

STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
COUNTY OF JASPER

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Mar 20 2024

S.C. SUPREME COURT

JASPER COUNTY,

Plaintiff,

v.

Transcript of Record
2022-CP-27-00082

ALVIN ADKINS and THE BOARD OF
VOTER REGISTRATION AND
ELECTION OF JASPER COUNTY,

Defendants.

November 13, 2023
Ridgeland, South Carolina
(Excerpt; File ends)

B E F O R E:

The HONORABLE MICHAEL G. NETTLES

n1

A P P E A R A N C E S:

Michael Burchstead, Representing the plaintiff
James Giliam, Representing the defendant

Skyler Hutto, Representing the defendant
Margie Matthews, Representing the defendant
Joseph Thickens, Representing the defendant
Charles Terreni, Representing Board of Voter
Registration

SHARON G. HARDOON, CSR
Official Circuit Court Reporter, III

1 THE BAILIFF: All rise.

2 THE COURT: I'm Michael Nettles and I'll
3 be glad to hear from the Plaintiff at this time.

4 MR. GILLIAM: Good morning, Your Honor.
5 My name is Jim Gilliam, along with Michael
6 Burchstead. I assume this is just our opening,
7 correct?

8 THE COURT: Yes.

9 MR. GILLIAM: Along with Michael
10 Burchstead. We represent Jasper County. So this
11 case is about Alvin Adkins and whether he's
12 qualified to hold the position that he was elected
13 for and currently is still in. That's the
14 Pocotaligo seat on county council. Mr. Adkins was
15 elected on January 4th -- or took office on
16 January 4th, 2021. He served for about a year and
17 there was no issue. The county was going through
18 redistricting in the latter part of 2021 and in
19 2022. About a year in to Mr. Adkins's services,
20 the county realized that Mr. Adkins's did not
21 reside in the Pocotaligo district. He did reside
22 in Pocotaligo at the time of the primary election.
23 He did reside there at the time of the general
24 election. He didn't reside there at the time he
25 was sworn in.

1 Because Mr. Adkins did not reside in the
2 Pocotaligo district, he was not qualified to hold the
3 seat that he was elected for.

4 So as soon as Jasper County -- Jasper County
5 realized this on January the 18th, 2022. That's when
6 this came to light. Jasper County filed this lawsuit
7 at the beginning of February. It's a declaratory
8 judgment action asking this Court to declare certain
9 things.

10 Let me back up a little bit and tell you
11 about Jasper County. So Jasper County has five
12 council members, and those council members are elected
13 pursuant to a county ordinance. We talked a lot about
14 it in this case. It's ordinance 2-31. It's been on
15 the books for a long time. It's been on the books
16 since 1976. Jasper County has been electing council
17 members the way that it does right now for at least 53
18 years. So it dates back to 1970. There's an old
19 holding from the general assembly for a Home Rule.
20 We'll talk about that. It's at 982 where the general
21 assembly prescribed the method of election for Jasper
22 County citing it as it is today; at-large with a
23 residency requirement.

24 So ordinance 2-31, really two main parts of
25 it, the first part of it is how the council members

1 are elected. And how the council members are elected
2 is at-large, meaning all the qualified electors in
3 Jasper County, they make up all the council members.
4 So for the five council members, the ordinance states
5 there is no residency requirement for one member.
6 That's the at-large member. The ordinance provides,
7 "And one member shall have no residency requirement."
8 But for the other four council members, there is a
9 residency requirement. One resident from each
10 township.

11 So, Your Honor, I'm going to talk a little
12 bit later about -- I think it's important, in
13 declaratory judgment cases especially, to tell the
14 Court what we want, but, you know, the big thing that
15 we want that we talked about so far is we want the
16 Court to decide whether Mr. Adkins is qualified to
17 hold the office that he was elected for and currently
18 sits in, and that's the Pocotaligo seat on the county
19 council.

20 So in terms of the -- I, kind of, got a
21 visual presentation up here today just to make it
22 easier for the Court and everybody.

23 So if you're going to run for a party
24 nomination in South Carolina, you got to fill out
25 one of these forms. We call them SIC

1 applications, but it's statement of intention of
2 candidacy and party pledge. Now, you're going to
3 hear from Mr. Adkins today and he's going to
4 testify that's his signature. Everything above,
5 if I may just walk over here just to demonstrate,
6 so this statement is his. All the handwriting on
7 this form is his. You'll see up there on the
8 party, he writes DEM for Democrat. Note that he
9 was running as a Democrat for this position.
10 Under district, he wrote Pocotaligo. And there's
11 a fill-in-the-blank section under the party pledge
12 where it says, "I hereby file my notice as a
13 candidate for the nomination as....," and he wrote
14 county council, Pocotaligo. And he also put in
15 his address. His address is 67 Bolder Lane,
16 Yemassee, South Carolina.

17 Now, Mr. Adkins is going to tell you,
18 he's lived at that address ever since 2000 to the
19 present. Hasn't lived anywhere else. He's also
20 going to tell you that from 2000 up until he
21 filled out this form he always votes in the
22 Coosawhatchie district. He didn't vote in the
23 Pocotaligo district.

24 So Mr. Adkins decided that he was going
25 to run for this position. These are just the

1 statewide election results. This is from
2 scvotes.gov. So he decides he's going to
3 challenge the long-time incumbent Henry Ethridge,
4 who holds this Pocotaligo seat. Sorry to walk so
5 much.

6 THE COURT: That's all right.

7 MR. GILLIAM: Just to point it out for
8 the Court, you can see here this is not the best
9 color contrasts. I don't know who decided to have
10 blue on black. But anyway, you can see this is
11 the Pocotaligo township, this is the primary
12 election, June 9, 2020. Mr. Adkins defeats Henry
13 Ethridge, 56 percent. Another thing to note. So
14 Jasper County, they stagger their elections for
15 county council. That means not everybody runs at
16 the same time. Okay?

17 One of the other seats that was also
18 contested in this Democratic primary is an at-large
19 seat. Again, one with no residency required. In the
20 Democratic primary, Samuel Gregory won that nomination
21 defeating Tom Johnson. Okay?

