refrain from ordering the parties to conduct remedial proceedings or additional discovery until the Alabama Legislature had been afforded an adequate opportunity to enact a new congressional districting plan. *Milligan* Doc. 166; *Caster* Doc. 154; *Singleton* Doc. 133. We granted the Alabama Legislature that opportunity by entering a scheduling order on June 20, 2023, that declined to require the parties to engage in any discovery or further proceedings until July 21, 2023. *See Milligan* Doc. 168; *Caster* Doc. 156; *Singleton* Doc. 135. Should the Alabama Legislature successfully enact a new plan by that date, our order directed the Plaintiffs to file their objections to that plan (if any) by July 28, 2023, the Defendants to file any response by August 4, 2023, and the Plaintiffs to file any reply by the close of business on August 7, 2023. *Milligan* Doc. 168; *Caster* Doc. 156; *Singleton* Doc. 135.

On July 21, 2023, the Legislature enacted a new congressional districting plan (“the 2023 Plan”). Pursuant to our scheduling order, on July 28, 2023, the *Milligan* and *Caster* Plaintiffs timely filed their objections, which contained, among other materials, detailed reports by expert witnesses Dr. Baodong Liu, Dr. Joseph Bagley,

and Dr. Maxwell Palmer, and other documentary evidence.¹ *See Milligan* Doc. 200; *Caster* Doc. 179. On August 4, 2023, the Defendants timely filed a response, likewise submitting evidence including opinions from two expert witnesses, Mr. Thomas Bryan and Mr. Sean Trende, and other documentary evidence. *Milligan* Doc. 220; *Caster* Doc. 191. On August 7, 2023, the *Milligan* and *Caster* Plaintiffs timely replied. *Caster* Doc. 195. A remedial proceeding is set down for a hearing on August 14, 2023.

On July 24, 2023, Dr. Persily withdrew as an expert cartographer. *See Singleton* Doc. 141; *Milligan* Doc. 187; *Caster* Doc. 166. After taking submissions for proposed cartographers from the parties, *see Singleton* Docs. 141, 150, 151; *Milligan* Doc. 187, 197, 198; *Caster* Doc. 166, 174, 175, the Court notified the parties of its intent to appoint Mr. David R. Ely as an expert cartographer, *see Singleton* Doc. 155; *Milligan* Doc. 204; *Caster* Doc. 185. The Court gave the parties an opportunity to object, *see Singleton* Doc. 155; *Milligan* Doc. 204; *Caster* Doc. 185, and no party has objected to this appointment. Accordingly, pursuant to the Court's inherent authority and Federal Rule of Civil Procedure 53, Mr. David Ely is **APPOINTED** as an expert cartographer to assist Mr. Allen in the performance of his duties and responsibilities as Special Master.

¹ The Singleton Plaintiffs timely moved for a preliminary injunction prohibiting the Defendants from conducting upcoming elections using the 2023 Plan, alleging that this Plan too violates the Equal Protection Clause of the Fourteenth Amendment. *See Singleton* Doc. 147

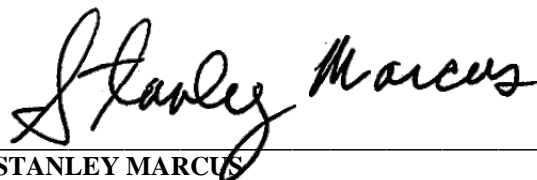
In the face of the exigent time limitations presented, the parties are **ADVISED** that the Court has instructed Mr. Allen to study the record in these cases in the event his services may be required to draw a remedial map. If further work by Mr. Allen and his team is necessary, the Court will issue additional instructions in an appropriate order.

Mr. Allen has requested that the Court appoint an attorney and law firm to assist him in his work as necessary. The parties are **ADVISED** that the Court finds Michael Scodro of Mayer Brown LLP and that firm qualified to assist Mr. Allen in these cases. We invite the parties to submit any comments or objections to the appointment of Mr. Scodro and the Mayer Brown LLP law firm on or before **12:00 P.M. (noon) CDT on FRIDAY, AUGUST 11, 2023.**


All reasonable costs and expenses of Mr. Allen as Special Master and his team, including reasonable compensation for Mr. Ely, Mr. Scodro, and any assistants they may retain, shall, subject to the approval of this Court, be paid by the State of Alabama.

Pursuant to Federal Rule of Civil Procedure 53(b)(3), Mr. Allen, Mr. Ely, and Mr. Scodro are **DIRECTED** to file affidavits disclosing whether there is any ground for disqualification under 28 U.S.C. § 455 of them or any assistants on or before **5:00 P.M. CDT on THURSDAY, AUGUST 10, 2023.**

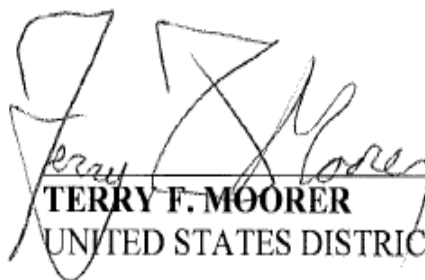
DONE and **ORDERED** this 8th day of August, 2023.



STANLEY MARCUS
UNITED STATES CIRCUIT JUDGE



ANNA M. MANASCO
UNITED STATES DISTRICT JUDGE



TERRY F. MOORER
UNITED STATES DISTRICT JUDGE