UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA

SHAUNA WILLIAMS, et al., *Plaintiffs,* v. REPRESENTATIVE DESTIN HALL, in his official capacity as Chair of the House Standing Committee on Redistricting, et al., *Defendants*.	Civil Action No. 23 CV 1057
NORTH CAROLINA STATE CONFERENCE OF THE NAACP, et al., *Plaintiffs,* v. PHILIP BERGER, in his official capacity as the President Pro Tempore of the North Carolina Senate, et al., *Defendants.*	Civil Action No. 23 CV 1104

JOINT MOTION TO DESIGNATE TRIAL TESTIMONY IN RELATED CASE

NAACP Plaintiffs and Legislative Defendants respectfully move the Court to permit the designation of the trial testimony of former Representative G.K. Butterfield in the matter of *Pierce, et al. v. North Carolina State Board of Elections, et al.*, 4:23-cv-193-D-RN (E.D.N.C.). The trial transcript of former Representative Butterfield's testimony is

attached to this Motion as **Exhibit A.** In support of this motion, NAACP Plaintiffs and Legislative Defendants state as follows:

1. In its May 15, 2025 Order, this Court modified and set various pre- and post-trial deadlines in order "to facilitate an orderly and efficient presentation of evidence in this case[.]" Doc. 115 at 1. This Order included an opportunity to designate witnesses who would testify by deposition transcript designation. *Id.* at 1-2. This deadline was modified to July 17, 2025 by the Court's June 4, 2025 Order, with counter-designations due July 22, 2025. Doc. 135 at 3.

2. Former Representative G.K. Butterfield served as U.S. Congressman for the 1st Congressional District of North Carolina from 2004 to 2022. During the entirety of former Representative Butterfield's Congressional tenure, the 1st Congressional District was based in northeast North Carolina.

3. Former Representative Butterfield testified at trial in in the matter of *Pierce, et al. v. North Carolina State Board of Elections, et al.*, 4:23-cv-193-D-RN (E.D.N.C.), which also challenges 2023 Senate Districts 1 and 2. Both the State Board Defendants and the Legislative Defendants in this matter are also Party Defendants in *Pierce v. North Carolina State Board of Elections* and therefore had the opportunity to cross-examine former Representative Butterfield at trial.

4. NAACP Plaintiffs listed former Representative Butterfield on their Final Pretrial Disclosures as a "May Call" witness. Doc. 142-1. NAACP Plaintiffs also represented that they "intend to seek leave of the Court to admit [former Representative Butterfield's *Pierce*] testimony in lieu of live testimony" and had reached an agreement

with Legislative Defendants to that effect. *Id.* at 2 n.2. There is good cause to permit the designation of former Representative Butterfield's trial testimony as it will further the efficient use of resources and streamline the presentation of evidence at trial.

5. The parties conferred on this issue by email. Williams Plaintiffs and State Board Defendants consent to this Joint Motion.

For the reasons set forth above, NAACP Plaintiffs and Legislative Defendants respectfully request that the Court grant their motion to permit designation of the *Pierce* trial transcript attached as Exhibit A in lieu of receiving live testimony from former Representative Butterfield.

Dated: June 13, 2025

Respectfully submitted,

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*Appearing in this matter by Special Appearance pursuant to L-R 83.1(d)

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CERTIFICATE OF SERVICE

I certify that on June 13, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ J. Tom Boer
J. Tom Boer

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

_ _

RODNEY D. PIERCE, et al,

Plaintiffs,

vs. 4:23-CV-193-D-RN

THE NORTH CAROLINA STATE BOARD OF ELECTIONS, et al,

Defendants.

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FEBRUARY 3, 2025
BENCH TRIAL - DAY 1
BEFORE THE HONORABLE JAMES C. DEVER III
UNITED STATES DISTRICT JUDGE

AMY M. CONDON, CRR, RPR, CSR
Official Court Reporter
United States District Court
Raleigh, North Carolina
Stenotype with computer-aided transcription

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I N D E X

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THE COURT: All right. Plaintiffs may call their first witness.

MR. SPEAS: The Plaintiffs will call G.K. Butterfield to the stand, Your Honor.

GEORGE K. BUTTERFIELD, JR.,

having been duly sworn, testified as follows:

THE COURT: Good morning. Please have a seat.

THE WITNESS: Thank you.

THE COURT: You may examine the witness.