22 So then we go to the general election,
23 November 3rd, 2020. So these are the results from
24 November 3, 2020. You know how it is, there's always
25 some people who write in who they miss. So Mr. Adkins

1 runs unopposed, again, for Pocotaligo township. He
2 wins, 98 percent of the vote. In the at-large, Samuel
3 Gregory won the Democratic nomination. He challenged
4 the Republican, John Kemp for the at-large position.
5 Mr. Kemp wins, so he holds the at-large position.

6 The other position that's being
7 challenged at that time is the Hardeeville
8 township district, which Miss Barbara Clark wins.
9 So that is the November election.

10 So Mr. Adkins takes office on January
11 4th, 2021. And he's sworn in.

12 I told the Court at the very beginning, so at
13 the end of 2021 and 2022, the county starts that
14 once-a-decade process of redistricting. Most Counties
15 in the state with the exception of a few, they get
16 assistance in redistricting from the South Carolina
17 Revenue and Fiscal Affairs Office. I had to read that
18 because we just call it RFA. That's what we call it.
19 You're going to hear from Frank Rainwater. He's the
20 executive of the RFA. And the RFA is a non-partisan
21 entity. I mean, they don't have a dog in any sort of
22 fight. They deal with maps and they deal with
23 population. They are the liaison between the U.S.
24 Census Bureau and the State of South Carolina. They
25 have all the official precinct maps, and they help

1 counties, if they're going to have to do the
2 redistricting process, so they can redraw their lines.

3 Now, one of the things the RFA asks for,
4 first thing they ask for is, they want to know,
5 they want to see all the addresses and the names
6 of the current council members and where they
7 represent. They ask that because they don't want
8 to draw somebody out of the district. Right?
9 Makes sense?

10 So on January 13, 2022, is the first time
11 RFA presents to county council. This is one of
12 the maps that they create. So this shows where
13 all the council members live as of January 2022,
14 and at the time of election too. Okay?

15 A couple things to point out. So the
16 shades are a little bit difficult, but this is
17 Coosawhatchie. Okay? Coosawhatchie is spelled
18 just like it's pronounced. Coosawhatchie. Right?
19 Coosawhatchie is one district. Pocotaligo we
20 talked about. There's Robertville -- sorry.
21 Hardeeville, Robertville, Coosawhatchie, and
22 Pocotaligo.

23 So this is what we know. John Kemp is
24 at-large, meaning he has no residency requirement.
25 Martin Sauls is the representative of Coosawhatchie so

1 he's in the right spot. Mr. Adkins resides in
2 Coosawhatchie. This is Pocotaligo. This is the seat
3 he was elected to serve.

4 So Mr. Kemp, during the January 13, 2022,
5 meeting, at-large, Mr. Kemp, during the council
6 meeting when RFA presented to council, he points that
7 out. And RFA says, we're going to go back and check.
8 So RFA can geocode their maps. They know precisely
9 where everybody resides. They go back. They confirm
10 this indeed is the map. So January 18th, they tell
11 council that's the map. Mr. Adkins does not reside in
12 Pocotaligo. This lawsuit was brought on February the
13 7th.

14 And another thing that happened in
15 February -- and this is important to know. So, again,
16 I told you council is going through this redistricting
17 process. So on February 22, 2022, council passes
18 redistricting coordinates. Okay?

19 So this is the old map, right here. So
20 this is Coosawhatchie. This is Pocotaligo. And
21 this Adkins up here. He's this little dot right
22 here. So this is what the map looks like after
23 redistricting. They change the line of
24 Coosawhatchie and Pocotaligo. They draw it to
25 include Mr. Adkins's residence in Pocotaligo.

1 Now, the ordinance says it's effective
2 February 22nd of 2022. So I think the Court may be
3 asking something. Well, no harm, no foul. Right? I
4 mean, the guy, you know, didn't live in Pocotaligo at
5 the time he was elected. But council redraws it in
6 February. Now he does reside there.

7 The only guidance on this issue is an
8 attorney general opinion. We cited it in our
9 pretrial brief. It deals with the town of
10 Ridgefield. Exact same situation happened in
11 Ridgefield. There was a council member. He
12 served on council for 16 years, and he discovered
13 he don't live in the town. So he came up with the
14 idea, you know what we should do, we should annex
15 my residence into the town and that will fix it.
16 The town attorney writes to the attorney general,
17 in 1997, and asks, if we did that, that would cure
18 his disqualification for office. The attorney
19 general says, no, if you are not qualified at the
20 time of your election, your election is a nullity
21 and recommended that there be a special election.

22 So, you know, a little bit of an unusual
23 trial today. Little bit unusual because I don't
24 believe we have a genuine issue of material fact.
25 I think the only facts that matter are two things.

1 Where did Mr. Adkins reside at the time of his
2 election? It's going to be uncontroverted. He
3 resided in Coosawhatchie, not Pocotaligo. And, of
4 course, then we have the redistricting ordinance,
5 if the Court thinks that matters, or that plays an
6 impact in terms of applying the undisputed facts
7 to the law with the redistricting ordinance
8 drawing Mr. Adkins in to the Pocotaligo district.

9 So I told you at the beginning, again,
10 this is declaratory relief. I was taught that I
11 need to tell the Court what we're asking you to
12 do. It's kind of an important thing.

13 THE COURT: Are you asking that there be
14 a special election, that all the actions that have
15 taken place between his election and now be valid
16 as a de facto member, and that he be allowed to
17 serve until a special election?

18 MR. GILLIAM: Yes, sir. We don't need to
19 go through it then. You got it.

20 So from a legal perspective, this case is
21 going to be about -- really, this is the only
22 dispute in this case. It's going to be about
23 ordinance 2-31. This is the election that
24 prescribes the method -- or this is the ordinance
25 that prescribes the method of election for council

1 members.

2 So we talked about the first part of this
3 before the semicolon, and it just says, "Jasper
4 County is going to elect all five members
5 at-large." No dispute about that.

6 The dispute is about the language after
7 the semicolon and it reads: "Provided that at
8 least one member of the council shall be a
9 resident of each of the four townships of the
10 county and one member having no residency
11 requirement." That's the dispute. What does that
12 ordinance mean?

