

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

GLORIA PERSONHUBALLAH, et al,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 3:13cv00678
)	
JAMES B. ALCORN, et al.,)	
)	
Defendants &)	
Intervenor-Defendants)	
)	

**PLAINTIFFS' STATEMENT OF POSITION REGARDING
REPORT OF DR. LISA HANDLEY**

I. INTRODUCTION

Pursuant to the Court's Order dated October 22, 2015, Plaintiffs submit this Position Statement regarding the Special Master's consideration of the functional analysis prepared by Dr. Lisa Handley. For the reasons discussed below, Plaintiffs have no objection to the Special Master considering Dr. Handley's analysis and giving it the weight he deems appropriate.

II. BACKGROUND

On September 22, 2015, the Governor submitted a proposed remedial plan. *See* Dkt. #231. In support of his plan, the Governor submitted a report by Dr. Handley. Dkt. #231-3, at 2. As set out in her report, Dr. Handley conducted "a district-specific functional analysis of voting patterns to ascertain the black population concentration necessary to provide black voters with an opportunity to elect their candidates of choice in the vicinity of the Third Congressional District of Virginia." *Id.* at 2. Dr. Handley concluded that a district need not be majority-BVAP to afford black voters "with an opportunity to elect candidates of their choice to Congress" and that, to the contrary, "even a district that is as low as 30 to 34% black in voting age population can provide black voters with an opportunity to elect their preferred candidates to represent the Third Congressional District." *Id.* at 16.

On October 22, 2015, the Court issued an order indicating that the Special Master had advised the Court that he was "giving consideration to the data in the report filed by Dr. Lisa Handley." Dkt. #263, at 1. Accordingly, the Court afforded the parties the opportunity—if they wished—to depose Dr. Handley, giving them until November 2, 2015, to do so. *Id.* The Court further ordered the parties to file a "Statement of Position" regarding use of Dr. Handley's data by the Special Master no later than November 9. *Id.*

No party elected to depose Dr. Handley.

III. PLAINTIFFS' POSITION

Plaintiffs do not object to the Special Master considering and, if he deems it appropriate, relying on the data in Dr. Handley's analysis in the course of preparing his final report to the Court.

As set out in her curriculum vitae, Dr. Handley has substantial experience in the areas of redistricting and voting rights. Plaintiffs have no reason to doubt Dr. Handley's qualifications to prepare a functional analysis of the type she prepared here.

Moreover, although Plaintiffs have not retained an expert to provide a formal assessment of Dr. Handley's analysis, Plaintiffs have no reason to believe Dr. Handley's functional analysis is methodologically unsound. Indeed, Dr. Handley's analysis appears to align with the racially polarized voting analysis conducted earlier in this litigation by Plaintiffs' expert, Dr. McDonald. *See* Pl. Ex. 40, at 4-6. In his own analysis, Dr. McDonald concluded that the combination of (1) mid-to-high 30% crossover vote from non-black voters and (2) cohesive black voting meant that minority candidates of choice could win election in a 51% BVAP district with mid-to-upper 60% support. *See* Pl. Ex. 30, at 4-6. In other words, Dr. McDonald's analysis suggested that black voters in the vicinity of CD 3 would have an opportunity to elect their candidates of choice in a district that was not majority-BVAP. These conclusions align with those reached by Dr. Handley. *Compare* Tr. 196:14-17 with Dkt. #231-3, at 16.

Nonetheless, Plaintiffs have taken a conservative approach in drawing their proposed remedial plan. The consequence of keeping CD 3 in its basic, current configuration—as Plaintiffs did—was that the district remained at majority-BVAP level. Although Plaintiffs have not put forward a remedial plan that would lower the BVAP of CD 3 below 50%, they do not believe it is in any way *inappropriate* for the Special Master to consider Dr. Handley's analysis in assessing the pending proposals and preparing his final report to the Court.

IV. CONCLUSION

For the reasons set out above, Plaintiffs have no objection to the Special Master considering Dr. Handley's report and the data it contains and relying on that data in preparing his final report to the Court.

Dated: November 9, 2015

Respectfully submitted,

By /s/ John K. Roche

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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of November, 2015, I caused the foregoing to be electronically filed with the Clerk of this Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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