DIRECT EXAMINATION

BY MR. SPEAS:

Q. Good morning, Mr. Butterfield. Where did you grow up?

A. I grew up in Wilson, North Carolina.

Q. And you've had a long career in the law and public service. Would you review that for us this morning a little bit?

A. Well, I'm 77 years old. That's a long history.

I would start in -- I graduated from high school in 1965. Attended college at North Carolina College of Durham, two years in the Army, and then three years of law school.

After returning -- after graduating from law school, I returned to my home community and became a practicing attorney. I joined forces with two young men, Quentin Sumner and Milton Fitch and the three of us practiced law for some 12, 13 years.

In 1988 I was elected as a resident Superior Court judge, stayed on the trial bench until 2001 when I was appointed by Governor Easley to the State Supreme Court. After losing the general election in 2002, Governor Easley appointed me as a special Superior Court judge where I remained until I was elected to Congress in July of 2004.

Q. Where are you presently employed?

A. I'm affiliated with a firm in Washington, D.C. The name of it is McGuire Woods. I'm not on the law firm side; I'm on the consulting side. So we refer to it as McGuire Woods, LLC.

Q. So you've been licensed as a lawyer for about 50 years?

A. More or less. I would say 49. I missed it the first time around, so it would have been 50 had I...

Q. And you spent I believe 12 or 13 years on the Superior Court bench?

A. Thirteen years.

Q. And you spent 10 terms in Congress; is that correct?

A. Yes. The reason I hesitate is because I was elected in a special election, and I don't know how to count that.

Q. Okay. Congressman Butterfield, the focus of this case is northeastern North Carolina. And the parties have stipulated in stipulation -- in stipulated fact paragraph number 33 that there's a set of -- could we put that up on the screen? -- that there are eight counties, Congressman, in northeastern North Carolina that have populations at or above or near

50 percent; and they are Vance, Warren, Northampton, Hertford, Halifax, Bertie, Edgecombe, Martin, and Washington. Those counties are the focus of this lawsuit.

Have you heard this set of counties referred to as the North Carolina Black-Belt counties?

A. I've heard that expression over the years. My preferred term is the Black Second.

Q. Could you tell the Court a little bit about the origin of the Black Second?

A. I can. The 15th Amendment to the Constitution was ratified on February 3rd, 1870. Interestingly enough, 155 years ago today.

After the 15th Amendment, the -- what was ratified, the state was required to -- to prepare a map of congressional districts, and the very -- the Second District was in northeastern North Carolina. It was referred to as the Second Congressional District. It started in Vance -- well, Warren County and meandered its way down to Craven and Jones County. It was the Second District. Most of those counties were majority African American, which meant that the African American community had an ability to elect their preferred congressman.

And during a period of Reconstruction and post-Reconstruction four African Americans were elected to Congress during that period.

So the whole Reconstruction era in my mind is divided into three decades: The decade of '70s, '80s, and '90s. And each decade was different and they were very interesting.

The first decade was African American men registered as Republicans; women did not have the right to vote. African American men registered in very large numbers and in most of the Black-Belt counties African Americans outnumbered White -- Whites in those counties. And therefore, they were in a very good position to influence electoral outcomes.

The period of the '80s, 1880s was a little different, that was when Hayes and Tilden had the deadlock electoral college in 1876 and there was a period during the 1870s of some retrenchment, some abandonment of African American progress. There were efforts by the legislature to take away local control and to -- for the legislature to appoint judges at the local level who would then appoint county commissioners thereby depriving African Americans in those communities the ability to control the flow of money in their counties.

The decade of the '90s was about fusion politics. It was an interesting coalition between farmers, White farmers, and African American Republicans, and it's referred to as the Fusion Movement, and that movement was somewhat progressive. It resulted in African Americans being elected to the state legislature in very, very large numbers elected as county commissioners; but finally, all of that came to an end in 1900

when the literacy test was passed by the General Assembly.
Q. Congressman Butterfield, in the years you were in Congress, were the folks in these Black Second counties your constituents?
A. My constituents and my friends.
Q. And you campaigned in these counties 10 separate times or maybe 11 separate times; is that correct?
A. Even more, yes, absolutely, if you count primaries and general elections.
Q. Okay. Did your legal practice, the 13 years or so you were in practice, include representing plaintiffs in these counties in northeastern North Carolina?
A. Plaintiffs and defendants. My law firm was in Wilson, but I had a regional law practice which took me into Rocky Mount and Roanoke Rapids and Williamston and Greenville and other places in northeastern North Carolina, yes.
Q. Did your legal practice in those years, Congressman, include representing plaintiffs in voting rights lawsuits?
A. Yes.
Q. Could you tell the Court a little bit about those suits in which you were involved?
A. Yes. My first experience was with a man named Horace Johnson who was a Black farmer in Halifax County who had run for a seat on the Board of County Commissioners, the board was all White at-large elections. Horace Johnson walked into my

law office in Wilson one Wednesday morning and said he had been defeated in the election, the primary election the preceding day and he felt that it was fraudulent. And I've always doubted people when they have extraordinary stories and so I wanted to see it for myself. I traveled to Halifax County, walked into the Board of Elections office and there were live paper ballots spread out on the table, and I could literally see the checkmarks on the ballots, and so I understood the concerns that Horace Johnson had.

