

>> ALL RISE.
HEAR YE, HEAR YE, THE SUPREME
COURT OF FLORIDA IS NOW
IN SESSION.
ALL WHO HAVE CAUSE TO PLEAD,
DRAW NEAR, GIVE ATTENTION,
YOU SHALL BE HEARD.
GOD SAVE THESE UNITED STATES,
THE GREAT STATE OF FLORIDA,
AND THIS HONORABLE COURT.
LADIES AND GENTLEMEN, THE
SUPREME COURT OF FLORIDA.
PLEASE BE SEATED.
>> GOOD MORNING.
WELCOME TO THE FLORIDA
SUPREME COURT.
THE FIRST CASE ON THE DOCKET IS
THE LEAGUE OF WOMEN VOTERS CASE.
COUNSEL?
>> MY NAME IS DAVID KING.
I REPRESENT THE COALITION
PLAINTIFFS.
IT IS OUR POSITION THAT THE
TRIAL COURT ERRED IN APPROVING
THE REMEDIAL MAP AND
CONSEQUENTLY THE FIRST COURT I
WOULD LIKE TO TALK ABOUT IS THE
STANDARD OF REVIEW.
IT IS OUR POSITION THAT THE
TRIAL COURT ENGAGED IN
RATIONALE BASIS
RAO REVIEW.
AS THE COURT KNOWS THAT IS
UNDERGIRDDED BY A RULE OF
STATUTORY CONSTRUCTION THAT
PRESUMES THAT THE ACTION OF THE
LEGISLATURE IS VALID.
A PRESUMPTION OF VALIDITY.
>> WELL, DOESN'T THE TRIAL COURT
SAY IT IS FOLLOWING THE STANDARD
OF REVIEW IN APPORTIONMENT ONE?
>> THE TRIAL COURT FOLLOWS
FOLLOWS RATIONAL BASIS REVIEW
BUT THE PROBLEM IS, YOUR HONOR.
>> MY QUESTION, AT SOME POINT
THE TRIAL COURT SAYS IT IS GOING
TO FOLLOW THE STANDARD REVIEW
ARTICULATED IN APPORTIONMENT
ONE?
>> YES, SIR.

BUT IN APPORTIONMENT ONE, THERE WAS NO FINDING OF INTENTIONAL VIOLATION OF THE CONSTITUTION. THIS TRIAL COURT FOUND THAT THE POLITICAL OPERATIVES CONSPIRED TOGETHER TO INFLUENCE THE MAP. THAT THEY MADE A MOCKERY OF THE PUBLIC PROCESS WITH A SHADOW PROCESS.

THAT THEY MADE GREAT EFFORTS TO TRY TO KEEP WHAT THEY DID SECRET.

THAT THEY SUCCEEDED IN INFLUENCING THE REDISTRICTING PROCESS AND THE REDISTRICTING PLAN THAT THEY TAINTED THE MAP WITH IMPROPER PARTISAN INTENT. NOW ONCE THE COURT FINDS THAT, ONCE THE COURT FINDS BASED ON EXTRINSIC EVIDENCE, THAT THERE HAS BEEN AN INTENTIONAL VIOLATION OF THE FLORIDA CONSTITUTION BY THE LEGISLATURE, THAT THE LEGISLATURE WILL NOT FOLLOW THE INSTRUCTIONS THAT THE PEOPLE OF FLORIDA, THE STANDARDS THAT THEY PUT ON THE LEGISLATURE FOR THE REDISTRICTING PROCESS, THEN AT THAT POINT THE RATIONAL BASIS TEST IS NO LONGER APPROPRIATE.

THERE ARE TWO REASONS WHY THE COURT SHOULD APPROACH THIS FROM A STANDPOINT OF STRICT SCRUTINY. ONE IS, ALMOST ALL THE DISTRICTS THAT ARE CONTESTED INVOLVED RACIAL CLASSIFICATIONS. DISTRICTS THAT WERE FORMED PREDOMINANTLY FOR RACIAL PURPOSES THAT STRICT SCRUTINY WAS THE ACTION OF THE LEGISLATURE BENIGN OR WAS IT A MISUSE OF RACE WITHOUT COMPELLING JUSTIFICATION? BUT THE SECOND REASON IS, LOOK, WHAT WHEN THE LEGISLATURE HAS INTENTIONALLY VIOLATED CONSTITUTION, AND THE STANDARDS THEY HAVE VIOLATED ARE, INVOLVE VOTING WHICH THIS COURT SAID THE

RIGHT TO PICK YOUR REPRESENTATIVES AND THE PROCESS BY WHICH YOU PICK YOUR REPRESENTATIVES IS THE BEDROCK OF DEMOCRACY, SO, IF WHAT THEY HAVE DONE IS NOT A VIOLATION OF FUNDAMENTAL RIGHTS, THERE COULDN'T BE SUCH A THING. YOU APPLY STRICT SCRUTINY.

>> CAN I ASK YOU THIS. IS THERE ANY PLACE IN EITHER THE FINAL JUDGMENT OR THE ORDER APPROVING THE REMEDIAL REDISTRICTING PLAN WHERE THE COURT ACTUALLY SAYS IT IS APPLYING RATIONAL BASIS REVIEW?

>> NO, SIR.

>> OKAY.

>> BUT WHAT YOU DO FIND THE COURT SAYING, THAT WE HAVE A LIMITED ROLE.

WELL I SUBMIT TO THE COURT THAT THE TRIAL COURT DOES NOT HAVE A LIMITED ROLE AFTER THE TRIAL COURT HAS FOUND AN INTENTIONAL VIOLATION OF THE CONSTITUTION. AT THAT POINT, THE COURT HAS THE RESPONSIBILITY, AS YOU WOULD UNDER STRICT SCRUTINY, TO UNWIND THE IMPROPER PARTISAN INTENT THAT THE TRIAL COURT FOUND IN THE MAP.

>> OKAY, SO IF ASSUMING THAT YOU'RE CORRECT, THAT, AT THE POINT HE FOUND IMPROPER INTENT AS TO THE WHOLE PROCESS, THEN THE BURDEN WOULD SHIFT. WHAT THEN SHOULD THE TRIAL COURT HAVE DONE?

YOU CHALLENGED SOME SPECIFIC DISTRIBUTES AND YOU CHALLENGED THE PLAN AS A WHOLE. WHAT SHOULD THE TRIAL COURT HAVE DONE AND THEN BY NEXT QUESTION WOULD BE, WHAT SHOULD THIS COURT DO?

>> THE TRIAL COURT SHOULD HAVE, NO LONGER ACCEPTED--

>> I UNDERSTAND THAT PART BUT I'M SAYING AS A PRACTICAL MATTER

ONCE THE JUDGE SAID, THAT, THERE WAS IMPROPER INTENT, DOES THE BURDEN THEN SHIFT AND THEN, WHAT WOULD NEED TO HAPPEN?

IN OTHER WORDS, WHAT'S THE NEXT STEP IN THE WAY THE CHALLENGERS VIEW THIS CASE?

>> THE CHALLENGERS VIEW THAT THE TRIAL COURT SHOULD HAVE NOT SUSTAINED THE DECISIONS REGARDING DISTRICT FIVE, DISTRICT 13 AND 14, DISTRICT 21 AND 22, DISTRICT 25, DISTRICT 26 AND 27.

>> YOU SPECIFICALLY CHALLENGED DISTRICTS?

>> YES.

>> HE SHOULD HAVE ORDERED-- SHOULD HE HAVE THEN ORDERED THE LEGISLATURE TO GO BACK AND REDRAW THOSE DISTRICTS?

>> HE SHOULD HAVE ORDERED A MUCH MORE FULSOME AND ROBUST RESPONSIBILITY FOR THE LEGISLATURE TO REDRAW THOSE DISTRICT.

>> I WANT TO ASK ON THIS, NOBODY SEEMS MAKE MUCH OF THE FACT THAT IN DRAWING THE DISTRICTS THAT THE 2002 MAP WAS USED AS THE BENCHMARK.

ENOUGH I UNDERSTAND THERE HAS TO BE BENCHMARKS FOR THOSE DISTRICTS THAT COULD BE SUBJECT TO VOTING RIGHTS VIOLATIONS.

BUT, SINCE THE 2002 MAP, AS IT RELATES TO CONGRESS, WAS FOUND BY THE FEDERAL COURT IN MARTINEZ TO BE ADMITTEDLY DRAWN, NOT TO DISCRIMINATE AGAINST MINORITIES, BUT TO BENEFIT REPUBLICANS, I'M NOT, I DON'T SEE, YOU, YOUR BRIEF, OR THE ARGUMENT BEING THAT THAT, THE BEGINNING WITH THE 2002 MAP WAS A PROBLEM.

IS IT A PROBLEM?

IN OTHER WORDS, IF WE'RE TO ACCEPT YOUR ARGUMENT, DO YOU STILL USE THE 2002 MAP AS THE BENCHMARK FROM WHERE THE

LEGISLATURE WOULD LOOK AT
REDISTRICTING?

DO YOU UNDERSTAND MY QUESTION?

>> I UNDERSTAND YOUR QUESTION,
YOUR HONOR.

AND IT'S OUR POSITION THAT, I
THINK IT'S BETTER RATHER THAN
TALKING IN TERM OF THE ABSTRACT,
IF IT'S OKAY WITH THE COURT, IF
YOU LOOK AT DISTRICT 5 IN THE
PRISM OF WHAT YOU JUST SAID.
DISTRICT 5 WAS A PRISM OF THE
PLAN, THE CENTERPIECE REALLY OF
THE PLAN TO MANIPULATE THE
PERFORMANCE OF THE CONGRESSIONAL
DISTRICTS SINCE 1992.

IT WAS ALSO, AS THE MARTINEZ
COURT POINTED OUT IN 2002,
UTILIZED FOR THE SAME PURPOSE
AND JUDGE LEWIS FOUND THE SAME
THING IN 2012.

IT IS OUR POSITION THAT SHOULD
BE, YOU SHOULD NOT BE BOUND BY
THE, ANY STRICTURES OF THE 2002
PLAN.

>> AND I UNDERSTAND DISTRICT 5
BEING REDRAWN AFFECTS OTHER
DISTRICTS BUT AS TO THE PLAN AS
A WHOLE, WAS THAT THE FINDING IN
2002 ABOUT PARTISAN INTENT WAS
ONLY AS TO WHY DISTRICT 5 WAS
DRAWN THAT WAY AS TO THE ENTIRE
PLAN?

>> TO THE ENTIRE PLAN, YOUR
HONOR.

>> BUT YOU, THE CHALLENGERS, DO
NOT HAVE ANY PROBLEM STILL USING
2002 AS A BASELINE FOR THE OTHER
DISTRICTS?

>> WELL THE CHALLENGERS
CHALLENGE THE ENTIRE PLAN.

>> I UNDERSTAND THAT.

>> RIGHT.

>> BUT AGAIN SOMEBODY HAS,
EITHER YOU'RE SAYING EITHER GOES
TO THE TRIAL COURT, GOES TO THIS
COURT, GOES BACK TO THE
LEGISLATURE.

>> RIGHT.