13 All right. We know whenever we're doing
14 ordinance interpretation, or statutory
15 interpretation, we know we have to pick an
16 interpretation that gives effect to all the words
17 in the ordinance. We can't give an interpretation
18 that renders portions of the ordinance meanings.

19 So Mr. Adkins's argument is all about this
20 language with "provided." "Provided that at least one
21 member of the council shall be a resident of each of
22 the four townships of the county." Mr. Adkins doesn't
23 say anything about the remaining portion. "One member
24 having no residency requirement." He acts like that
25 portion doesn't exist. But it does, and that's clear

1 as day. Right? We got five council members, and one
2 member has no residency requirement. What does that
3 mean? Well, that certainly doesn't mean that he can
4 be from Florence County and be elected. It just means
5 he can live anywhere in Jasper County. One member has
6 no residency requirements. And then the provided
7 language says, again, very clear, for the other four
8 council members that there's a residency requirement.
9 One resident from each township district. That's what
10 the ordinance says.

11 So another thing to point about this
12 language, and hinted at it earlier, this provided
13 language -- so this ordinance goes into effect
14 June 25, 1976. So before Home Rule, back when
15 general assembly used to tell counties how you're
16 going to elect people, before the power was
17 returned to the county seat, this was the statute
18 that was on the books for Jasper County. And you
19 see this provided language? This is language that
20 when Jasper County gets to decide its own method
21 of election, it just brings over this language
22 from that 982 to make it part of ordinance 2-31.
23 It's not exactly the same, but it's similar. What
24 it reads is, "Provided that beginning in 1970 and
25 all times thereafter, there shall be at least one

1 member of the council who is a resident of each of
2 the four townships of the county."

3 Another thing to know about Jasper's
4 ordinance, ordinance 2-31, is that, when it
5 created ordinance 2-31, it sent it to the United
6 States Department of Justice for pre-clearance.
7 It sent that on June 28th, 1976. And they got a
8 response back from the U.S. Department of Justice
9 saying that the U.S. Department of Justice has no
10 objection to that method of election.

11 So the first legal issue is going to be how
12 do we interpret ordinance 2-31. The second legal
13 issue is going to be -- the argument is, well, Jasper
14 County's method of election, which is at-large with a
15 residency requirement, it violates State law. That's
16 their second argument.

17 I'll point out, you know, there's a
18 statute that says if you're going to argue that a
19 statute or ordinance is unconstitutional, you got
20 to serve the attorney general. I mean, you have
21 to. It says "shall." There's been no service to
22 the attorney general. So I don't think these
23 arguments are proper, but we'll entertain them
24 anyway. So, again, what Mr. Adkins is saying is
25 the method of electing at-large with a residency

1 requirement violates State law.

2 Well, there's a decision about this, and
3 it's an old decision too. It's from 1977. It's
4 the *Infinger* case. It was decided by Bubba Ness.
5 And it was about Charleston County's method of
6 election. So Charleston County is the same as
7 Jasper County at that time.

8 So there's this -- before I do that, I want
9 to point out what this says here. So this talks about
10 the challenge to Charleston. And here's the
11 challenge, it says this: "The second case challenges
12 the residency requirements of the at-large elections
13 for Charleston County Council as repugnant to the Home
14 Rule Act. The lower court upheld the district
15 residency provisions and we affirm."

16 So when they are arguing that this method of
17 election -- I'm going to go through this case a little
18 more. But when you're arguing this method of election
19 violates State law, they're arguing against precedent.
20 I mean, the Supreme Court has already determined that
21 this method of election is perfectly legal.

22 But Charleston County's method of election,
23 at that time, is just like Jasper is now.

24 So here's the Home Rule Act, or part of it,
25 and it's what's discussed in the *Infinger* case. So

1 4-9-10(a), when the general assembly decides we're
2 going to create the Home Rule, and the county is going
3 to determine how they're going to elect folks, they
4 don't give the counties carte blanche to do it. They
5 provide them a framework. 4-9-10 is that framework.
6 What that says is each county may, prior to
7 July 1, 1976, conduct the referendum to determine
8 their method of election. If you don't have a
9 referendum before July 1, 1976, you're subject to
10 4-9-10(b). Right? And 4-9-10(b) is going to say,
11 you're going to have to return to the form of
12 government and method of election that you had prior
13 to July 1, 1976. So Charleston County, just like
14 Jasper County, in this *Infinger* case. They don't have
15 a referendum before 1976 to determine their method of
16 election.

17 So end up under 4-9-10(b) so they can fall
18 back to what they had before July 1, 1976, just like
19 Jasper County, because we have the ordinance that
20 precedes July 1, 1976. And what Charleston County
21 defaulted back to is the same method that Jasper has
22 right now; at-large with a residency requirement.

23 Here's what the Supreme Court said in that
24 case. So, a couple of points to read to the Court.
25 So, the argument, again, is the same argument that

1 Mr. Adkins is making. You see this reference to the
2 section 14-3701(b)? That is currently 4-9-10(b). It
3 reads the same thing. Here's what it says, here's
4 what the Supreme Court says -- because what the
5 Supreme Court is saying is they're saying, hey, you're
6 challenging the way they elect, but they're electing
7 just like the 4-9-10(a) and (b) tells them to. They
8 didn't have a referendum, so they have to default
9 back.

10 Here's what the Court says, section
11 14-3701(b) as quoted above, specifically provides,
12 that, "In the absence of a referendum, the county
13 is to maintain the form of government most nearly
14 corresponding to that form and effect prior to
15 July 1, 1976, form of government as statutory
16 defined to include the method of election."
17 Unquestionably at number 94, which creates
18 Charleston County's voting method, was effective
19 prior to July 1, 1976, and it prescribed at-large
20 elections with district residency requirements as,
21 "The trial court correctly observed. There can be
22 no manifestation of correspondence closer than
23 absolute identity." And also down here what the
24 Supreme Court says -- again, worthwhile to point
25 out, "The uniformity contemplated by the Home Rule

1 Act is the realization of complete local autonomy.
2 It is not the desire to stereotype. It is not the
3 desire to stereotype local governing bodies. Home
4 Rule implies a certain degree of flexibility and
5 individuality. District residency requirements in
6 no way ameliorate the intended uniformity of the
7 Home Rule Act." So *Infinger* has already decided
8 this issue.