We filed a complaint with the County Board of Elections, had a two-day hearing, unsuccessful. We then appealed to the Halifax County Superior Court -- excuse me. To the North Carolina State Board of Elections, unsuccessful, and then to the Superior Court of Wake County, James H. Pugh-Bailey presiding, and we did not prevail at the Superior Court level.

Because of that we were determined to continue the fight and that's when I associated with a law firm in Charlotte, it was referred to as the Chambers Ferguson Stein Wallace & Atkins Law Firm. The law firm had a working relationship with the NAACP Legal Defense Fund and so we combined our efforts and concentrated on Halifax County.

We then -- I think we may have pursued a Section 5 claim initially in Halifax County regarding the failure to obtain preclearance in several election changes and we were not successful. And after that we filed a Section 2 claim in the

Eastern District entitled, "Horace Johnson versus County of Halifax." The case was vigorously defended by the county; but at the last moment, we were able to settle it.

Q. And did you have the opportunity to litigate voting rights cases in other counties in northeastern North Carolina?

A. Yes. There was the case of Haskins versus County of Wilson which is my home county. I telephoned the Department of Justice one day, Voting Rights Section and talked to a young lady named Marianne Jackman and told her that African Americans in Wilson County were unable to elect their preferred candidates to the Board of Commissioners and asked her was there anything we could do about it and she asked me if I had ever heard of the Voting Rights Act, particularly Section 5. I told her I had, but didn't fully understand it and she asked me had there been any voting changes since 1964. I told her there had; there had been a move to staggered terms, there had been maybe an increase in the size of the board. And she mentioned that these were instances in which the county was required to obtain preclearance and if I would give her a few moments she would look it up. She returned to the telephone and said they had no record of preclearance. And because of that, the Department of Justice interposed an objection to any future elections in the county until these changes were precleared.

The changes were eventually precleared, to my

disappointment, but thereafter we then filed a Section 2 claim against the county. At that time, the Courts were requiring proof of intent in order to prevail on a Section 2 claim and after filing the suit, we had some concern about whether or not we could meet the standard of proof that was required under Mobile versus Bolden so we just slowed down or prosecution of that case until 1982 after there was a bipartisan amendment passed by the Congress that lowered the threshold, the standard of proof in Section 2 claims from intentional discrimination to discriminatory effects. And that's -- those are the senate factors that we all know so much about that came out of that hearing.

So after the threshold, the threshold was lowered from intentional to discriminatory effect, the county settled the case and -- Judge Franklin Dupree, Jr. approved the consent settlement which divided the country into seven single-member districts. And now because of that we have three majority-minority districts and four other districts, and we have a very diverse Board of Commissioners.

Q. Congressman, did your experience as a --

A. There were other counties.

Q. Okay. I'm sorry.

A. And I won't be as elaborate on these others as I was on these two.

The other one was Nash County, I forgot the plaintiff's

name. The other one was Granville County, McGee versus Granville. The other was Vance County which was Ellis versus County of Vance. There was another one in Person County that we got involved with. And there may be one or two others. There was the Town of Enfield in Halifax County that we filed a claim, actually a Section 5 claim.

Q. Did all of these experiences as a lawyer in your years in Congress give you an opportunity to become familiar with the comparative economic educational conditions of Black and White citizens in these counties?

A. Mr. Speas, through my interactions as a private lawyer and as a Superior Court judge and as Congressman for 18 years, I had intimate involvement with all of the communities in my congressional district and became quite familiar with these patterns.

Q. What did you observe with regard to the economic and educational conditions of Black and White citizens in those counties?

A. It's stark. Every indicator that you would look at, whether it's education, employment, wealth, poverty, any indicator that you would choose to look at there is a stark difference between Black and White in each one of the counties in the Black Belt unfortunately, and it doesn't seem to be improving.

Q. Okay. Did your experiences as a lawyer and a member of

Congress also provide you an opportunity to observe the voting patterns of Black and White citizens in northeastern North Carolina?