>> IN GOING BACK, PRACTICAL

SPEAKING WHERE DOES THE 2002 BENCHMARK FIT INTO WHAT YOU WOULD, IF YOU WERE DIRECTING THE LEGISLATURE TO DO SOMETHING, WOULD YOU SAY DON'T START WITH THE 2002 MAP, START WITH JUST BLINDLY, YOU KNOW, LOOKING AT COMPACT DISTRICTS AND NOT WORRY ABOUT THE 2002 MAP?

>> I WOULD TELL THE LEGISLATURE, START WITH THE CONSTITUTION AND FOLLOW THE PROVISIONS OF THE CONSTITUTION.

>> I UNDERSTAND.

THAT DOESN'T REALLY BRING ANY CLARITY TO THIS.

LET ME ASK ANOTHER QUESTION.

DO THE PARTIES AGREE AS TO HOW TO MEASURE WHETHER A DISTRICT PERFORMS DEMOCRATIC OR REPUBLICAN?

WHAT I'M SEEING IS THAT BOTH SIDES SEEM TO CHERRY-PICK, THEY GOT THE 2008 ELECTIONS, THE 2010 ELECTIONS, THE 2012.

SOMETIMES SOMEONE GOES BACK TO 2000.

SOMETIMES THERE ARE AVERAGES. HOW DO WE IN LOOKING AT THIS AND HOW DID YOU ASK THE TRIAL COURT TO LOOK AT HOW YOU DECIDE WHETHER A DISTRICT PERFORMS DEMOCRATIC OR REPUBLICAN?

>> WE LOOKED AT THE 2008 AND 2010 ELECTIONS SEPARATELY.

AND THEN, SINCE WE WERE--

>> SO YOU WOULD SAY THAT.

>> YES.

>> SO WHAT IS WRONG-- DOES THE LEGISLATURE DISAGREE ON?

>> I DON'T THINK THEY DO.

THEY CONSIDERED FROM TIME TO TIME THE 2012 RESULTS BECAUSE SOMETIMES THE 2012 RESULTS SHOW WHAT OCCURRED AFTER THAT BUT AT THE TIME THE LEGISLATURE WAS DOING IT, ALL THEY HAD WERE THE 2010, 2008.

>> LOOK AT THAT, 2000, YOU KNOW, JUST THE WHOLE AREA?

BECAUSE IF YOU LOOK AT 2010, WE KNOW THAT WAS A YEAR THAT, YOU KNOW, MAYBE THERE WERE SOME OTHER OCCURRING FACTORS. OR IT IS DIFFERENT IN A PRESIDENTIAL YEAR THAN IN A NON-PRESIDENTIAL YEAR AND IT SEEMS, IT IS NOT A VERY SCIENTIFIC WAY TO DECIDE WHETHER A DISTRICT IS GOING FOR ONE SIDE OR THE OTHER.

SO--

>> IT'S NOT SCIENTIFIC, YOUR HONOR, BUT 2008, PRESIDENTIAL YEAR, 2010, A NON-PRESIDENTIAL YEAR, SO THAT GAVE YOU A PRETTY GOOD INDICATION OF BOTH.

>> WHAT ABOUT THE IDEA OF LOOKING AT A PLAN, THE QUESTION WHETHER, IT IS A COMPETITIVE DISTRICT?

IN OTHER WORDS, WHAT WE'RE TRYING TO, I THINK THE VOTERS WERE TRYING TO CREATE SOMETHING WHERE IT WASN'T SOLIDLY, THEY'RE JUST DEMOCRATIC DISTRICTS AND REPUBLICAN.

THERE IS SOMETHING KNOWN AS COMPETITIVE ELECTIONS. SO IS IT IMPORTANT IN LOOKING AT IT AS TO WHETHER THE MAP CREATED COMPETITIVE DISTRICTS SO THAT, EITHER A REPUBLICAN OR A DEMOCRAT COULD HAVE A SHOT? SINCE WE KNOW MANY OF THESE DISTRICTS ARE ACTUALLY INFLUENCED BY WHAT THE INDEPENDENTS DO.

>> YOUR HONOR, THAT'S CERTAINLY IMPORTANT.

WHAT WE FOUND THE MOST IMPORTANT WAS TO TRY TO UNWIND THE PARTISAN ACTIONS OF THE LEGISLATURE.

IN OTHER WORDS, WHEN WE FOUND A DISTRICT LIKE 13, WHERE THEY MADE A DECISION THAT VIOLATED THE COMPACTNESS RULES, BOUNDARY RULES OF THE CONSTITUTION, AND IT ACTUALLY FLIPPED THE SEAT.

IT MADE IT A DEMOCRATIC, I MEAN
IT MADE IT A REPUBLICAN SEAT IN
2006 WHERE THEY SPLIT HOMESTEAD,
THAT ACTUALLY MADE THE SEAT A
REPUBLICAN SEAT.

IN DISTRICT 5 WHERE THEY IGNORED
THE OPPORTUNITY FOR OTHER
MINORITY ABILITY TO ELECT
DISTRICTS, TO KEEP THE
CONFIGURATION THE SAME, IN A
SITUATION WHICH, AS COURT KNOWS
HISTORICALLY PERFORMS SO WELL
FOR THE MINORITY CANDIDATE, FROM
1992, TO THE PRESENT, EVEN
THOUGH THE VOTING AGE POPULATION
HAS RANGED AS LOW IN DISTRICT 5
DURING THAT TIME AS 42.7 IN 1996
AND 46.9 IN 19, IN 2002.

SO DESPITE THAT, THE LEGISLATURE
CONTINUES TO SEEK THESE LARGE, I
MEAN, UNDER 905.7, DISTRICT 5
WILL PERFORM FOR THE MINORITY
CANDIDATE AT THE 69% RANGE UNDER
THE 2008 ELECTION.

AND YET, AT THE SAME TIME, THE
EAST/WEST DIVISION OF DISTRICT
FIVE THAT WE PROPOSE WILL
PERFORM IN AN AREA OF 64%.

THE--

>> WHAT IS IT ABOUT THE
EAST/WEST CONFIGURATION THAT YOU
PROPOSED THAT IS
CONSTITUTIONALLY SUPERIOR TO
THE, TO THE REMEDIAL DISTRICT
THAT WAS ENACTED?

>> I THINK THERE ARE FIVE
THINGS, YOUR HONOR.

IT IS MORE COMPACT THAN--

>> COMPACTNESS IS, IT CERTAINLY,
IT IS LONGER.

IT STRETCHES FURTHER DISTANCE
THAN THE ENACTED REMEDIAL
DISTRICT, CORRECT?

>> CORRECT.

>> SO IF YOU LOOK, THAT IS
SOMETHING YOU WOULD AT LEAST, A
FACTOR IN EVALUATING COMPACTNESS
WOULD BE THE GEOGRAPHICAL EXTENT
OF IT?

>> IT'S--

>> ONE FACTOR.

>> ONE FACTOR.

IT IS MORE COMPACT UNDER THE MEASUREMENTS THAT THE COURT AND THE PARTIES HAVE USED.

IT BREAKS LESS COUNTIES.

IT, MAKES THE SURROUNDING DISTRICTS IN CENTRAL FLORIDA MORE COMPACT.

IT CREATES THE OPPORTUNITY TO MAKE DISTRICT 10 AN ABILITY TO ELECT DISTRICT SO THAT AS A RESULT OF THAT WHAT YOU HAVE, EVEN THOUGH THE LEGISLATURE CLAIMS THEY'RE INVOLVED IN MINORITY PROTECTION, THAT'S THEIR MANTRA, UNDER THE EAST/WEST PLAN, THERE WOULD BE 203,000 MORE MINORITIES THAT WOULD BE IN ABILITY TO ELECT DISTRICT, ABILITY TO ELECT DISTRICTS IN THREE MAJORS CENTERS IN GADSDEN, LEON, JACKSONVILLE AND ORLANDO. THAT WOULD BE AN ENORMOUS ADVANTAGE OVER THE PRESENT SITUATION.

I'M AFRAID I'M GOING INTO MY COLLEAGUE'S TIME.

>> ONE OTHER QUESTION.

IF YOU WERE TO BE THE MAP DRAWER, WAS THERE A MAP INTRODUCED INTO EVIDENCE, I REALIZE THAT MAY NOT BE THE BURDEN, WOULD BE THE MAP THAT'S THE MAP THE LEGISLATURE SHOULD HAVE CONSIDERED?

AND THERE'S ROMO MAPS THERE IS--

>> ROMO A, WHICH WAS THE MAP WE ARGUED IN THE TRIAL COURT.

IT WOULD BE AS FAR AS THE REMEDIAL MAP, AND REMEMBER, THE REMEDIAL MAPS THAT WE OFFERED AFTER THAT IN THE REMEDIAL HEARING IN FRONT OF JUDGE LEWIS, THE REMAINING MAP WOULD BE COALITION PLAINTIFFS B.

>> REMEDIAL MAP DIDN'T RE--

>> ONLY NINE DISTRICTS THAT WERE

INVOLVED.

THANK YOU.

AND I WILL SAVE MY--

>> GOOD MORNING, YOUR HONORS,
JOHN DEVANEY FOR THE ROMO
PLAINTIFFS.

I LIKE TO BEGIN BY FOLLOWING UP
ON THE DISCUSSION ON STRICT
SCRUTINY OR CLOSE SCRUTINY.
I WOULD LIKE TO EMPHASIZE IN A
SITUATION WHERE YOU HAVE A
FINDING OF A CONSPIRACY THAT
INFECTED THE ENTIRE PROCESS WITH
PARTISAN INTENT, INCLUDING THE
PUBLIC PROCESS, THE MAP-DRAWING
PROCESS ITSELF, THAT IS
SOMETHING THAT SHOULD TRIGGER
STRICT SCRUTINY.

>> WHY DO WE HAVE TO USE THE
TERM, I MEAN STRICT SCRUTINY
DOES HAVE A CONSTITUTIONAL BASIS
BUT IT ALSO, I MEAN, WHY NOT,
MAYBE THIS IS THE ARGUMENT.
THAT ONCE THAT'S FOUND, THE
BURDEN SHIFTS TO THE, TO THE
LEGISLATURE TO, YOU KNOW,
JUSTIFY IT OR IT IS THEN, NO
LONGER THE SAME DEFERENCE?
MAYBE THAT IS THE SAME?
IS THAT THE SAME AS STRICT
SCRUTINY.

>> IT COULD BE CLOSE SCRUTINY,
STRICT SCRUTINY, CLEARLY LEVEL
OF SCRUTINY IS HIGHER THAN
RATIONAL BASIS REQUIRED.

>> I DON'T KNOW.

THE QUESTION IS, I DON'T THINK
THE JUDGE APPLIED RATIONAL
BASIS.

WHAT YOU'RE ARGUMENT IS, IS ONCE
HE FOUND THAT THE PLAN AS A
WHOLE WAS DRAWN WITH UNLAWFUL
INTENT, THEN HE SHOULDN'T HAVE,
THEN HE WENT, WHEN HE LOOKED AT
OTHER DISTRICTS, HE LOOKED FOR
MORE FLAGRANT TIER 2 VIOLATIONS
AS OPPOSED TO LOOKING AT THOSE,
WAIT A SECOND, WHEN YOU TOOK A
CHUNK OF PINELLAS AND PUT IT
INTO HILLSBOROUGH, YOU DON'T GET

THE SAME DEFERENCE AS IF THERE WASN'T THAT FINDING OF INTENT. WASN'T THAT HIS PROBLEM, NOT THAT HE--

>> THAT'S CORRECT, YOUR HONOR.