9 And you may be wondering, well, what does Mr.
10 Adkins say about *Infinger*. Mr. Adkins says the same
11 thing about *Infinger* that he says about that other
12 provision of ordinance 2-31 that we talked about,
13 that, "And one member shall have no residency
14 requirement." Nothing. I mean, just act like
15 *Infinger* doesn't exist, but it does.

16 Likewise, Mr. Adkins, you know, doesn't say
17 anything about 4-9-10. Acts like that doesn't exist.
18 Again, that statutory scheme says, if you don't have a
19 referendum prior to July 1, 1976, you have to default
20 back to the form of government you had in place prior
21 July 1, 1976. Uncontroverted, the form of government
22 in place in Jasper County prior to July 1, 1976, is
23 the form that's going on right now; at-large with a
24 district residency requirement.

25 The next argument is that Jasper County's

1 method of election violates statute 499. Again,
2 this is a half-reading of the ordinance. The
3 argument is, Jasper County has to elect from
4 defined single-member districts. That's just half
5 that sentence. It says, "Council members must be
6 elected from defined single-member election
7 districts, unless otherwise determined by the
8 provisions of subsection (a), (b), (c) of 4-9-10.
9 So we just talked about that.

10 But, before I go there, I'll just show
11 you this language. This is also interesting to
12 point out, this is 4-9-10. I mean, It says
13 specifically that you can have at-large elections.
14 It says, "A referendum may also be called to
15 determine the wishes of registered electors. As
16 to the question of whether the members of the
17 governing body of the county shall be elected from
18 defined single-member election districts or
19 at-large from the county, it says you can do it.

20 But, also, when we look at this --

21 I need you to go back one for me, Miss
22 Payne. I apologize.

23 So when we look at this, again, their
24 argument is, we have to elect from defined
25 single-member election districts. Well, that's

1 accurate unless you fall under 4-9-10. Right?

2 And we just talked about 4-9-10. Again, 4-9-10(a)
3 says counties may have a referendum prior to July
4 1, 1976. If they don't, they go back to the form
5 of government that they had prior to July 1, 1976,
6 which, in the case of Jasper County, is the form
7 they have right now. So Jasper County falls
8 within that "that otherwise prescribed" exception
9 in 49-90.

10 And the, sort of, last argument that they
11 make about about 4-9-90 --

12 Go the next one, Miss Payne. I think it's
13 the next one. Perfect.

14 The other argument they make is this:
15 They say, "In the event members of the governing
16 body are required to be elected from defined
17 single-member election districts, they must be
18 elected by the qualified electors of the district
19 in which they reside." So they argue Jasper
20 County's form of election is violating the statute.
21 We don't have defined single members. We have
22 at-large elections in Jasper County, so that's not
23 applicable.

24 Final thing to point out to the Court,
25 and I think it's an important thing, you know,

1 when we look at the Home Rule statutes, 4-9-10, I
2 would submit to the Court that the question that
3 they're -- Mr. Adkins is asking a lot of this
4 Court when he's asking the Court to invalidate the
5 form of election that Jasper County has had for 53
6 years. And I would submit to the Court, too,
7 that, if you look at 4-9-10, the general assembly
8 makes a choice, and they say that the only people
9 who can decide their form of election are the
10 people who are residents of that county. Nobody
11 else. Qualified elector.

12 So we talked about 4-9-10 a lot.
13 4-9-10(a) says, again, the counties may have a
14 referendum to decide the form of election prior to
15 the July 1, 1976. If they don't, they default
16 back to (b), which is the form of government
17 method of election they had before July 1, 1976.

18 But let's look at (c). Okay? (C) says
19 this -- I'm going to paraphrase it and then I'll just
20 tell you -- or read it. The only way you can change
21 -- so, if you don't have a referendum by 1976, you can
22 have a referendum any other time. That's what (c)
23 says, to change a method of election. In fact, (c)
24 says, "The only way to change a method of election is
25 through a referendum." Nobody else can change the

1 form of election.

2 The general assembly has made a choice,
3 and it's decided to put in the will of the people
4 of Jasper County to decide how they're going to
5 elect their leaders.

6 I would submit to the Court that this is
7 nonjusticiable.

8 You know, this court isn't equipped to
9 make political decisions, such as how Jasper
10 County should elect the people who represent it
11 and its leaders. The general assembly has said
12 that that power rests with the people. It says
13 this: "No change to an alternative form of
14 government or method of election of council shall
15 become effective unless such proposed form
16 receives a favorable vote of the majority of those
17 persons voting in a referendum. After the initial
18 form of government has been adopted and selected,
19 the adopted form number and method of election
20 shall not be changed for a period of two years
21 from the date such form becomes effective, and
22 then only as a result of a referendum as herein
23 provided for."

24 So, you know, in my judgment, Your Honor,
25 of 4-9-10(c), it's clear this Court doesn't have

1 the power to change Jasper County's form of
2 government. It seems to be what Mr. Adkins is
3 asking the Court for today.

4 In summary, Your Honor, this is a
5 declaratory judgment action. We're asking for
6 things. Number 1, whether Mr. Adkins is qualified
7 for the position that he currently holds, the
8 Pocotaligo seat on county council. Just to kind
9 of stair step it for you, if he's not qualified,
10 there's a vacancy. So, number 2, we'd ask,
11 whether there's a vacancy in the seat that
12 Mr. Adkins holds. If there is a vacancy, whether
13 the Court has to order an election. 4-9-90
14 answers that question. The timing of the election
15 depends on when the Court declares the vacancy.
16 If there's less than 180 days before the general
17 election, the general election will fill the seat.
18 If there's more than 180 days, there will be a
19 special election.

20 The fourth thing we want the Court to
21 answer is whether the redistricting ordinance
22 cured Mr. Adkins's unqualification for office,
23 which was passed in February 22, 2022.

24 And the fifth thing, it's probably the
25 most important to the county, is that, you know,

1 this is an unusual case. The thing that Jasper
2 County doesn't want to have happen is, Mr. Adkins
3 was in office. There's no way to remove him. He
4 was voting. We do not want his actions to be
5 subject to some sort of collateral attack later
6 down the road.