A. I have.

Q. And what did you observe in that regard, Congressman?

A. Racially polarized voting is very hard to explain.

MS. PROUTY: Objection, Your Honor. I don't want to interrupt Congressman Butterfield, but I do want to lodge an objection based on Rule 701 and 702.

Plaintiffs did not disclose him as an expert witness in this case or disclose any analyses from him that would support conclusions about the levels of or existence of racially polarized voting.

Rule 701(c) limits lay witnesses that are -- to opinions that are based on scientific, technical, or other specialized knowledge within the scope of 702. So conclusions about the existence of and levels of racially polarized voting are opinions that acquire technical analysis and specialized knowledge. They're the subject of several expert reports in this case, including reports from plaintiffs.

If plaintiffs wanted to elicit testimony from Congressman Butterfield about the levels or significance of racially polarized voting in this case, they should have done that in accordance with the Court's deadlines.

THE COURT: Mr. Speas.

MR. SPEAS: Your Honor, Congressman Butterfield had 20 years' experience as a politician. Politicians understand the voting patterns of their constituents.

If he's allowed to testify, Congressman Butterfield will explain his method of determining what the voting patterns were and how he applied it to his own campaigns.

THE COURT: Well, I won't accept it as opinion testimony, but I will allow him to testify within reason.

Go ahead, Mr. Speas.

MR. SPEAS: Thank you, Your Honor.

BY MR. SPEAS:

Q. Congressman, what method did you use to evaluate the voting patterns of Black and White citizens in northeastern North Carolina?

A. I concede that my methodology was not scientific, and so I offer this as lay testimony based upon 20 or more years of being involved in electoral politics in the region.

After each election I would do a back-of-the-envelope analysis, that's the best way I can describe it. I would find a homogeneous precinct in a given county in the district that would be nearly all White or nearly all African American, and there are precincts in the district that fall into those two categories. I would look at my performance in a nearly all White precinct and my performance would be dismal, 10, 15, 18 percent. I would look at my performance in nearly all

African American precincts and it would be 90 percent plus. I would then look at other candidates to see if there were similarities, and I would do it based on their race. I would look at a gubernatorial candidate, for example, or a local candidate who I was running at large in a county, and I came to the conclusion that there is significant polarization between the races in elections.

Q. Was this pattern more stark in some counties than others?

A. It was.

Q. Could you explain where it might have been more stark and where it might have been less stark?

A. Let me start with Gates County, for example. The African American Voting Age Population in Gates County is I think in the range of 40 percent. I didn't win Gates County. Even though the African American vote was overwhelming for me, I would not win Gates County which led me to believe that I did very poorly among White voters.

If you were to look at Pitt County as an example. Pitt County is more progressive, has a university, hospital, medical school, I would do better in those precincts as opposed to Gates County.

I would then go down to Greene County which is 45 percent African American and you would think that I would do -- I would do quite well in Greene County, and I did not.

Q. What about in Halifax and Bertie counties?

A. Those counties are interesting. Both of those counties are heavily African American, but there is some degree of coalition building in those two counties. It's very minimal, but there are coalitions in those two counties that are a little different from the other counties. But yet, there is still severe polarization in my opinion in those two counties.

Bertie County is greater than 60 percent. Halifax as well. I might say that now in Halifax County because it's -- because of its overwhelming number of African American voters, African Americans now constitute -- and I know Commissioner -- Former Commissioner Pierce may testify and may correct me on this, but I think four or five county commissioners are African American.

Q. Congressman, in your years in Congress, did you estimate a Black Voting Age Population percentage that was needed in these counties in order for Black candidates to have a reasonable opportunity to get elected?

MS. PROUTY: Same objection, Your Honor.

THE COURT: I would sustain it as to just any candidate. There's a lot of elections that take place in a lot of counties. So I'll sustain it as to the form of the question.

MR. SPEAS: All right, sir.

BY MR. SPEAS:

Q. What percentage did you need in your election campaigns

to have a reasonable opportunity to be elected?
A. Beginning in 2004 when I was first elected it is my belief that the candidate preferred by the minority community, by the African American community probably needed 55 percent. That has improved over the years. It is now in the range of 47 to 50 percent depending upon which county you're referencing. Greenville, Pitt County I would say more in the 47 percent range; Gates County more in the 50 percent range.
Q. Have you observed whether this percentage has increased or decreased in recent years?
A. It was getting better, Mr. Speas, until about three or four years ago and it has now somewhat leveled off. It is not improving.
Q. Congressman, the defendant in this case has suggested that the difference between the voting patterns of Black and White voters reflects political polarization rather than racial polarization. Do you think that's correct?
A. Not totally. I think there is some political polarization in electoral politics, but that doesn't fully explain it.
The attitudes and the opinions of White voters are very -- in opposite to some of the views of African American voters, they look at the world differently because their experiences have been different.
African American voters are concerned about issues

involving education, employment, voting opportunities, and other issues that affect the family. Not to say that that doesn't apply also in White communities, but African American voters are very concerned about economic issues and probably less about social issues. So the attitudes are different between the races and therefore they perform differently at the ballot box and they choose their preferred candidates based upon their needs and their experiences with the political party.