>> I DON'T THINK IT IS FAIR THAT THE JUDGE USED WHATEVER WE CONSIDER TO BE RATIONAL BASIS. I WOULD RATHER FOR THIS ARGUMENT, NOT GET INTO WHAT WE DO IN OTHER TYPES OF LEGISLATIVE, YOU KNOW, ANALYSIS.

>> UNDERSTOOD BUT THE REVIEW HE DID CONDUCT DIDN'T GIVE ADEQUATE ATTENTION TO THE FACT THAT THERE WAS A FINDING OF A TIER 1 VIOLATION THROUGHOUT THIS MAP. THAT THE ENTIRE PROCESS WAS INFECTED BY PARTISANSHIP.

>> WHERE DOES HE ACTUALLY SAY THAT?

THAT THE ALL THE DISTRICTS WERE AFFECTED BY THE PARTISAN INTENT?

>> YOUR HONOR, HE FINDS THAT THE ENTIRE MAP IS UNLAWFUL.

AND IF--

>> LET ME REPEAT MY QUESTION.

>> I'M GOING TO CONTINUE AND IF YOU, READ HIS DECISION HE TALKS ABOUT THE FACT THAT THERE WAS A SHADOW REDISTRICTING PROCESS THAT CONSULTANTS WERE SECRETLY GIVEN MAPS BY STAFFERS IN THE LEGISLATURE.

>> THE CONNECTION BETWEEN THAT AND THE INTENT OF THE LEGISLATURE IS A DIFFERENT MATTER.

NOW HE DRAWS SOME LINES THERE WITH RESPECT TO THE DISTRICTS THAT HE INVALIDATED, I UNDERSTAND THAT, BASED ON SOME PARTICULAR CIRCUMSTANCES RELATED TO THOSE DISTRICTS BUT WHERE IS THERE A GENERAL FINDING THAT THIS WHOLE MAP WAS, WAS THE RESULT OF A PARTISAN INTENT? WHERE IS THAT IN THE ORDER?

>> YOUR HONOR, THERE IS A SECTION IN THE ORDER THAT TALKS

ABOUT THE REDISTRICTING PROCESS
IN GENERAL.

THAT'S THE HEADING OF THE
DISCUSSION.

AND IN THAT DISCUSSION THE TRIAL
JUDGE WALKS THROUGH THE EVIDENCE
OF THE SHADOW REDISTRICTING
PROCESS AND NOWHERE--

>> I'M ASKING WHERE THERE IS A
FINDING.

THERE ARE A LOT OF THINGS TALKED
ABOUT THERE BUT I'M ASKING ABOUT
THIS FINDING OF PARTISAN INTENT
THAT AFFECTS THE WHOLE MAP.

IS THAT, IS THAT IN THERE OR DO
YOU JUST INFER THAT IS BEHIND
THE DISCUSSION?

>> I DON'T RECALL A SPECIFIC
FINDING HOWEVER I WILL SAY--

>> IF WERE THERE YOU WOULD
RECALL IT.

>> BUT I WOULD SAY THE ENTIRE
DISCUSSION, YOUR HONOR,
CONCLUDES THAT THE PROCESS WAS
INFECTED WITH INTENT AND IF THE
COURT WERE TO IGNORE THAT, THEN
THE WHOLE PARTISAN PROHIBITION
IN THE FAIR DISTRICT AMENDMENTS
BECOMES MEANINGLESS AND WE HAVE
A TRIAL JUDGE WHO FOUND THAT
THIS PROCESS WAS A SHADOW
PROCESS.

THAT LITERALLY THERE WERE MAPS
SECRETLY BEING SENT FROM
STAFFERS TO REPUBLICAN POLITICAL
CONSULTANTS THAT REPUBLICAN
CONSULTANTS WERE SUBMITTING MAPS
THROUGH FALSE NAMES IN THE
PROCESS.

THEN THE LEGISLATURE GETS UP AND
SAID WE RELIED ON THOSE MAPS.
YOU LOOK AT DISTRICT 13 AND 14,
YOUR HONOR, THAT IS A DISTRICT
THAT MATCH AS DISTRICT THAT WAS
SUBMITTED BY A REPUBLICAN MAP
DRAWER, FRANK TERRA FIRMA, UNDER
A FALSE NAME.

THE LEGISLATURE USED THAT
DISTRICT AND STOOD UP SAID WE
RELIED ON ALEX POSADA'S MAP FOR

THIS, FOR THIS DISTRICT.
AND FOR THE COURT TO IGNORE, I'M
SORRY, TO NOT ENFORCE THAT YOU
HAVE A REPUBLICAN-DRAWN DISTRICT
BY REPUBLICAN OPERATIVE, WOULD
RENDER THE FAIR DISTRICT
AMENDMENTS--

>> WAS THERE ANY EVIDENCE THAT
THE LEGISLATURE KNEW THAT IT WAS
AN OPERATIVE WHO HAD SUBMITTED
THE MAP?

>> THERE IS SIGNIFICANT
CIRCUMSTANTIAL EVIDENCE, YOUR
HONOR THAT SHOWS COMMUNICATIONS
BETWEEN STAFFERS AND REPUBLICAN
POLITICAL CONSULTANTS AND ONE
CAN EASILY INFER THAT THERE WAS
KNOWLEDGE.

IS THERE DIRECT EVIDENCE?
NO, THERE'S NOT BUT THERE IS
CERTAINLY, AND THE FACT THAT THE
MAP THAT WAS SUBMITTED BY
MR. TERRAFIRMA, EXACTLY MATCH
AS DISTRICT THAT WAS ADOPTED,
AND THERE WERE SOMETHING LIKE 90
DIFFERENT MAPS THAT WERE
SUBMITTED IN THIS PROCESS AND IT
CAN'T BE A COINCIDENCE THAT THE
LEGISLATURE PICKED THAT ONE MAP.

>> IS THERE A FINDING THAT THERE
WAS SUCH KNOWLEDGE ON THE PART
OF THE LEGISLATURE?

BY THE PEOPLE RESPONSIBLE FOR
DRAWING THE MAPS?

>> AS JUDGE LEWIS SAID, THE
CIRCUMSTANTIAL EVIDENCE IS WAY
BEYOND COINCIDENCE AND THEREFORE
ONE SHOULD HAVE TO INFER THERE
WAS A CONSPIRACY.

AND THAT WAS HIS FINDING.

>> WHERE IS THAT?

>> THAT WAS HIS CONCLUSION.
I DON'T REMEMBER THE PAGE NUMBER
BUT HE DOES SAY THERE IS TOO
MUCH CIRCUMSTANTIAL EVIDENCE.

>> ON PAGE 11 HE SAYS THE
CIRCUMSTANTIAL EVIDENCE
CONVINCES ME THEY MANAGED TO
INFILTRATE THE PROCESS, THEY
MANAGED TO TAINT THE

REDISTRICTING PROCESS AND THE
RESULTING MAP WITH IMPROPER
PARTISAN INTENT.

THERE IS JUST TOO MUCH
CIRCUMSTANTIAL EVIDENCE OF IT,
TOO MANY COINCIDENCES, FOR ME TO
CONCLUDE OTHERWISE.

HE GOES THROUGH EVERYTHING FROM
THE DESTRUCTION OF THE RECORDS
TO THE, THERE IS EMAILS BETWEEN
PEPPER AND REICHERFELDER FROM
DEAN CANNON.

BUT I DO THINK THE JUDGE GOES
THROUGH A LOT BUT IT IS TRUE HE
PUTS THIS GENERAL INTENT SECTION
INTO DISTRICT 5, WHICH I THINK
THE CHALLENGERS, I'M SORRY, THE
LEGISLATURE SAYS INDICATES HE
WAS ONLY LOOKING AT THIS WITH
RESPECT TO DISTRICT 5 OR
DISTRICT 10.

WHAT DO YOU SAY ABOUT THAT, THE
PLACEMENT OF IT?

>> WELL WHEN ONE READS THE
DISCUSSION FROM JUDGE LEWIS IT'S
QUITE CLEAR THAT THE DISCUSSION
DOESN'T RELATE JUST TO
DISTRICT 5.

AND THE EVIDENCE DEMONSTRATED
THAT THIS SECRETIVE SHADOW
PROCESS WASN'T LIMITED TO THE
DISTRICT 5.

IT APPLIED TO THE ENTIRE MAP.
IN FACT WE HAVE CONSULTANTS WHO
HAD COMMUNICATIONS ABOUT
MULTIPLE DISTRICTS WITH
STAFFERS, INCLUDING A PERSON WHO
WAS IN THE SPEAKER OF THE
HOUSE'S OFFICE.

IT WASN'T LIMITED TO
DISTRICT FIVE.

SO, THE RECORDS SAY A BROAD,
BROAD SHADOW PROCESS THAT WASN'T
LIMITED TO ANY SPECIFIC
DISTRICT.

IF I COULD, YOUR HONORS, I WOULD
BRIEFLY LIKE TO TALK ABOUT
REMEDY.

OUR CONCERN THAT WHEN YOU HAVE A
MAP THAT IS INFECTED BY THIS

ENTIRE PROCESS, THAT YOU CAN'T SELECTIVELY PRESERVE ANY DISTRICTS, SOME OVER OTHERS. THAT THE ENTIRE MAP SHOULD BE DECLARED UNLAWFUL BECAUSE THE ENTIRE PROCESS WAS UNLAWFUL. THAT YOU CAN'T PARSE AMONG INDIVIDUAL DISTRICTS.

IT IS WELL-ESTABLISHED AS WE ARGUE IN OUR BRIEF, THAT THE COURT, STATE COURTS HAVE THE AUTHORITY TO DRAW MAPS WHERE THE LEGISLATURE HAS DEMONSTRATED THAT IT IS UNABLE TO DO SO. THAT BEGAN WITH THE GROW DECISION BY THE UNITED STATES SUPREME COURT.

>> THAT HASN'T HAPPENED HERE. THEY WERE ASKED TO DO TWO SPECIFIC DISTRICTS. THEY DID IT.

YOU'RE NOT CHALLENGING HOW ONE DISTRICT WAS REDRAWN.

YOU'RE CHALLENGING ANOTHER. HOW IS THIS A SITUATION WHERE THEY HAVE BEEN TOLD TO DO SOMETHING AND THEY HAVEN'T DONE IT?

>> WELL, YOUR HONOR THE, OF COURSE WE ARE CHALLENGING THE FINDING THAT ONLY THOSE TWO DISTRICTS SHOULD HAVE BEEN REDRAWN.

>> I UNDERSTAND.

AS FAR AS UNDERSTAND WHETHER THIS COURT SHOULD DO IT, JUDGE LEWIS OR IT GOES BACK TO THE LEGISLATURE, LET'S ASSUME IT NEEDS TO GO BACK TO THE LEGISLATURE.