7 We dealt with this issue at length in our
8 brief. The law is clear, he should be considered
9 a de facto officer. There's no response argument
10 from that, but we would like for the Court to
11 order that as well.

12 Thank you very much.

13 THE COURT: Yes, sir.

14 MR. THICKENS: Yes, sir. May it please
15 the Court? May I approach, Your Honor? I want to
16 put a copy of this ordinance in your hands.

17 THE COURT: You want to identify yourself
18 for the court reporter.

19 MR. THICKENS: Yes, sir. This is Joe
20 Thickens on behalf of Mr. Alvin Adkins. This is
21 identical to plaintiff's.

22 MR. GILLIAM: Sure.

23 MR. THICKENS: So, Your Honor, I wanted
24 to start with the ordinance because we are going
25 to talk a lot about it, and I think the wording of

1 this ordinance is just -- it's the only thing,
2 really, that this Court's decision should hinge
3 on, because this is the ordinance that everybody
4 agrees is what entitles, or what authorizes
5 someone to run for office in Jasper County for the
6 seat of county council. It does provide for
7 at-large voting. And then it says that, "Each
8 resident of the council shall be a resident from
9 one of the four townships of the county, and one
10 member shall have no residency requirement." And
11 our argument is really a very simple one, and the
12 rest of the time I'll spend responding to a few
13 things that Mr. Gilliam has brought to the Court's
14 attention.

15 But, Mr. Adkins is, on the maps we've
16 seen and every -- you know, it's controverted he
17 is a resident from one of the four townships in
18 Jasper County. So he checks qualification number
19 1. He is a resident from one of the four
20 townships of the county and he was elected
21 at-large So he checks number 2. And he serves on
22 county council just as those two qualifications
23 entitle him to. He's met the only two
24 prerequisites to office that there are. So he's
25 qualified to sit on county council and the inquiry

1 can end there.

2 The first thing that Jasper County
3 indicated it was asking for was for the court to
4 uphold whether Mr. Adkins is qualified. And right
5 there, you are able to hold that he is qualified
6 for the office because he meets the terms of this
7 ordinance.

8 Now, I want to walk through the statutes
9 that we just talked about. I'm going to try to
10 put a couple up on the screen.

11 THE COURT: Sure, take your time.

12 MR. THICKENS: Beg the Court's
13 indulgence. Let's see if it pops up.

14 The good news is, I was kind of relieved,
15 as he was going through his presentation, we're
16 all talking about roughly the same statutory
17 provisions.

18 As you can see, 4-9-10, and the reason I
19 present it in this format is, it is a much, much
20 longer statute than we looked at so far. And I'm
21 going to get as close as I can here. But 4-9-10,
22 of course, you know, begins the qualifications and
23 method for electing of council members of
24 government.

25 Now, we talked about -- we looked at this

1 ordinance. And one statute that we haven't talk
2 about yet is 49-610, which is cited at the
3 bottom -- I'm holding plaintiff's exhibit number
4 7. I passed up a copy. That was one that I
5 printed out. But 4-9-610 is the authority from
6 which this authority was derived.

7 Now, we haven't talked about 610 yet, and
8 it's a little bit convoluted how you get there but it
9 is cited on this ordinance. So I think that begs the
10 question why Jasper County's ordinance is relying on a
11 different code section than anything we talked about
12 yet.

13 So to get there, we do have to go to
14 4-9-90 -- and, again, I apologize the format I'm
15 presenting it, but these statutes are very long.
16 And I thought that really the only way to hammer
17 home when we're talking about a larger body of law
18 that is really only able to be presented in
19 snippets is just to show you the whole thing.

20 So here's 4-9-90. It's going to take up
21 the whole screen here. And we spent a lot of time
22 talking about this first paragraph here, which was
23 highlighted in a couple different parts of the
24 presentation. That sets forth the default method
25 for election of council members, for county

1 council governance. And it does say -- it does
2 talk about if they're from single-member
3 districts, they have to be elected by qualified
4 members of that district. I'll talk about that in
5 a little bit. But 4-9-90 -- let's see where we
6 are here. 4-9-90 is the default method, the
7 default method for how to conduct council member
8 elections. That is not the method that Jasper
9 County employs. That's the method that they are
10 urging you to adopt and enforce, but it is not
11 what is set forth or cited in this ordinance.

12 So if we go back to 4-9-10, (b) says, "Not
13 withstanding any other provisions of this chapter."
14 Then we have lists of counties that have actually
15 adopted different forms of government. And Jasper is
16 down here as adopting the council administrator form
17 of government which is prescribed in Article 7 of
18 Title 4, Chapter 9.

19 Now, that's important because it does not
20 throw it to 4-9-90 that was just urged. In fact,
21 if we go down to Article 7 in the code -- we read
22 Article 5. Article 7 -- Article 7, 4-9-610, which
23 is cited in that ordinance. Now, Article 7,
24 4-9-610, which Jasper County has adopted sets
25 forth one of the alternative members for electing

1 council. "Council in those counties adopting the
2 council administrator form of government," which
3 Jasper does use, "shall consist of not less than
4 three and no more than 12 members who are
5 qualified electors of the county. Council members
6 shall be elected in the general election for a
7 term of two or four years commencing before the
8 first January following their elections."

9 So this statute has a broader residency
10 requirement. It just says that they have to be
11 qualified electors of the county, of Jasper
12 County, which, based on everything that has been
13 put forth and it's stipulated in this case,
14 Mr. Adkins is a resident of Jasper County. And he
15 was elected in the general election. He was
16 elected at-large in the general election, in fact.

17 So under 4-9-610, which is the authorizing
18 statute for this ordinance, he is qualified. And
19 under a plain reading of the ordinance, he's
20 qualified.

21 Jasper, I also wanted to mention -- let's
22 see. I got to scroll back up to 90. I wanted to
23 reiterate following that trail, "Council members
24 must be elected from the defined single-member
25 election districts unless otherwise determined

1 under the provisions of subsection (a), (b), or
2 (c) of 4-9-10.