I often mention that, you know, prior to FDR, African Americans were Republicans and after the New Deal, African Americans migrated to the Democratic Party because they felt that the Democratic Party was more aligned with their interests. They were aligned with the Republican Party at the turn of the century because of the 13th Amendment and the Emancipation Proclamation by Republican President Abraham Lincoln.

And so African Americans are not connected with a political party because of any -- any allegiance, any unfounded allegiance. It's not a connection that is unbreakable. It depends on the issues.

Q. Congressman, legislative responsiveness to the needs of the minority community is an issue in these kind of cases. Have you made any observation about the responsiveness of the North Carolina General Assembly to the needs of the Black

citizens of North Carolina?
A. I have. I followed the work of the General Assembly and very disappointed with the responsiveness in education and community investment.

Even Medicaid expansion was an issue over time. North Carolina was one of the few states that did not expand the Medicaid program when it was offered under the Affordable Care Act. It has now been expanded, but it took years of negotiations under Governor Cooper and Speaker Moore and Berger to get it done. And so the legislature, in my opinion, has been very unresponsive to issues that disproportionately affect the African American community.

Our schools in northeastern North Carolina are underfunded. I mean, Leandro talked about it for years, the Leandro case. And they're still underfunded. If you were to compare the public schools of Halifax County with the public schools of Orange County, Orange County, vast difference, vast difference, and the legislature can do something about that and they have not.

MR. SPEAS: No other questions at this time, Your Honor.

THE COURT: Thank you, Mr. Speas.

Cross-examination.

MS. PROUTY: Thank you.

CROSS-EXAMINATION

BY MS. PROUTY:

Q. Hello, Congressman Butterfield.

A. Good morning.

Q. My name is Erika Prouty. I represent the Legislative Defendants in this case. Thank you for being here today.

I understand from your testimony that you represented North Carolina's First Congressional District from 2004 to 2022. Is that correct?

A. Yes.

Q. The First Congressional District has a long history of being represented by African Americans; is that correct?

A. No.

Q. Well, before you, Frank Ballance represented the First Congressional District?

A. For 18 months.

Q. And before Mr. Balance, Eva Clayton represented the First Congressional District from 1992 to 2003, correct?

A. Yes, 10 years.

Q. And the configuration of the First Congressional District remains the same in elections from 2004 to 2010; is that correct?

A. I think that's correct, yes.

Q. And would you agree with me that none of those general elections were particularly close?

A. They were not.

Q. In 2004, you won nearly 64 percent of the vote, correct?
A. I don't deny that, yes.
Q. Do you have any reason to dispute that number?
A. The Republican Party had difficulty recruiting credible candidates and formidable candidates to run.
Q. But that 64 percent number sounds right?
A. Yes.
Q. And in 2006 you were unopposed?
A. I think you're right, yes.
Q. And in 2008 you won about 70 percent of the vote, correct?
A. Yes.
Q. And in 2010 you won about 59 percent of the vote; is that correct?
A. Yes.
Q. And the district that you ran in for all of those elections was about 47 percent African American Voting Age Population; is that correct?
A. I haven't looked that up, but I accept -- I accept that, yes.
Q. And after the 2010 election, the First Congressional District was redrawn; is that correct?
A. Yes.
Q. And you ran for re-election in that district in 2012 and 2014, correct?

A. I believe that's when Durham County was added to the district, yes.
Q. And would you agree with me that you won those general elections in 2012 and 2014 by substantial margins?
A. With the addition of Durham County, yes.
Q. 2012 you won about 75 percent of the vote?
A. With the addition of Durham County, yes.
Q. And in 2014 you won about 73 percent of the vote, correct?
A. Yes.
Q. And this district was 52.65 percent African American Voting Age Population, correct?
A. I accept that, yes.
Q. And at that time you believed that 52.65 African American Voting Age Population was excessive and unnecessary, correct?
A. I thought it was not necessarily required at 52.65.
Q. You also thought it was excessive, correct?
A. I don't know about excessive. I thought it was unnecessary.
Q. Do you recall testifying in a case titled Harris versus McCrory that the 52 percent was excessive?
A. I don't recall particularly, but I accept it. If you have the transcript, I accept it.
Q. We do have a copy of the transcript we can pull up for you.