DO YOU HAVE SPECIFIC GUIDELINES, CAN THEY USE THE 2002 MAP AS A BASELINE AGAIN?

>> SEVERAL POINTS WITH RESPECT. IF THIS WERE TO GO BACK TO THE LEGISLATURE, ONE, IT SHOULD BE DONE WITH VERY CLEAR GUIDANCE FROM THE COURT AND I WOULD ARGUE THE 2002 MAP, IT WAS ADMITTEDLY A PARTISAN MAP SHOULD NOT BE THE

STARTING POINT.

>> WHERE WOULD THE STARTING POINT BE?

>> I WOULD HAVE TO LEAVE THAT TO THE MAP MAKERS AND THEY WOULD HAVE TO DETERMINE WHERE THE STARTING POINT WOULD BE BUT THE 2002 MAP AS THE LEGISLATURE ITSELF SAID--

>> LEAVE IT TO PROFESSIONAL STAFF, SINCE THE JUDGE DID FIND AS TO THE ALEX KELLY, JOHN GUTHRIE, THERE WAS A THIRD PERSON, THAT THEY ACTED IN A, ARE STILL THERE, THAT THEY HAD THE ABILITY TO THIS IN AN OBJECTIVE WAY.

>> BUT WITH VERY SPECIFIC INSTRUCTIONS FOR CD-5, ADOPT THE EAST/WEST ORIENTATION. CD-13 ELIMINATE THE SPLIT BETWEEN ST. PETE AND PINELLAS AND CD-14 FOR ROSING OF TAMPA BAY.

26, 27 ELIMINATE SPLIT OF HOMESTEAD WHICH DIVIDES A RACIAL COMMUNITY.

FOR CD-25, HIM THAT IT THE SPLIT OF HENDRY COUNTY.

THOSE SHOULD BE SPECIFIC CHANGES, THEY IMPROVED REPUBLICAN PERFORMANCE, RACE BASED, SUBJECT TO VERY CLOSE SCRUTINY AND THERE IS NO COMPELLING STATE INTEREST FOR THOSE REDISTRICTING DECISIONS AND STATE'S BURDEN TO DEMONSTRATE THAT AND THEY CAN NOT.

I DON'T WANT TO GO INTO MY COLLEAGUE'S REBUTTAL TIME SO WITHOUT FURTHER QUESTIONS I WILL DEFER.

THANK YOU VERY MUCH.

>> MAY IT PLEASE THE COURT. RAOUL CANTERO.

I WILL ARGUE ON BEHALF OF LEGISLATIVE PARTIES.

I WOULD LIKE TO BEGIN WITH FINDINGS OF FACT THAT ARE IN THE

RECORD AND THAT THE APPELLANTS
HAVE NOT APPEALED.

AND I THINK THAT THESE FINDINGS
WILL ALLOW THE COURT TO
UNDERSTAND WHY JUDGE LEWIS DID
WHAT HE DID.

ON PAGE 22 OF THE FINAL JUDGMENT
WHICH IS ON PAGE 186 OF THE
APPELLANT'S APPENDIX, HE SAYS,
AS JUSTICE PARIENTE REFERRED TO,
I HAD THE ABILITY TO JUDGE THE
DEMEANOR OF ALEX KELLY, JOHN
GUTHRIE AND JASON PARIDA AT
TRIAL AND FOUND EACH TO BE
FRANK, STRAIGHTFORWARD, AND
CREDIBLE.

I CONCLUDE THAT THEY WERE NOT
PART OF THE CONSPIRACY, NOT
DIRECTLY AWARE OF IT, AND THAT
SIGNIFICANT EFFORTS WERE MADE BY
THEM AND THEIR BOSSES TO
INSULATE THEM FROM DIRECT
PARTISAN INFLUENCE.

SO I THINK THAT EXPLAINS A LOT
ABOUT WHAT JUDGE LEWIS DID
BECAUSE HE HEARD TESTIMONY FROM
THESE INDIVIDUALS AND THEY SAID,
I NEVER HEARD OF ALEX POE SAUD
TODAY.

I WAS NEVER INSTRUCTED TO LOOK
AT A POSADA MAP.

I LOOKED AT ALL MAPS THE SAME
WAY.

AND HE WAS ABLE TO CONCLUDE THAT
THEY WERE NOT INFLUENCED.

SO THAT PART OF A CONSPIRACY BY
OPERATIVES HE, ALTHOUGH HE
DIDN'T EXPLICITLY FOUND IT, HE
IMPLICIT I FOUND DID NOT INFECT
THE PROCESS.

WHAT HE DID FIND INFECTED THE
PROCESS WAS THE, ON THE OTHER
SIDE, THE COMMUNICATIONS BETWEEN
KIRK PEPPER AND MARK
REICHELDERFER.

THERE WAS EVIDENCE THAT PEPPER
WAS GIVEN DRAFT MAPS TO
REICHELDERFER.

THERE WAS NO EVIDENCE THAT HE
SUBMITTED ANY MAPS BACK.

THERE WAS EVIDENCE THERE WERE COMMUNICATION AND REICHELDERFER ABOUT CD-10 AND JUDGE LEWIS INVALIDATED CD-10 SO THAT'S A MOOT POINT.

THERE WAS EVIDENCE THAT MARK--
>> LET'S GO ON ISSUE THERE WAS EVIDENCE.

HOW DO WE DEAL WITH THE FACT THAT THAT EVIDENCE WAS FOUND BY CHALLENGERS, CAME FROM OPERATIVES EMAILS THERE IS NO QUESTION THAT HE FOUND THAT ALL ALL EMAILS THAT MIGHT HAVE BEEN BACK, THERE WAS DESTRUCTION OF E-MAILS?

DEAN CANNON HAD DIRECT CONTACT WITH REICHELDERFER, YOU SAY PRESUMPTION OF RECORDS NOT PRESERVED, ALL OF SUDDEN THERE IS NO EVIDENCE BUT THERE IS EVIDENCE OF SOME SO HOW DO YOU-- THAT'S A CONCERN.

MAYBE YOU CAN ADDRESS THAT OTHERWISE WHAT WE DO WITH THE PRESUMPTION?

>> WELL, THE, JUDGE LEWIS FOUND THAT THERE WAS NO VIOLATION OF ANY LAW, NO VIOLATION OF ANY LEGISLATIVE PROCEDURE, AND NO VIOLATION OF ANY COURT RULE. SO GIVEN THAT FINDING, THERE IS NO PRESUMPTION.

HE SAID AS FINDER OF FACT, I CAN DRAW CERTAIN INFERENCES.

I'M PERMITTED TO DRAW CERTAIN INFERENCE.

>> HE SAID THEY KNEW AS A MORAL CERTAINTY THERE WAS GOING TO BE LITIGATION AND WHEN I LOOK AT OUR CASES ABOUT WHERE PARTIES DON'T KEEP EMAILS, I HATE TO USE DESTROY.

>> DELETED EMAILS IN THE ORDINARY COURSE OF BUSINESS.

>> EXCEPT THAT DEAN CANNON SAID HE DELETED EMAILS AFTER SIX MONTHS BUT BEFORE THE SIX MONTHS, THIS LITIGATION HAD ALREADY BEEN FILED.

SO I THINK HE, THE JUDGE SAID,
IT WAS A MORAL CERTAINTY THAT
THERE WAS GOING TO BE THIS
LITIGATION.

SO I THINK THAT THE LITIGATION
OF A MATTER OF LAW, THERE WAS A
TO PRESERVE AND ADVERSE
INFERENCE COMES FROM THAT AND HE
FOUND THAT, THE JUDGE FOUND
THAT.

>> FOUND THAT.

HE DIDN'T SAY--

>> INFERENCE FROM THAT.

>> HE ALSO DIDN'T SAY BECAUSE OF
ADVERSE INFERENCE I NOW THINK
EVERYTHING IS TAINTED.

HE SPECIFICALLY ALSO FOUND THAT
THESE THREE STAFF MEMBERS WERE
NOT TAINTED AND THEIR TESTIMONY
WAS CREDIBLE.

AND THEY GAVE ALL SORTS OF
TESTIMONY ABOUT HOW THEY DREW
MAPS.

AND WHEN HE WENT THROUGH THE
SPECIFIC DISTRICTS HE SAW THAT
THE STAFF IN SOME OF THOSE
DISTRICTS, THE STAFF HAD DRAWN
THOSE MAPS THE WAY THEY WERE
FINELY FROM THE BEGINNING.

IN THE HOUSE THERE WERE AT FIRST
SEVEN DRAFT PLANS THAT WERE
SUBMITTED.

THEN THEY WENT DOWN TO THREE AND
THEN DOWN TO ONE AND HE SAID AS
TO CERTAIN OF THESE DISTRICTS,
THAT THEY, FOR EXAMPLE,
DISTRICT 13 AND 14, THAT THEY
STARTED FROM THE BEGINNING
DRAFTING IT IN THAT WAY.

AND SO HE USED BOTH INFERENCE,
BUT ALSO HIS FINDINGS ABOUT
CREDIBILITY TO DETERMINE WHICH
DISTRICTS SHOULD BE REDRAWN AND
WHICH NEED NOT BE REDRAWN.

>> CAN WE TALK SPECIFICALLY
ABOUT DISTRICTS 26 AND 27?
THAT WAS WHERE HOMESTEAD WAS
DIVIDED.

IT WASN'T DIVIDED IN THE
SENATE'S DRAFT MAPS BUT WAS

DIVIDED IN THE HOUSE'S.
WHEN THE SENATE RELEASED ITS MAP
TERRAFIRMA EMAILED SAID
DISTRICT 26 WAS PRETTY WEEK.
HEAVILY RESPONDED, THESE ARE THE
CONSULTANTS, OUTSIDE
CONSULTANTS, THE HOUSE NEEDS TO
FIX A FEW OF THESE AND HE
RESPONDED YES.

IN THE MEETING THAT WAS
NON-PUBLIC, WHETHER, AND I
UNDERSTAND IT WASN'T IN
VIOLATION OF THE GOVERNMENT IN
THE SUNSHINE, 26 IS DIVIDED JUST
LIKE THE OPERATIVES SAID.

IS THAT, IS THAT, DO YOU HAVE
SOME OTHER EXPLANATION FOR WHY
26 AND 27 WERE DIVIDED?

I MEAN HOMESTEAD WAS DIVIDED?

>> AGAIN THAT WAS DRAWN FROM THE
BEGINNING THAT WAY.

THE HOUSE DREW DISTRICT 26 AND
27 THAT WAY SPLITTING HOMESTEAD
FROM 9001 MAP.

THE SENATE'S ITERATION OF THOSE
DISTRICTS WAS MUCH LESS COMPACT.
THERE WAS A SHOEHORN-SHAPED
DISTRICT GOING AROUND ANOTHER
DISTRICT.

SO IT MADE IT VERY NON-COMPACT.
AND THE EVIDENCE WAS THAT THEY
DECIDED TO USE THE HOUSE'S
VERSION.