3 Again, 4-9-10, section (b), the full part
4 of it, not what the -- you know, more than what we
5 were able to look at from the PowerPoint slide,
6 the full part of section (b) down there at the
7 bottom when you scroll down contains the specific
8 election of list of counties, including Jasper, to
9 get thrown into Article 7 which goes to subsection
10 610.

11 So, they have chosen an alternative form
12 of government that takes it out of 4-9-90. You're
13 following that chain at 4-9-90 back to 10, 10
14 throws it to 610. So we're not even in the
15 single-member election district arena.

16 We're not arguing -- I'm not sure where
17 asserting the attorney general argument came from.
18 This is a defense that has been raised by us.
19 We're not asking them to change the statute. In
20 fact, as you may have gathered by now, we think
21 they followed the statute. The statute was
22 enforced and has been applied as written and he's
23 qualified to serve, so we're really not sure why
24 we're here in that respect.

25 But my argument, and our argument is not that

1 4-9-90 is unconstitutional. It's that, if you
2 accepted the proposition put forth by Jasper County
3 that they have single-member districts in
4 contravention of what's cited in the code, then they
5 are doing it wrong. Because, if you had single-member
6 districts, then the council member elected from those
7 districts would have to be elected by the qualified
8 electors just of that district.

9 Jasper County conducts elections for all
10 five of its council members at-large So you would
11 have people in Coosawhatchie voting for
12 Pocotaligo's single-member district
13 representative. That would make absolutely no
14 sense, and would be contrary to what is required
15 in 4-9-90, if you conducted single-member election
16 districts because they must be restricted to the
17 district in which they reside. You don't even
18 need to -- the Charleston case is inapplicable.
19 The reason why we didn't discuss it is because
20 we're not even in this realm. We are in a totally
21 different code section, Article 7, that really
22 there's no relevance to the *Infinger* case or how
23 you might do single-member election districts if
24 that's what Jasper County used.

25 There are the couple other things that

1 were raised that I want to make sure to respond to
2 just in opening. First of all, the
3 one-member-have-no-residency-requirement clause at
4 the end of this ordinance would -- certainly, it's
5 been raised by the plaintiff as a reason to read
6 the ordinance to require single-member districts.

7 I would submit that, A, we're not here to
8 talk about the last clause of the ordinance 2-31
9 today because it's really not at issue in this
10 case. Mr. Adkins is not claiming to have been
11 elected as the one at-large member of the council.
12 Interestingly, they are all at-large members on
13 this council.

14 But you could, if you were struggling
15 with that, or striving to find some reason why
16 there might be that clause in addition to four
17 at-least members of the council, you could see a
18 situation where a portion of a county may be
19 annexed between redistricting and there could be
20 an unincorporated member of -- or unincorporated
21 part of the county. And, constitutionally, you
22 would still, between the 10 years between when
23 redistricting happens and the lines could be
24 redrawn, you could see a reason why you want to
25 protect the constitutional right of the folks who

1 live in that annexed area or unincorporated area
2 of the county to run for council.

3 Again, we're just not there. I offer an
4 explanation solely because it was raised as a
5 point against -- you know, that we are not
6 discussing as a point against us. But I don't
7 think that we're there, and we certainly don't
8 have to prove why the county would have added that
9 clause to the end of the ordinance in order to
10 substantiate Mr. Adkins's right to serve in the
11 seat in which he was elected.

12 Again, the plain language of the
13 ordinance, really box 1 and box 2, he checks.

14 But I think it's interesting that if you
15 did adopt Jasper County's reading of the
16 ordinance, you do have to transpose certain words.
17 I, kind of, put an example in my brief. I don't
18 know if you've had a chance to look at that yet,
19 but if you look at the ordinance where it says
20 that, "Each member of the council shall be a
21 resident from one of the four townships in the
22 county," in order to read the ordinance like
23 Jasper County is urging, you essentially have to
24 transpose the words "each" and "one" to even get
25 close to the meaning. You have to say, *One member*

1 of the council shall be a resident from each of
2 the four townships of the county. That's not what
3 it says.

4 Or, you could more accurately read it,
5 that, *Each of the four townships of the county*
6 *shall elect one member of the council*, but that
7 puts us in the districts in 4-9-90, not in an
8 at-large council that's elected pursuant to
9 Article 7, 610, as is cited in the statute. So
10 that would fly directly in the face of the stated
11 legislative intent which is to track section 610,
12 not 90, and not default subsection (b) of 4-9-10.

13 Finally, one thing that I think further
14 mitigates in favor of following the plain language
15 of the statute, not twisting it to follow a
16 different code section, or to transpose words, is
17 that, if you did follow the logic of Jasper County
18 and applied the single-member 4-9-90 to how they
19 elected council members, going back to what I said
20 about how they have to be elected from
21 single-member districts.

22 If the court were to find that this
23 ordinance, which has at-large voting and just
24 requires residency in Jasper County tracking with
25 610, if the Court were to find that this was

1 actually a single-member district situation that
2 should fall under 4-9-90, then the only way to
3 accomplish that under the statute, regardless of
4 how it's been done for 50 years, or, you know,
5 that would be a different statute than what was
6 submitted to the DOJ for approval so you would go
7 back into the default of 4-9-90, the way to do
8 that is to have single-member districts from which
9 the people in the district elect the council
10 member. There is no statute that authorizes
11 at-large voting for purportedly single-member
12 districts. That would violate the one-person,
13 one-vote principle. You could have just a large
14 county that votes for everywhere else. It makes
15 absolutely no sense that there's no mechanism to
16 have at-large voting for single-member districts
17 in any of our statutes.

18 And so the ramifications of that would be
19 that you would essentially invalidate, not just Mr.
20 Adkins's seat, but four out of the five seats on the
21 Jasper County Council because four out of five of
22 these council members have been elected at-large to
23 purportedly single-member seats.

24 And so, if this ordinance does not say
25 what it says, if it doesn't say what it says and

1 we're not at 6-10 and we're supposed to be in 90,
2 then everybody has been elected by the entire
3 county of Jasper to fill purportedly single-member
4 seats and would drastically frustrate the
5 legislative purpose by invalidating four out of
6 five seats.