A. Yes.
Q. It would be page 173.
A. Yes.
Q. It'll be lines -- starting -- the question is at line 2:
Based on your years in electoral politics in eastern North Carolina, is that number necessary to allow African American citizens to elect their candidate of choice?
And line 5 you say: No, it's not necessary; it's excessive.
Do you see that?
A. Yes, that is my -- that was my testimony.
Q. And I heard you reference today that you believed 55 percent was necessary in 2004, was that your testimony?
A. When I first started voting rights litigation in the '80s, 1980s, the experts told us that 65 percent was necessary in order to level the playing field. That improved over the years and eventually I began to embrace 55 percent as being the benchmark of fairness, and then I lowered that number even more.
Q. Okay. And you lowered that number to about 47 percent; is that right?
A. Yes, depending upon the jurisdiction. In Pitt County, 47 percent would be adequate. In Wake County it would be adequate.
Q. And that's --

A. In Gates County it would not be adequate.
Q. And that's based on your personal opinion, correct?
A. Of course.
Q. You've never analyzed election data or turnout data to make that determination of what percent African American Voting Age Population is required in a jurisdiction, correct?
A. I've read reports and treatises and all sorts of publications, but I do not hold myself out by any means as an expert. I have no training in this field except just using homogeneous precincts as the measurement for polarization. And of course the experts may laugh at that, but that's the way I do it.
Q. And you previously believed that a qualified candidate who's the preferred candidate of the African American community could be elected to the First Congressional District even if that African American Voting Age Population was reduced from 47 percent; is that correct?
A. It would be difficult, but not impossible. But it would be very difficult because the First District now is without Pitt County and it now includes Chowan, Pasquotank, Carter counties and polarization in those areas I believe may be severe and so I'm not sure if 47 percent Voting Age Population in the 1st District today would level the playing field between the candidates if the preferred candidate of the African American community were -- was a candidate.

Q. But you previously believed that 45 percent may be more difficult but would still be competitive; is that right?
A. In this new political environment it would be very competitive. It would be -- it would unquestionably be very competitive. 45 percent would put the preferred candidate of the minority community in a danger zone.
Q. You testified earlier about your opinions of the levels of racially polarized voting. Do you recall that testimony?
A. Today or previously?
Q. Today.
A. Yes, yes.
Q. And you've never performed a statistical analysis of racially polarized voting in North Carolina; is that right?
A. On the back of an envelope I have.
Q. I heard you refer to it as back-of-an-envelope calculation, right?
A. Yes.
Q. You would agree that those calculations are far from the way an expert would do that analysis, right?
A. Of course.
Q. And you only did this analysis -- analysis in elections that you ran in, correct?
A. Not correct.
Q. Okay.
A. I'm sort of a statistical junkie. Junkie is not the best

word for it, but enthusiast. And so with the advent now of the Internet and the technology that we have, it's very easy to run a lay analysis.

I have access to -- I had access to the voting system and I could run a number of registered voters in a given precinct. I could run those by race, by party, who actually voted in a particular election, and I could actually put them on a spreadsheet and do the comparison right on my home computer. And I would do it for races other than mine just out of curiosity.

Q. You would agree with me that wasn't a scientific analysis, right?

A. It was not a scientific analysis.

Q. You never performed, say, an ecological inference analysis; is that right?

A. I don't know what that is. I've read about it, but I don't understand it.

Q. And you did not perform one on any of the counties at issue in this case for today's testimony; is that right?

A. Not in preparation for this case.

Q. You also testified about -- I apologize. Let me start over.

The First Congressional District was ultimately redrawn for the 2016 election. Do you recall that?

A. Sounds right.

Q. And you ran for re-election in 2016 and 2018 in this new version of the First Congressional District, correct?
A. Yes.
Q. And you continued to win by significant margins, correct?
A. I continued to win, but each election I performed less than the previous election.
Q. Okay.
A. And I attributed that to gerrymandering.
Q. In 2016 you won about 68 percent of the vote; does that sound right?
A. Yes.
Q. And in 2018, you won 69 percent of the vote; is that right?
A. Yes.
Q. And this district was 44.5 percent African American Voting Age Population?
A. Yes, but remember I was a 16-year incumbent who had financial resources that my opponent did not have and the name recognition that my opponent did not have, so I had performed quite well.
Q. And the First Congressional District was again redrawn in 2019; is that right?
A. Yes.
Q. And you ran for re-election in this district in 2020, correct?