>> I GUESS, MY ISSUE IS, WE'VE
GOT, YOU KNOW, APPORTIONMENT 1,
GREAT ASSURANCES HOW TRANSPARENT
EVERYTHING WAS IN THE PUBLIC
HEARINGS AND REALLY RELIED ON
THIS TRANSPARENCY, YET, CERTAIN
DECISIONS IN FACT FIVE OR SIX OF
THEM, WERE MADE NOT IN THE
PUBLIC EYE.

THEY WERE MADE IN MEETINGS THAT
WERE, WHERE LITTLE NOTES WERE
MADE.

THAT IS WHERE DISTRICT 5
CHANGED.

THAT IS WHERE DISTRICTS, THAT'S
WHERE DISTRICT 10 GOT ITS
APPENDAGE.

THAT IS WHERE 13, I'M SORRY, 26 AND 27 WERE DIVIDED.

I THINK THAT IS THE CONCERN ONCE THE JUDGE HAD FOUND THERE WAS IMPROPER INTENT IN THE PLAN AS A WHOLE AND YOU LOOK AT THESE AND YOU'RE A LITTLE MORE CONCERNED ABOUT THE JUSTIFICATION FOR, SAY, SPLITTING HOMESTEAD JUST AS AN EXAMPLE?

>> WELL, AGAIN, HE FOUND THAT HOMESTEAD HAD, I DON'T KNOW IF HE FOUND THIS, BUT THE EVIDENCE SHOWED, AND THE EVIDENCE, THE TESTIMONY FROM PEREDA AND ALEX KELLY IN THE HOUSE THAT HAD BEEN DRAWN THAT WAY FROM THE BEGINNING.

SO THAT DID NOT CHANGE OF THE ONLY THING THAT CHANGED AT THE MEETING WAS GOING WITH THE HOUSE'S VERSION INSTEAD OF THE SENATE VERSION.

THAT IS NOT WHAT JUDGE LEWIS WAS CONCERNED ABOUT AND HE TOOK THE TESTIMONY OF THE STAFFERS INTO ACCOUNT IN DETERMINING WHERE HE THOUGHT THAT THE IMPROPER INTENT HAD BEEN.

THE UNDISPUTED EVIDENCE THESE MEETINGS OCCURRED REGULARLY THROUGH A LEGISLATIVE SESSION. IT IS ONLY WAY TO RECONCILE ONE MAP DURING ANOTHER.

>> WHAT IF THEY, WHY DID THEY HAVE TO BE IN PRIVATE?

I MEAN IF THERE IS A DECISION MADE, AGAIN LIKE DISTRICT 5, WHY DOES IT HAVE TO BE DONE OUTSIDE OF THE-- AND I UNDERSTAND LEGALLY THERE IS NO VIOLATION BUT IF WE'RE LOOKING AT, TRUST AND CONFIDENCE, WHY DOES IT HAVE TO BE DONE-- I UNDERSTAND, YOU KNOW, RECONCILING OF THE BUDGET, WE UNDERSTAND ALL THESE HAPPEN AT A LEADERSHIP LEVEL AT THE END BUT WHEN TALKING ABOUT REDISTRICTING IN PARTICULAR, WHY DOES THAT, WHY DID THAT HAVE

TO OCCUR, RECONCILING OF THE CONGRESSIONAL REDISTRICTING?

>> YOUR HONOR, I DON'T KNOW ABOUT HAVE TO.

WHY DID IT HAVE TO, THAT IS THE METHOD THAT THEY CHOSE.

THAT IS THE MOST, EASIEST METHOD TO MAKE SURE THIS GOT DONE ON TIME.

THERE WAS NO DISCUSSION ABOUT WHY THERE WASN'T A PUBLIC AND I DON'T THINK THE CONSTITUTION REQUIRES THAT THEY BE IN A SURGERY ROOM WITH PEOPLE, THE PUBLIC ABOVE LOOKING DOWN ON WHAT THEY'RE DOING.

AS LONG AS THERE WAS NO INTENT. THE JUDGE THAT THERE WAS SOME INTENT AS TO SOME DISTRICTS AND THAT HAS BEEN REMEDIED BUT I DON'T THINK THE CONSTITUTION REQUIRES THAT THE RECONCILIATION PROCESS BE DONE IN PUBLIC.

AS TO, UNLESS THE COURT HAS SPECIFIC QUESTIONS, AS TO THE STANDARD OF REVIEW, NO COURT HAS EVER HELD THAT STRICT SCRUTINY APPLIES IN A VRA CHALLENGE.

SO TO THE EXTENT THAT THE FLORIDA CONSTITUTION MIMIC MOST THE VRA, IT IS NOT A STRICT SCRUTINY STANDARD OF REVIEW.

THIS COURT NEVER USED THE WORDS STRICT SCRUTINY IN APPORTIONMENT 1, APPORTIONMENT 2 OR ANY OTHER APPORTIONMENT CASE.

JUDGE LEWIS REALLY FAITHFULLY APPLIED WHAT THIS COURT DID IN APPORTIONMENT 1.

>> WHY ISN'T THE OTHER PART DIRECT THAT IN APPORTIONMENT 1 WE WERE NOT DEALING WITH ANY KIND OF FINDING THERE WAS ANY KIND OF CONSTITUTIONAL VIOLATION?

SO ONCE YOU GET TO THAT POINT, ISN'T THERE A DIFFERENT STANDARD THAT SHOULD BE APPLIED THAN ONE WHERE WE ARE SIMPLY GIVING DEFERENCE TO WHAT THE

LEGISLATURE HAS ALREADY DONE?

>> THEY ARE INCORRECT, YOUR HONOR.

APPORTIONMENT 1 DID FIND THAT CERTAIN SENATE DISTRICTS HAD BEEN DRAWN WITH IMPROPER INTENT. THEY DID FIND THAT AND STILL WHEN THEY WERE--

>> WAS IT THE IMPROPER INTENT--

>> DISTRICTS 10 AND 13.

>> WE'RE TALKING ABOUT NOW WITH THE PARTISAN--

>> YES, YES THEY DID.

>> OKAY.

>> IN CENTRAL FLORIDA, THAT THERE WAS A CERTAIN DISTRICT THAT WAS DRAWN TO FAVOR--

>> TALKING ABOUT THE DISTRICT, ORLANDO?

>> YES.

>> OKAY.

>> AND THAT WAS REDRAWN.

AND THE COURT APPROVED THOSE DISTRICTS AND ONCE THE COURT FOUND THAT CENTRAL FLORIDA WAS DRAWN WITH IMPROPER INTENT, IT DID NOT SAY NOW WE'LL PUT ON DARK-COLORED GLASSES AND LOOK AT EVERYTHING THROUGH A DIFFERENT LENS.

IT JUST WENT THROUGH AND APPROVED 32 DISTRICTS AND APPROVED OF EIGHT DISTRICTS.

>> I THINK WHAT JUSTICE QUINCE IS REFERRING TO EVEN THOUGH THERE IS SOME BELIEF WE FOUND THE SENATE MAP WAS DRAWN AS A WHOLE WITH IMPROPER INTENT, WHAT WE SAID THE NUMBER OF THE DISTRICTS WERE IMPROPER.

>> NO.

>> WE NEVER, NEVER MADE NOR COULD WE HAVE MADE, BECAUSE WE DIDN'T HAVE FACT-FINDING THAT THE WHOLE MAP WAS DRAWN WITH SPECIFIC, WITH IMPROPER INTENT.

>> NO, YOU DREW AN INFERENCE ON CD-13 OR--

>> WHAT WE'RE, I'M GETTING AT IS

WE DIDN'T GET TO A SITUATION WHERE THERE WAS A FINDING THAT THE WHOLE PROCESS WAS INFECTED WITH IMPROPER INTENT. WHAT TO DO AT THAT POINT BECAUSE WE COULDN'T HAVE. BECAUSE WE WERE DOING A FACIAL REVIEW.

>> BUT AGAIN, HERE WE GET BACK TO JUDGE LEWIS'S FINDINGS ABOUT THE STAFF MEMBERS AND HIS SPECIFIC FINDING, AFTER LISTENING TO THEIR TESTIMONY. THEY TESTIFIED ABOUT A LOT OF THINGS.

THAT THEY WERE NOT INFECTED BY THE PROCESS.

AND HE FOUND THAT TESTIMONY FRANK, STRAIGHTFORWARD AND CREDIBLE, AS TO ALL THREE STAFFERS.

AND THEY TESTIFIED ABOUT EACH AND EVERY DISTRICT.

>> I, BUT THEN IF THAT'S TRUE, AND SINCE THEY HELPED WITH THE 5 AND 10, THERE YOUR ARGUMENT WOULD BE THEY THERE WASN'T A WAY TO FIND 5 AND 10 UNCONSTITUTIONAL.

>> WE COULD HAVE APPEALED. INSTEAD WE REDREW THE DISTRICTS COURT TOLD US.

WE DON'T AGREE WHAT JUSTICE LEWIS DID WITH 5 AND 10 BUT HIS RATIONALE THAT THE WHOLE PEPPER, REICHELDERFRER AFFECTED FIVE AND 10 BECAUSE THOSE WERE DISTRICTS THAT THEY WERE TALKING ABOUT.

AS TO THE BENCHMARK, THEY DISCUSS BENCHMARK 2002 AND CD-3 IN 2002.

IN MARTINEZ VERSUS BUSH THE PARTIES SPECIFICALLY STIPULATED THAT CD-3 WAS NOT BASED ON POLITICAL INTENT.

ON FOOTNOTE 93, I'D LIKE TO QUOTE.

IT SAYS THE PLAINTIFFS AND INTERVENORS DO NOT ALLEGE OBVIOUSLY THAT THAT'S DISTRICTS,

MEANING DISTRICTS 3, 17, AND 23
WERE POLITICALLY GERRYMANDERED
IN VIOLATION OF THE EQUAL
PROTECTION CLAUSE.

SO DISTRICT 3 IN MARTINEZ WAS
NOT FOUND TO BE POLITICALLY
GERRYMANDERED.

THE COURT FOUND IT WAS
REASONABLY COMPACT AND COMPLIED
WITH THE VRA.

>> I THOUGHT THEY WERE SAYING,
DAVIS VERSUS VAN DEN MERE, IT IS
VERY HIGH STANDARD UNDER THE
EQUAL PROTECTION CLAUSE TO FIND
A PARTISAN GERRYMANDER IS GOING
TO BE AN EQUAL PROTECTION
VIOLATION.

>> BUT THESE WERE MINORITY
DISTRICTS AND SO THE COURT WAS
SAYING--

>> I THOUGHT THE COURT SAID THEY
DIDN'T FIND RACE MOTIVATED IT.
THEY FOUND THAT PARTISANSHIP
MOTIVATED IT?

>> THAT IS THE QUOTE I GAVE YOU,
AS TO CD-13 THEY WEREN'T ARGUING
THAT IT WAS POLITICALLY
MOTIVATED.

>> CD--

>> CD-3 NOW BECAME 5.

>> HAVE TO HAVE A ROAD MAP.

>> EXACTLY, BASICALLY THE SAME
DISTRICT.

ON THEIR CD-5, FIRST OF ALL, IT
IS NON, LESS COMPACT THAN OUR
CD-5 UNDER THE REOCH SCORE.
MORE COMPACT UNDER THE HULZ
SCORE.