7 So not only do you have to the read the
8 statute unlike it says, ignore the citation
9 reference to subsection 6-10 and go to 4-9-90
10 instead, but you also impose a mechanism of
11 election on Jasper County that would invalidate
12 four out of the five seats, completely frustrates
13 the legislative intent.

14 And so by not touching it, Mr. Adkins
15 continues to serve and Jasper County can continue
16 electing people under section 6-10.

17 THE COURT: All right. I haven't read
18 the case yet. The case opinion that was drafted
19 by Bubba Ness indicated that you could do it that
20 way. Isn't that right?

21 MR. THICKENS: Your Honor, I think
22 Charleston County, though, had a challenge its
23 election and they were not under subsection 6-10.
24 So they went back. They went back to the default,
25 I believe, if I remember correctly under 4-9-90,

1 and that's not what was intended in Jasper County
2 based on the citation reference to this ordinance.
3 And that's why we believe the same is in order.

4 THE COURT: Might counsel approach the
5 bench for just one moment.

6 (Bench conference off the record.)

7 THE COURT: We will stand at ease for
8 five minutes.

9 (A break was taken from 10:22 a.m. to 10:30
10 a.m.)

11 THE COURT: Are you ready to proceed?

12 MR. GILLIAM: And I move to hand up --
13 before I do that, Charlie, you want to put
14 something on the record?

15 I apologize.

16 MR. TERRANI: Your Honor, I just thought
17 I should. My name is Charlie Terrani. I
18 represent the Board of Voter Registration and
19 Elections in this matter. We don't have a
20 position, but we're here and pray for relief.

21 THE COURT: Thank you.

22 MR. GILLIAM: Sorry about that. So, Your
23 Honor, I confer with opposing counsel. We have
24 Exhibits 1 through 18, which I'm going to bring up
25 to the Court and to the law clerk, and for the

1 witnesses as well. I've been informed by counsel
2 for Mr. Adkins that there are issues about
3 Exhibits 5, 6, and 9. We agreed to take those up
4 as they come. But other than that, right now, I'm
5 going to move to move every other exhibit, so that
6 will be 4, 7, 8, and 10 through 18 into evidence.

7 MR. THICKENS: No objection.

8 THE COURT: All right. Those are in
9 evidence. We'll deal with the others.

10 MR. GILLIAM: So this is for the law
11 clerk and judge. This is going to be for the
12 witness. I'm going to put this up here. Is that
13 okay?

14 MR. BURCHSTEAD: If Your Honor please,
15 Jasper County would call Frank Rainwater as the
16 first witness.

17 THE COURT: Mr. Rainwater, I'm going to
18 ask you to approach the clerk. Place your left
19 hand on the Bible, raise your right hand, and the
20 clerk will administer the oath.

21 THE CLERK: Do you solemnly swear the
22 testimony you give the Court will be the truth so help
23 you God?

24 THE WITNESS: Yes, ma'am.

25 THE CLERK: Come right around.

1 THE COURT: Watch your step and have a
2 seat in the witness chair. Adjust that
3 microphone. Speak loudly and clearly and slowly.
4 We want to hear everything you have to say. Let's
5 start with your full name, please, sir.

6 THE WITNESS: Frank Allen, A-l-l-e-n,
7 Rainwater.

8 THE COURT: Yes, sir.

9 WHEREUPON:

10 FRANK A. RAINWATER,
11 after having been sworn to tell the truth, testified
12 as follows:

13 DIRECT EXAMINATION

14 BY MR. BURCHSTEAD:

15 Q Thank you, Mr. Rainwater.

16 Now, who was your employer -- what is your
17 involvement in this matter?

18 A I am the executive director of the Revenue
19 and Fiscal Affairs office, and one of the services
20 we provide is to provide redistricting services to
21 local governments. We help counties, cities, some
22 school districts, and special purposes to
23 redistrict.

24 Q So did you help Jasper County with the recent --
25 the latest round of redistricting?

1 A Yes.

2 Q And can you explain just in a nutshell what
3 redistricting is, why it's done, and how often it has
4 to be done?

5 A Yes, sir. Redistricting is done primarily to
6 maintain one person, one vote in the 14th
7 Amendment. When the new census comes out, it
8 recognizes there's been -- in most cases, there's
9 been a significant population shift. And to
10 equalize the voters, to maintain one person, one
11 vote, governments need to redistrict or realign
12 their district lines to maintain an equal
13 population in those areas.

14 Q Thank you. And that's the 14th Amendment to the
15 U.S. Constitution?

16 A Yes, sir.

17 Q And the Voting Rights Act?

18 A That is a supplement. That's the second set
19 of criteria you look through.

20 Q Sure. And how long have you been with Revenue and
21 Fiscal Affairs? We'll just call that from here RFA
22 for short.

23 A Yes, sir. I first -- I'm -- RFA was
24 recreated with structuring in 2014. When the
25 Budget and Control Board was dissolved, I was

1 named the executive director upon its creation,
2 and I've been there since that time.

3 Q And were you with the Budget and Control Board
4 before RFA was created?

5 A Yes, sir. I was with the Budge Control Board
6 off and on for the past 30-something years. I
7 came back to the Budget Control Board in 2011. I
8 served as the chief economist for the Board of
9 Economic Advisors.

10 Q And prior to 2011, where did you work?

11 A How far back do you want me to go?

12 Q Let's just go up to the last one.

13 A Immediately prior to that -- to answer your
14 question, I worked for, like, eight different
15 agencies. Prior to that, I worked for the state
16 treasurer. Beginning in 2003, I was deputy state
17 treasurer and general counsel for about eight
18 years there.

19 Q Sure. And what were your educational
20 credentials?

21 A I have earned my bachelor's degree from
22 Clemson University, my master's in economics from
23 the University of South Carolina, and then my JD
24 from the South Carolina School of Law.

25 Q Thank you. And, RFA, it's an agency of the State

1 of South Carolina, correct?

2 A Yes, sir.

3 Q Located in Columbia?

4 A Yes, sir.

5 Q And you live in Columbia?

6 A Yes, sir.

7 Q And you had indicated that part of what you do at
8 RFA is providing assistance in redistricting to local
9 governments. But, I mean, what do you have to do
10 that -- what are your statutory responsibilities as
11 far as keeping the maps, let's just call it?