A. That was my final election, yes.
Q. And you won 54 percent of the vote, correct?
A. Yes.
Q. You did not run for re-election in 2022; is that right?
A. I did not.
Q. Don Davis instead ran in 2022 in the First Congressional District, correct?
A. Yes.
Q. Mr. Davis is African American, correct?
A. Yes.
Q. Mr. Davis is a Democrat, correct?
A. Yes.
Q. Would you agree that it's fair to say many factors go into winning an election?
A. I agree there are multiple factors that are involved in winning an election, and finance would be a major contributor to the success of a candidate.
Q. I'm sorry. Could you repeat that?
A. Fundraising is a major contributor to electoral success, and Mr. Davis was able to engage successfully in fundraising; something that I was not able to do as successfully.
Q. The First Congressional District was 41.23 percent African American Voting Age Population in 2022; is that correct?
A. That sounds correct.

Q. And Mr. Davis won re-election in November 2024; is that correct?
A. My recollection is he narrowly won. He engaged in a 24/7 campaign traveling all over the country in fundraising. Ended up raising in excess of $5 million, something that I could not do and it was against a very formidable Republican female, military, a veteran opponent, and he won by one and a half percentage points.
Q. That district is currently 40.42 percent African American Voting Age Population; is that correct?
A. That sounds correct. But during the campaign Mr. Davis had to measure his public statements unlike when I served. I could be authentic in my public declarations and the positions that I took on issues without any fear of retributions from the opposition. Mr. Davis found himself in a different position.
Q. Okay.
A. Because there were national issues that were swirling around that I never had to be involved in. Immigration, abortion, and others; border enforcement. Those were issues that I did not particularly have to deal with during my elections, but he did. And so he won by one and a half percentage points.
Q. Thank you, Congressman Butterfield. I have no more further questions for you.

THE COURT: Mr. Speas, anything else?

MR. STEED: No questions, Your Honor.

THE COURT: I'm sorry. State Board.

MR. STEED: Sorry. I said no questions, Your Honor.

REDIRECT EXAMINATION

BY MR. SPEAS:

Q. Congressman, you mentioned the addition of Durham County to your congressional district on one occasion. How did the addition of Durham County affect the voting patterns and the degree of racially polarized voting in your congressional district?

A. The General Assembly had to redraw the congressional lines. Senator Rucho called me to his office one day and explained to me in the presence of the staff that because of dwindling populations in northeastern North Carolina that it would be necessary to add an urban area to the First District so as to get to the ideal district size. Ideal district size at the time was 733,000 people.

Senator Rucho told me he had a choice of Wake County, Durham County, Guilford County. Asked me what I thought about it. And I -- chief of staff had warned me about being too verbal with the Senator because she had worked in the legislature and understood that sometimes your words could be taken out of context.

MS. PROUTY: Objection, Your Honor. Hearsay as to

the statements by his chief of staff.

THE WITNESS: Certainly.

THE COURT: Sustained.

THE WITNESS: So I told Senator Rucho that I thought Guilford County was absolutely unacceptable because of the distance, because of the dissimilarity between the two communities. And he said, Well, what about Raleigh or Durham?

MS. PROUTY: Objection, again, Your Honor, as to the statements by Senator Rucho.

THE COURT: Well, again, they're just being added for context of what the Congressman said. I'm not accepting them for the truth but just for the context of what he said.

THE WITNESS: Sure. I'll make it short and to the point.

So I did not take a position of Raleigh versus Durham. The following week the Senator invited me back to his office and showed me a map of Raleigh and informed me that Raleigh would be in the First Congressional District. And I asked him exactly where in Raleigh would the district be, and he rolled out the map and he couldn't get his bearings on the map. And so I leaned forward and said: Show me where the State Capital is so I can get context and the staffer identified the Capital. And then I said show me Memorial Auditorium and Shaw University so I can get the lay of the land, and we figured out where the auditorium and Shaw

University were located. And then I could see where he was talking about.

I then informed the Senator that I didn't have an opinion to offer; that the legislature needed to do what the legislature needed to do, and I left. And then when the report was submitted to the full General Assembly, it was reported that I had requested that Wake County be included in the district because I wanted Shaw University and the Capital in my district, which was absolutely untrue. So I complained about it vehemently because it was a mischaracterization of what I had said and done and that was when the General Assembly scrapped Wake County as a possibility and included two-thirds of Durham County in the district.