UNDER THAT SCORE YOU WOULD HAVE
A THOUSAND MILE LONG ONE INCH
DISTRICT WOULD BE A 1.0 SCORE
BECAUSE ALL THAT MEASURES IS
RECTANGLE-Y.

THIS IS RECTANGLE SO IT WOULD
HAVE A GOOD CONVEX HULL SCORE.
BUT NOT A BETTER RIOCH SCORE.
AS THE COURT FOUND THEIR CD-5
RENDERS CD-2, EXTREMELY LONG,
OVER 232 MILES LONG I THINK IT
WAS, VERSUS LIKE 146 FOR OUR

CD-2.

AND EXTREMELY NON-COMPACT.
SO THE COURT SAID, WELL YOU'RE
JUST TRADING OFF ONE FOR THE
OTHER, EVEN ASSUMING THAT YOUR
CD-5 IS BETTER.

>> I GUESS WHAT I THOUGHT THE
JUDGE DID WHEN IT CAME BACK,
AGAIN, I HAVE TO LOOK BACK, IT
WAS THAT HE WHAT HE SAID, NO I
SEE THE EAST/WEST MAKES SENSE.
IT HAS GOOD SCORES BUT I'M NOT
GOING TO REQUIRE THE LEGISLATURE
TO PICK, QUOTE, THE BEST PLAN,
DID HE NOT?

I DON'T THINK HE CRITICIZED--

>> HE SAID THERE WERE TRADEOFFS
IN THAT AREA.

>> AGAIN I THOUGHT HE DEFERRED
AND THAT'S WHAT THEY WERE
CRITICIZING, THAT HE DEFERRED
AGAIN TO THE LEGISLATURE EVEN
THOUGH HE HAD FOUND THIS BECAUSE
HE SAYS THEY DON'T HAVE TO PICK
THE ONE THE CHALLENGERS WANT.
THAT MAY BE TRUE BUT THAT HE
DIDN'T USE THE SAME, THAT HE WAS
THERE SAYING HE WAS OVERLY
DIFFERENTIAL?

>> HE ALSO TALKED ABOUT THEIR
CD-2.

IT IS NOT DIFFERENTIAL TO SAY,
YOU JUST DESTROYED THE
COMPACTNESS OF THE ADJACENT
DISTRICT.

I WOULD ALSO LIKE TO POINT OUT
NOBODY IN THE LEGISLATURE EITHER
BEFORE OR AFTER THE FINAL
JUDGMENT INTRODUCED OR VOTED FOR
AN EAST/WEST DISTRICT.

NO DEMOCRAT INTRODUCED AN
EAST/WEST DISTRICT.

IN FACT THERE WAS A DEMOCRATIC
ALTERNATIVE INTRODUCED ON THE
REMEDIAL PLAN.

IT WENT NORTH/SOUTH TO ORLANDO.

>> LET ME ASK YOU THAT ABOUT THE
DEMOCRATS AND REPUBLICANS AND,
DEMOCRATS MAY LOOK AT, WHEN THEY
WERE IN THE CONTROL OF THE

LEGISLATURE I THINK WE SAID IN APPORTIONMENT 1, NOT LIKE ONE PARTY VERSUS THE OTHER.

THIS IS, WHEN THE PARTY IN POWER DOES WHAT THEY CAN TO KEEP IN POWER.

SO WHEN WE'RE LOOKING AT WHETHER THE DEMOCRATS LIKE SOMETHING OR THE REPUBLICANS DON'T LIKE SOMETHING, OR VICE VERSA, AREN'T WE TOO LOOK AT REALLY WHAT THE VOTERS WANTED WHICH WERE, YOU KNOW, FAIR DISTRICTS SO THAT THERE WEREN'T LIKE SAFE SEATS FOR DEMOCRATS AND SAFE SEATS FOR REPUBLICANS BUT THAT THERE REALLY COULD BE MEANINGFUL COMPETITIVE ELECTIONS?

>> YOUR HONOR, THE CONSTITUTION DOES NOT PROVIDE FOR THAT. AMENDMENT 6 DOES NOT SAY YOU HAVE TO DRAW COMPETITIVE DISTRICTS.

IN A SENSE, IT SAYS, THE OPPOSITE.

I MEAN IT JUST DOESN'T TALK ABOUT COMPETITIVE DISTRICTS BUT IT DOES SAY YOU CAN'T FAVOR OR DISFAVOR A PARTY OR INCUMBENT. SO IT SAYS, WE NEED NEUTRALITY. YOU NEED TO DRAW COMPACT DISTRICTS.

YOU NEED TO FOLLOW GEOGRAPHIC POLITICAL BOUNDARIES AND LET THE CHIPS FALL WHERE THEY MAY IS WHAT THEY'RE SAYING.

SO WE DREW DISTRICTS LOOKING AT REDS, BLUES, MAKE THEM COMPETITIVE, THAT WOULD BE BLATANTLY UNCONSTITUTIONAL.

>> BUT YOU HAVE TO LOOK AT, I GUESS, YOU DID POLITICAL PERFORMANCE.

YOU GOT TO LOOK--

>> WE DID NOT LOOK AT POLITICAL PERFORMANCE.

>> NOW WHEN WE'RE ANALYZING IT--

>> LET ME TELL YOU ABOUT WHAT THE POLITICAL PERFORMANCE SHOWS

AND WHAT THE EVIDENCE SHOWED ABOUT POLITICAL PERFORMANCE. AND THIS IS ON PAGE 58 OF OUR BRIEF AND PEREDA TESTIFIED ABOUT THAT AS WELL.

FIRST OF ALL UNDISPUTED EVIDENCE YOU JUST CAN'T TAKE ONE ELECTION IN ISOLATION.

YOU HAVE TO GO AT LEAST MORE THAN ONE ELECTION.

IF YOU TAKE THE LAST SEVEN ELECTIONS, AND LOOK AT THE CHART ON PAGE 58 OF OUR BRIEF, FROM 2010 ON, THE LAST SEVEN STATEWIDE ELECTIONS, THE REMEDIAL PLAN WOULD VOTE IN 122 REPUBLICANS.

ROMO-A WHICH THEY SAY THAT IS THE MAP YOU SHOULD DRAW, 123 REPUBLICANS.

SO IT'S MORE REPUBLICAN IN PERFORMANCE THAN OURS.

IF YOU TAKE THE LAST 13 ELECTIONS, BEGINNING IN 2006, I'M TALKING ABOUT STATEWIDE ELECTIONS, THE REMEDIAL MAP WOULD ELECT 209 REPUBLICANS.

ROMO-A WOULD ELECT 208 REPUBLICANS.

SO IT IS A DIFFERENCE FROM 16 REPUBLICANS TO 16.1.

NOT A STATISTICAL DIFFERENCE.

SO, IF YOU WANT TO LOOK AT POLITICAL PERFORMANCE, THAT'S WHAT THE EVIDENCE WAS.

AND THAT'S WHY THE JUDGE WAS APPLYING THE LAW AND NOT OVERLY CONCERNED BECAUSE THIS WAS SUBMITTED IN EVIDENCE AND HE, NOTED THAT OUR, OUR MAP, EVENTUALLY PERFORMED JUST AS THEIRS DID.

>> LET ME, ASK TO, THERE IS INTERESTING ONE WITH 13 AND 14. WHICH HAD THE, WHICH WAS ANOTHER ONE THAT TERRAFIRMA SAID IT WAS THE MAP, TAMPA IS FAR FROM PERFECT.

>> FIRST OF ALL THE CONCEPT THAT A SENATOR WOULD PUBLICLY THANK A

COCONSPIRATOR FOR DRAWING HIS DISTRICT IS LUDICROUS.

>> LET ME, IT WAS FAR FROM PERFECT.

NOW YOU HAVE PINELLAS GOING THEN INTO TAMPA.

AND, WE KNOW FROM THE RECENT ELECTION THAT, HAVING PINELLAS, NOT IN PINELLAS BUT IN TAMPA, PROBABLY AFFECTED THE, THAT DISTRICT'S RESULTS.

SO, IT'S, SOMETIMES THE SUBTLE THINGS THAT YOU ONLY KNOW WHEN YOU ARE LOOKING AT ACTUALLY WHAT HAPPENED THAT IS BEST INDICATOR THAT MAYBE THERE WAS, THAT THIS WAS DONE TO HELP THE DISTRICT 13 BE MORE REPUBLICAN LEANING.

>> LET ME RESPOND TO THAT THE EVIDENCE WAS THAT THERE WERE EIGHT MAPS THAT WERE SUBMITTED THAT HAD DISTRICT 14 GOING INTO PINELLAS COUNTY.

INCLUDING THE NAACP'S MAP.

THAT WENT INTO PINELLAS COUNTY.

SO IF YOU INFER THAT WE'RE CONFIRMING WITH POE SAUD TODAY, YOU HAVE TO INFER WE'RE CONSPIRING WITH THE NAACP BECAUSE WE ALSO THANKED THE NAACP FOR THAT DISTRICT IN CP-60, COALITION PLAINTIFF'S EXHIBIT 60, AT PAGE 60.

WE THANKED BOTH OF THEM, OKAY? THE, THAT DISTRICT WAS GOING INTO PINELLAS COUNTY, THIS COURT DREW IT THAT WAY IN 1992, WHEN IT DREW DISTRICTS.

IT ALSO DREW IT GOING INTO PINELLAS COUNTY BECAUSE THE PROBLEM IS, MINORITY PERFORMANCE.

THAT IS A COALITION DISTRICT IN WHICH BLACKS AND HISPANICS VOTE TOGETHER TO VOTE THEIR, THEIR CANDIDATE OF CHOICE.

>> WHO WAS-- CASTOR?

WELL IT IS CASTOR.

>> OKAY.

>> THIS IDEA THAT SOMEHOW--

>> NO, THAT IS 13.
I'M TALKING ABOUT 14.
>> I SEE, YOU'RE IN YOUR, I
THINK YOUR REBUTTAL--
>> PLEASE ASK AWAY.
>> NO, THANK YOU.
>> GO AHEAD.
>> LOOKS LIKE 13 WAS NOT A, FOR
CONGRESS WAS NOT A BLACK--
>> NO, I WAS TALKING ABOUT 14.
>> MAYBE I'M CONFUSED WHICH IS
HILLSBOROUGH?
>> WELL, HERE'S THE THING, 14S
GOES FROM HILLSBOROUGH COUNTY IN
PINELLAS.
13 IS WHAT IS IT LEFT OF
PINELLAS, OKAY?
>> SO WHICH WAS LOOKING TO BE
MADE MORE COMPETITIVE
MINORITIES?
>> NOT MORE COMPETITIVE, IT WAS
ALREADY A PERFORMING DISTRICT,
14.
WHICH IS ONE RIGHT BELOW 13.
ONCE YOU DRAW 14 THAT WAY, WE
DREW 13 TO HAVE 19 WHOLE CITIES.
IT CONTAINS 19 WHOLE CITIES.
YOU SEE IT IS VERY COMPACT.
THAT IS WHY THERE WERE MANY,
MANY MAPS THAT DREW IT THAT WAY.
IT IS VERY EASY TO DRAW IT THAT
WAY ONCE YOU HAVE THE REQUISITE
NUMBER OF, OF, MINORITIES IN 14.
AND THAT IS ANOTHER ONE, THAT
THE HOUSE DREW THAT WAY FROM THE
VERY BEGINNING.
AND, JASON PEREDA TESTIFIED,
ALEX KELLY TESTIFIED THAT'S WHY
THEY, FROM THE VERY BEGINNING OF
THE PROCESS THEY DREW IT THAT
WAY.
THAT IS WHY JUDGE LEWIS FOUND
THERE WAS NO IMPROPER INTENT TO
THOSE DISTRICT.
>> GIVE YOU EXTRA TWO MINUTES IN
REBUTTAL.
>> THANK YOU, YOUR HONOR.
>> THANK YOU.
>> MAY IT PLEASE THE COURT, MY
NAME IS ALLISON RIGGS.