And so beginning with that reconfiguration, I then represented two-thirds of Durham County plus the traditional First Congressional District. And eventually I would get all of Durham County. I don't know which map that was, but I started off with two-thirds of Durham County and then the next iteration it went to all of Durham County.

Q. Congressman, you also mentioned Pitt County in your examination. How does including Pitt County or excluding Pitt County from a district affect racial polarization within a district?

THE COURT: From his congressional district?

MR. SPEAS: His congressional district.

THE WITNESS: Pitt County is very significant. The city of Greenville, Town of Bethel, the Town of Winterville, they're more progressive communities and polarized voting is not as severe in those municipalities as it is in rural Pitt County. But all in all when the votes are tallied in Pitt County, democratic candidates and minority candidates do fairly well in Pitt County. It has the university, the hospital, the medical school, good coalition building between the races in Pitt County. Pitt County I would characterize as a progressive community.

But under the map that's now in effect completely eliminated Pitt County from the First Congressional District and in its place added Pasquotank, Currituck, Chowan counties which are very unfriendly territory for minority candidates and democratic candidates. And so that weakened the position of the congressional candidate by removing Pitt County from the district.

BY MR. SPEAS:

Q. Based on your experiences, Congressman, if a person or a candidate wants to understand the Black Voting Age Population needed to elect a Black-preferred candidate, the outcome depends on which specific area or which specific counties are in the district; is that correct?

A. That is absolutely correct.

Q. Gates County is not Durham County, correct?

A. Correct.
Q. Pitt County is not Halifax County?
A. Correct.
Q. Pitt County is not Hertford County? Pitt County is not Warren County?
A. That is true, except to say, Mr. Speas, there is polarization in all of the counties in the First Congressional District. They are just variations.
Q. It's worse in some places than others?
A. Correct.
Q. Now, this back-of-the-envelope evaluation that you've done, have you shared that with people over the years?
A. Internally, perhaps with my staff I did.
Q. And with other candidates and people in the community?
A. Oh, yes. Candidates are always calling me for advice and to evaluate electoral outcomes and electoral projections.
Q. And do you believe your methodology, back of the envelope though it may be as, is effective?
A. In my world it is effective because if you take a precinct, a voting -- VTD I think y'all call it, a voting precinct, that is 98 percent White and you look at the electoral outcome and the African American preferred candidate gets 10 percent of the vote and you compare that to another precinct that is 90 percent African American and the African American candidate gets 90 percent of the vote, in my analysis

that is polarization based on race.

MR. SPEAS: Thank you, Congressman. No other questions.

THE COURT: Anything else from the Defense or the State Board?

MS. PROUTY: No, Your Honor.

THE COURT: Thank you.

Thank you, Congressman. Please watch your step. There's a step up as you come off the witness stand and a step down through the gate.

THE WITNESS: Thank you.

THE COURT: The plaintiffs may call their next witness.

MS. MACKIE: Your Honor, the plaintiffs call Rodney Pierce.

RODNEY PIERCE,

having been duly sworn, testified as follows:

THE COURT: You may examine the witness.

DIRECT EXAMINATION

BY MS. MACKIE:

Q. Good morning, Mr. Pierce. Can you state your address for the record?

A. Yes, ma'am. 171 Wood Glen Road, Roanoke Rapids, North Carolina.

Q. And that's in Halifax County?

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SHAUNA WILLIAMS, et al., *Plaintiffs*, v. REPRESENTATIVE DESTIN HALL, in his official capacity as Chair of the House Standing Committee on Redistricting, et al., *Defendants*.	Civil Action No. 23 CV 1057
NORTH CAROLINA STATE CONFERENCE OF THE NAACP, et al., *Plaintiffs*, v. PHILIP BERGER, in his official capacity as the President Pro Tempore of the North Carolina Senate, et al., *Defendants.*	Civil Action No. 23 CV 1104

[PROPOSED] ORDER

This matter is before the Court upon the Joint Motion by NAACP Plaintiffs and Legislative Defendants for the Court to permit designations of the trial testimony of Representative G.K. Butterfield in the related matter of *Pierce, et al. v. North Carolina State Board of Elections, et al.*, 4:23-cv-193-D-RN (E.D.N.C.), in lieu of live testimony.

For the reasons stated in the Motion and good cause shown, IT IS ORDERED that the Joint Motion (Doc. __) is GRANTED.

IT IS SO ORDERED on this, the _____ day of June___, 2025.

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