I REPRESENT THE FLORIDA STATE CONFERENCE OF NAACP BRANCHES. THE RECORD BEFORE THE LEGISLATURE IN THE 2014 SPECIAL SESSION AMPLY DEMONSTRATED WHY THE LEGISLATURE HAD TO REJECT THE REMEDIAL CONFIGURATION OF CD-5 PROPOSED BY APPELLANTS AND INSTEAD MAINTAINED THE NORTH/SOUTH CONFIGURATION OF THE DISTRICT SINCE 1992.

TWO MAIN ELEMENTS OF THE RECORD SUPPORT THIS CONCLUSION.

THE FIRST THE NAACP DEVELOPED A WEALTH OF EVIDENCE DURING TRIAL AND PRESENTED THAT EVIDENCE DURING THE REMEDIAL SESSION AND THAT EVIDENCE SHOWED THAT BLACK VOTERS IN THIS REGION HAVE A SHARED HISTORY AND ARE POLITICALLY COHESIVE AS A DISTRICT.

CD-5, THEN C-3 WAS CREATED AS REMEDY FOR DECADES OF POLITICAL EXCLUSION OF BLACK VOTERS IN THAT REGION, AND FOR OVER 30 YEARS, WELL OVER 30 YEARS THE NAACP HAS HAD ADVOCATED FOR THIS DISTRICT, CERTAINLY NOT WITH ANY PARTISAN OR POLITICAL POINT. IT IS TO INSURE AFTER NOT HAVING AN AFRICAN-AMERICAN CONGRESS PERSON SINCE RECONSTRUCTION, THAT THAT WAS REMEDIED.

VOTERS TESTIFIED BEFORE THE LEGISLATURE, DURING THIS SPECIAL SESSION THAT THEY HAD REAPED BENEFITS FROM BEING ABLE TO ELECT A CANDIDATE OF THEIR CHOICE.

THEY HAVE SEEN INCREASED FUNDING FOR HVCUs.

THEY HAVE SEEN CONTRACTS AVAILABLE TO MINORITY CITIZENS THAT WEREN'T AVAILABLE BEFORE. THESE INDIVIDUALS ALSO TESTIFIED DURING THE LEGISLATIVE SESSION ABOUT THE CHALLENGES THAT FACE BLACK VOTERS IN THE REGIONS, IN THE COUNTIES COMPRISING CD-5 IN

THE NORTH/SOUTH CONFIGURATION.
THEY TESTIFIED HOW BLACK
CANDIDATES IN THESE COUNTIES
STILL STRUGGLE TO GET ELECTED
FROM NON-MAJORITY BLACK
DISTRICTS.

THEY TESTIFIED ABOUT THE
SOCIOECONOMIC CHALLENGES THAT
IMPEDE POLITICAL PARTICIPATION
IN THIS SPECIFIC REGION OF THE
STATE.

AND THAT WAS THE RECORD BEFORE
THE LEGISLATURE, DURING THE
SPECIAL SESSION, THAT JUSTIFIED
THE NORTH/SOUTH CONFIGURATION.
IN CONTRAST, THE EAST/WEST
CONFIGURATION PROPOSED BY
APPELLANTS HAS NUMEROUS FATAL
FLAWS AND CAN NOT BE A
REPLACEMENT FOR THE NORTH/SOUTH
CONFIGURATION OF CD-5 APPROVED
BY JUDGE LEWIS.

AS JUSTICE CANTERO MENTIONED
THIS IS NOT A COMPACT
DISTRIBUTE.

IT STRETCHES OVER, IT STRETCHES
206 MILES FROM JACKSONVILLE TO
CHATTAHOOCHEE WITH NO EVIDENCE
IN THE RECORD WHY THAT
DISTRICT MAKES SENSE FOR BLACK
VOTERS.

THE EAST/WEST CONFIGURATION OF
CD-5 WOULD DIMINISH THE ABILITY
OF BLACK VOTERS ELECT THEIR
CANDIDATES OF CHOICE.

LOOKING AT THE 2000 MIDTERM
ELECTIONS, WHICH IS PROBATIVE OF
POLITICAL BEHAVIOR IN A
NON-PRESIDENTIAL ELECTION, WE
SEE THAT, IN THE BENCHMARK CD-5,
BLACK VOTERS WERE A PLURALITY OF
THE TURNOUT.

WERE, BLACK VOTERS OUTNUMBERED
WHITE VOTERS, BY A NARROW MARGIN
BUT STILL OUTNUMBERED THEM.
THIS DRAMATICALLY CHANGES IN THE
EAST/WEST CONFIGURATION.

LOOKING A THE 2010 DATA FOR THE
EAST/WEST CONFIGURATION, WHITE
VOTERS WERE NEARLY 53% OF THE

ELECTORATE AND BLACK VOTERS WERE LESS THAN 42% OF THE ELECTORATE SO IT CHANGES THE CHARACTERISTICS OF THIS DISTRICT.

>> CAN YOU JUST REALLY TAKE THOUGH, THAT ELECTION, THE 2010 ELECTION, WHICH AGAIN, TO ME WAS, WE CAN KNOW IT WAS AN ANOMALY WHAT WAS HAPPENING. OBAMACARE JUST HAD BEEN PASSED AND THERE WAS A BIG PUSH DURING THAT TIME.

SO AGAIN, AND I APPRECIATE WHAT YOU'RE SAYING BUT CAN WE REALLY JUST TAKE ONE ELECTION AND THEN SAY, WELL, THAT SHOWS THAT THIS WOULD BE A FAILED DISTRICT FOR MINORITY CANDIDATES?

>> TWO ANSWERS THERE.

ONE THAT WASN'T THE ONLY INDICATOR IN FRONT OF THE LEGISLATURE.

ONE OF THE VICE PRESIDENTS OF THE NAACP, DALE LANDRY, WHO LIVES IN TALLAHASSEE, TESTIFIED WHY THIS DISTRICT, THIS EAST/WEST DISTRICT WAS AN ILLUSION DISTRICT.

THAT HE WORKS THERE.

HE KNOWS THE TURNOUT OF VOTERS IN THIS AREA AND HE WAS CERTAIN THAT THAT DISTRICT WOULD NOT PERFORM.

BUT ALSO, OF THE ELECTIONS THAT WE HAD IN FRONT OF US, THAT WAS THE ONLY MIDTERM ELECTION THAT WE HAD.

AND THE BURDEN ON OF PROOF WAS NOT ON THE LEGISLATURE HERE.

IT WAS ON CHALLENGERS TO SAY THIS DISTRICT WOULDN'T DIMINISH. ALL EVIDENCE IS TO THE CONTRARY. ANOTHER REASON WHY THE EAST/WEST CONFIGURATION IS FATALLY FLAWED IS BECAUSE IT WOULD STRAND TENS OF THOUSANDS OF VOTERS, BLACK VOTERS USED TO ELECTING THE CANDIDATE OF THEIR CHOICE IN DISTRICTS WHERE THEY WOULD NOT

BE ABLE TO DO SO.
THAT ECHOES SOME OF THE CONCERNS
JUSTICE PERRY HAD IN
APPORTIONMENT 2 IN THE SENATE
MAP.

IN CONCLUSION THE FLORIDA NAACP
RESPECTFULLY ASKS THIS COURT TO
AFFIRM JUDGE LEWIS'S
DETERMINATION THAT CD-5 AS
ENACTED IN THE SPECIAL SESSION
IS CONSTITUTIONAL.

THANK YOU.

>> THANK YOU.

GIVE YOU AN EXTRA TWO MINUTES AS
WELL.

>> THAT MEANS I HAVE GOT FIVE?

>> SEVEN MINUTES.

>> SEVEN MINUTES, THANK YOU,
YOUR HONOR.

THE QUESTION THAT IT SEEMS TO
ME, THE THAT CONFRONTS YOU HERE,
IS WHETHER MY FRIEND'S VIEW OF
THE CONSPIRACY IS THE SAME AS
WHAT YOUR VIEW OUGHT TO BE.

THEY SEEM TO SUGGEST THAT THIS
GRAND CONSPIRACY THAT THESE
POLITICAL OPERATIVES ENTERED
INTO THE WITH LEGISLATURE--

>> ISN'T PART OF THE QUESTION
THERE, FOR OUR ANALYSIS, WHAT
THE TRIAL COURT'S VIEW OF THAT
WAS?

>> YES, SIR.

>> IF THERE IS COMPETENT
SUBSTANTIAL EVIDENCE FOR THE
FINDINGS OF THE TRIAL COURT, WE
ARE GOING TO BE BOUND BY THOSE,
ISN'T THAT CORRECT?

>> I THINK THAT'S CORRECT.

>> SO A KEY PART OF ANALYZING
THIS IS UNDERSTANDING WHAT THE
TRIAL COURT ACTUALLY FOUND, WITH
RESPECT TO THE CONSPIRACY?

YOU WOULD AGREE?

>> I WOULD AGREE.

AND WHAT THE TRIAL COURT FOUND
SPECIFICALLY WAS THAT THE
LEGISLATURE-- LEGISLATORS,
COLLABORATED AND COOPERATED WITH
THE POLITICAL OPERATIVES.

NOW I AGREE, HE SAID SOME GOOD THINGS ABOUT THE STAFFERS. BUT IT SEEMS TO ME, IT IS A LOT WORSE WHEN HE TELLS IN HIS FINDINGS, THAT THE LEGISLATORS, AND THIS IS, THIS IS NOT SOME LEGISLATORS IN SOME COMMITTEE OR SOMETHING.

THIS IS, WE KNOW ABOUT APEX DEPOSITION, THIS IS APEX LEGISLATORS.

THE LEGISLATORS AT THE TOP OF THE LEGISLATURE ARE COLLABORATING AND COOPERATING WITH THE POLITICAL OPERATIVES. SO, SINCE HE HAS FOUND THAT-- >> BUT WEREN'T THOSE FINDINGS, AGAIN, LIMITED TO SPECIFIC CIRCUMSTANCES WITH RESPECT TO SPECIFIC DEFERENCES MR. CANTERO HAS GONE THROUGH AND THEY'RE OUTLINED IN THE ORDER?

>> AND WE SUBMIT TO THE COURT THAT IS WHERE THE TRIAL COURT ERRED IN FINDING THAT THE CONSPIRACY WAS SO LIMITED. IT SEEMS AMAZING TO SUGGEST THAT THIS GRAND CONSPIRACY WAS ALL ABOUT A BUBBLE OF 30,000 PEOPLE IN SEMINOLE COUNTY WHICH INCLUDED SANFORD, TO BE ADDED TO DISTRICT 5, AND, AN APPENDAGE IN DISTRICT 10 TO KIND OF HELP CONGRESSMAN WEBSTER HAVE A FEW MORE OF HIS PRIOR DISTRICT. THAT'S NOT THE EXTENT OF WHAT WE PROVED AT THE TRIAL. THAT'S NOT THE EXTENT OF THIS CONSPIRACY.

THE CONSPIRACY A HAD A MUCH BROADER PERSPECTIVE AS WE -- LET'S APPLY THAT TO AN EXAMPLE. 26 AND 27.

HE SAID WAS DRAWN THAT WAY FROM THE BEGINNING.

THE BEGINNING AS FAR AS THE PUBLIC MAP WAS 001 WHICH WAS RELEASED DEC. 6.

THE ORIGINAL MAP WAS COALITION PLAN TO EXHIBIT 1077 WHICH IS IN

EVIDENCE WHICH WAS DONE IN NOVEMBER AND DID NOT SPLIT HOME SALES.

THE CONVERSATIONS THAT YOU HAVE HEARD ABOUT BETWEEN HEFFLEY AND MR. TERRA FIRMA HAPPENED PRIOR TO IS THAT 26.

THEY FIXED THE PROBLEM.

THAT WAS THE EVIDENCE WE ESTABLISHED IN THE CASE.

AS FAR AS DISTRICT 13 IS CONCERNED, DISTRICT 13 SAYS THERE WERE SOME OTHER MAPS THAT WERE OFFERED AT ESTABLISHED THAT SPLIT PINELLAS COUNTY.

PINELLAS COUNTY WAS NOT SPLIT IN THE CONGRESSIONAL DISTRICT IN 1996.

IT WASN'T REALLY SPLIT UNTIL 2002 WHEN THE GERRYMANDERED POLITICAL MAP WAS CREATED, BUT IN THE EARLIER VERSION OF THIS THERE WERE A FEW SPLIT, BUT NONE OF THE PUBLIC MAPS MATCHED 13 IN PERFORMANCE AS DID THE PASSAT MAP.

THE MAP THAT WAS CREATED BY TERRA FOR MAPS FINGERPRINTS COULDN'T FIND ANYBODY TO SHOWS THAT MATT SO THEY CLAIMED SOMEBODY'S IDENTITY, IT WAS THE MOST AGGRESSIVE PERFORMING MAP OF ANY OF THE REPUBLICAN MAPS AND 13 PERFORMED EXACTLY THE SAME.

TERRA FIRMA WAS THE SAME FELLOW SENATOR GAETZ WAS SENDING BLIND PSs TO.

THAT WAS ONE OF THE ONLY FINDINGS WE GOT OUT OF THE RECORDS OF THE LEGISLATURE. EVERYTHING ELSE WAS SCRUBBED. WE HAD THOUSANDS OF PAGES ABOUT PARKING AT 26 PUBLIC HEARINGS ACROSS THE STATE FOR THE OPEN AND TRANSPARENT PROCESS BUT WE DIDN'T HAVE ANY COMMUNICATIONS IN THE RECORDS OF THE LEGISLATURE WITH THE POLITICAL OPERATIVES.

THEY ALL SOMEHOW DISAPPEARED.

MAYBE IT IS A COINCIDENCE.

A:INCIDENCE IS WHEN YOU CAN'T GET BEHIND THE CURTAIN AND SEE THE POLICE AND LEAVERS BACK THERE.

WE GOT BEHIND THE CURTAIN AND WE SEE THE COOLES AND LEADERS AND IT IS NOT A PRETTY PICTURE.

IT IN FEES THE MAP WITH PARTISAN INTENT ACROSS THE ENTIRE MAP. THEY HAD MINORITY PROTECTION. THEY SAID WE ARE DOING IT FOR THE PROTECTION OF MINORITIES THAT THEY ARE ACTUALLY HARMING THE CAUSE WHEN THEY REJECT THE OPPORTUNITY WITH THE EAST/WEST CONFIGURATION TO HAVE ANOTHER MINORITY PERFORMING DISTRICT IN CENTRAL FLORIDA.

THEY ARE CONCERNED ABOUT THE STRANDED MINORITIES.

>> THEIR ARGUMENT IS THE EVIDENCE AT LEAST FROM THE 2010 ELECTION IS THAT WOULD NOT BE MINORITY PERFORMING DISTRICT SO WHAT EVIDENCE DID YOU HAVE THAT THAT EAST/WEST CONFIGURATION WOULD BE?

>> THE PRIMARY WOULD BE CONTROLLED 57% BY THE MINORITY CANDIDATE AND IF YOU LOOK AT THE 2008 MAP THE MINORITY CANDIDATE IN THE EAST/WEST DIVISION WOULD HAVE 63.8% OF THE VOTE.

IF YOU LOOK AT 2010, UP 61% OF THE VOTE AND IF YOU LOOK IT 2012 SHE WOULD HAVE HAD 64.2% OF THE VOTE.

THOSE ARE LANDSLIDE PROPORTIONS BUT THEY ARE NOT SATISFIED WITH LANDSLIDE, THEY NEED AVALANCHE MARGINS.

THEY WANT DISTRICT 5 TO PERFORM IN THE 69% RANGE, BUT IT SERVES THE PURPOSE TO PRETEXT SO SURROUNDING DISTRICT WILL PERFORM REPUBLICAN.

THAT IS THE PARTISAN IMPACT THAT THE COURT HAS TO FACE.

>> THE NAACP ALSO?

>> IS A TERRIBLE MISTAKE BUT I CERTAINLY DON'T -- THEY HAVE THEIR POSITION.

I AM SUGGESTING HOW YOU GET MORE MINORITY VOTERS NOT TO BE IN A STANDARD SITUATION.

I AM SUGGESTING THAT CONFIGURATION THAT WILL PROVIDE THE ABILITY TO ELECT DISTRICTS FOR 203,000 MORE MINORITY VOTERS THAN UNDER THE LEGISLATURE'S PLAN.

IF THAT IS SOMETHING WE OUGHT TO CONSIDER, THE COURT SAID IN APPORTIONMENT THAT THAT WAS AN APPROPRIATE CONSIDERATION.

IF THERE ARE OTHER MINORITY DISTRICTS THAT WOULD BE FORMED IN THE LEGISLATURE BUT OUT OF PRETEXT FAILS TO DO IT.

THANK YOU VERY MUCH.

>> THE KEY FOR THE OPPORTUNITY FOR REBUTTAL.

>> WHAT IS IT YOU ARE ACROSS THE APPEALING?

YOU DON'T LIKE THE FINAL JUDGMENT BUT YOU ARE NOT APPEALING IT, YOU ARE NOT APPEALING THAT YOU DID WHAT THE JUDGE ASKED YOU TO DO.

WHAT IS IT --

>> WE ARE APPEALING THE JUDGE'S CRITICISM OF OUR ACCEPTING PUBLIC MAPS.

WE WOULD LIKE YOU TO FAKE IT THAT PART OF THE JUDGMENT WHICH SAYS THAT -- CRITICIZES US FOR HAVING A PROCESS WHERE WE LOOKED AT 86 CONGRESSIONAL MAPS.

THE JUDGE SAID IN THE JUDGMENT OBVIOUSLY WHOEVER SUBMITS A MAP AS PARTISAN INTENT SO YOU SHOULD KNOW THAT ANYBODY WHO SPENDS TIME TRYING A MAP DOES IT FOR PARTISAN REASONS.

I AM NOT SURE WHY YOU ACCEPTED IT BUT ONCE YOU ACCEPT IT YOU HAVE THE OBLIGATION TO GO BEHIND THAT AND DO ANY INVESTIGATION --

>> WHAT PART OF THE FINAL JUDGMENTS ARE YOU REFERRING TO? YOU ARE ASKING THAT VACATION OF A SINGLE FUNDING FACT?

>> JUST IN YOUR OPINION YOU SAY YOU REJECT THAT PART OF THE FINAL JUDGMENT THAT CRITICIZES OUR ACCEPTANCE.

>> IS THAT A CROSS APPEAL?

>> MAYBE IT IS JUST YOU REJECT--

>> A LOT MORE PAGES.

WE HAD TO READ A LOT MORE PAGES.

>> THAT IS NOT THE ONLY THING WE DID.

>> IS THERE ONE PART OF THE FINAL JUDGMENT?

CAN YOU GIVE ME WHAT PAGE YOU ARE REFERRING TO?

>> I THINK IT IS WHEN HE WAS DISCUSSING PUBLIC MAPS.

I DON'T RECALL EXACTLY THE PAGE NUMBER.

>> THE OTHER PART OF YOUR CROSS APPEAL BRINGS INTO QUESTION THE CONSTITUTIONALITY OF AMENDMENTS VI BASED ON THE ELECTION CLAUSE. IF THAT IS TRUE, AS AN THE ORDER APPROVING THE REMEDIAL REDISTRICTING PLAN, THE REVISED PLAN BY THE LEGISLATURE, WOULD THAT BE IN VALID SO YOU GO TO YOUR ORIGINAL MAP THAT WAS DRAWN?

>> THE LEGISLATION ADOPTING THAT MAP, IS IN FORCE ANYWAY AND THE CONSTITUTIONAL ISSUE FOR THE FUTURE, PEOPLE WHO PETITION THE REVIEW THAT THE COURT SHOULD CONSIDER.

>> YOU ARE NOT EVEN UNDER THAT ARGUMENT CONTESTING THE REDRAWN PLAN?

>> NO.

>> NOT THAT IT IS A REVIEW BUT YOU WOULD BE REVERSING BUT YOU NEED -- IS STILL AN ISSUE BECAUSE THE UNDERLYING BASIS FOR THE FINAL JUDGMENT WOULD BE VACATED.

THERE IS NO AMENDMENT 6.

>> ON THE ELEVENTH CIRCUIT,
THERE HAS BEEN SOME RECENT CASES
INVOLVING SOME OTHER ISSUES.
THE STATE SUPREME COURT, HER
BOUND BY WHAT THE FEDERAL COURT
DOES.

>> YOU NEVER FELT THAT WAY.
I DON'T THINK THIS COURT EVER
FELT WAS BOUND BY A ELEVENTH
CIRCUIT.

>> OTHER THAN THE U.S. SUPREME
COURT.

>> THERE WAS AN ARGUMENT IN THE
SUPREME COURT SIMILAR TO THIS
CASE BECAUSE IT CONCERNED AN
ARIZONA REDISTRICTING
COMMISSION.

>> THAT IS DIFFERENT.

>> DEPENDING ON THE WORDING OF
THE OPINION IT MAY OR MAY NOT
AFFECT THE ARGUMENT ON THE
ELECTIONS CLAUS.

THE COURT HAS NO FURTHER
QUESTIONS.

I ASK YOU TO AFFIRM THE JUDGMENT
EXCEPT FOR THAT PART THAT
CRITICIZES OUR USE OF MAPS.

THANK YOU VERY MUCH.

>> THANK YOU FOR YOUR ARGUMENTS.