12 A So we are designated by the general assembly
13 to keep the official precincts, or maps of
14 official precincts, voting precincts in this
15 state. The general assembly determines those
16 precincts and they adjust those precincts, but
17 we're charged with maintaining the maps to be used
18 for that.

19 So some of the other features are, we've been
20 designated by the leadership of the State. When I say
21 leadership, the government -- the Governor and
22 legislative offices to be the contact for the census
23 department, and so we help coordinate addresses --
24 help coordinate addresses for the U.S. census to make
25 sure their mailings and contact lists for the census

1 is as accurate as possible.

2 Q Okay. Now, next I want to ask you a few questions
3 about the county redistricting process in general.

4 A Yes, sir.

5 Q Really limited to the recent round of
6 redistricting.

7 Well, before I get into that, taking a step
8 back, assisting the localities with redistricting, is
9 that a service that RFA normally provides,
10 historically provides?

11 A Historically, yes, sir.

12 Q Yes.

13 A Our previous director was one of the initial
14 experts in this back in the '70s, Bobby Bowers.
15 He worked with the federal courts and state local
16 governments on redistricting.

17 When I came in 2011, I was the chief
18 economist. I started working with Bobby at the end of
19 that redistricting cycle and assisted in a couple of
20 cities, as well as the Jasper County School Board case
21 that went to the federal court. And so we have
22 maintained that tradition. We are not statutorily
23 required to do it, but it is a service we provided
24 because of the technical needs and the resources that
25 are usually not available at the local level.

1 Q Tell me a little bit more about that Jasper County
2 School Board case.

3 A Jasper County School Board had not done a
4 redistricting in a number of years, and with the
5 population growth, as evidence in this case,
6 you're having to reach out and move people around
7 in districts. The general assembly was not able
8 to come to a redistricting plan. School districts
9 are done by the general assembly. They do the
10 redistricting plans. And there was a suit brought
11 about apportioning districts and Judge Gergle
12 ended up drawing a map to correct that problem.

13 Q And what was your and your agency's role in
14 that?

15 A We served, in that case, as the technical
16 advisor to the federal court so the court had a
17 resource -- someone who knew the districting --
18 who knew the mapping techniques and the mapping
19 issues and the redistricting process to draw the
20 lines accordingly.

21 Q Thank you. And have you, on behalf of your
22 agency, served as a technical advisor in any other
23 redistricting matters?

24 A Yes, sir. In the federal court case about
25 South Carolina congressional lines, we were

1 appointed by -- it was Michelle Childs at the
2 time, but then Judge Gergle assumed her role and
3 we'd been appointed the technical advisor to the
4 court on that case.

5 Q Thank you. And you believe it's because RFA is
6 seen as being the holder of maps, correct?

7 A Holder of the maps, but also the expertise we
8 developed over these years is in-house expert, so
9 to speak, to handle these issues.

10 Q Sure. In this role, it goes without saying, it's
11 not partisan, correct?

12 A Correct.

13 Q Thank you.

14 A From our end, it's not partisan.

15 Q Sure, sure. I know sometimes redistricting in any
16 case can't always be that way.

17 Now, I mean, do you see yourself more of an
18 election -- you know, having an election background or
19 more maps?

20 A We're mapping. I mean, we're generally
21 familiar with the election laws, but we don't
22 administer. We're not involved in the election
23 process. We just try to provide the tools to help
24 the counties and cities develop their election
25 districts, and we share that data back with the

1 counties or cities to work with their local
2 election boards.

3 Q Okay. So let's talk about the 2020 census and the
4 latest round of redistricting. When did the 2020
5 census numbers come out?

6 A They were delayed. They did not come out
7 until about September of 2021.

8 Q And is it accurate that RFA can't help counties?
9 I mean, they can't redistrict until the census numbers
10 come out.

11 A Yes, sir. The census is the data that you
12 use. Until that number is -- until that data is
13 released, there's nothing to begin with.

14 Q Okay. And what is the general time frame from
15 your understanding in which counties need to complete
16 that redistricting process?

17 A Counties are required, as best I remember, to
18 update or do a redistricting prior to their next
19 general election once the census numbers are
20 released. And the census being released in 2021,
21 that put a time pressure to get this done in time
22 for the 2022 election. More specifically, the
23 filing. A lot of filing is required in March. So
24 there was like a six-month window, a six- or
25 seven-month window to try to help the counties

1 with their process.

2 Q And it was shorter than usual because of the
3 census numbers coming out a little bit later.

4 A Yes, sir. Normally, the census gets released
5 in April, and this time it got delayed
6 approximately six months from April to -- well,
7 about four months. April to September.

8 Q Sure. In districting ordinances for the
9 localities you deal with, do they -- it's an ordinance
10 that needs to be passed, correct?

11 A Yes, sir. I mean, that's -- I mean, I defer
12 to the local attorneys to handle that question.
13 But we traditionally get the ordinance, yes,
14 sir.

15 Q And three readings, correct?

16 A Counties are three. Cities, I believe, are
17 two.

18 Q Did every county in the state ask RFA for help
19 with this process?

20 A No, not every county. We assisted
21 approximately 36 counties. Thirty-six counties
22 with some degree of work or the other. Some we
23 did the whole ball of wax, so to speak. Some we
24 just provided the census data and they had the
25 staff and expertise to do their own

1 redistricting.

2 Q Sure. And, typically, when RFA helps the
3 counties -- I mean, I guess this may depend, as you
4 said. But, I mean, RFA does a certain subset of work
5 and the counties might do a subset of work. But on
6 Jasper -- I mean, what was RFA's role in Jasper?

7 A Jasper asked us, basically, to help them with
8 the full process. So part of the process is, when
9 the census numbers are released, we do what's
10 called a benchmark report which takes your current
11 districts and applies the new population
12 statistics to those districts to determine what
13 imbalance it is. And then they also asked us to
14 draft a starting point for a new district.

15 Q Okay. Now, Jasper County requested RFA's
16 assistance. Do you recall when that was?

17 A I believe it's in my affidavit, but sometime
18 between September and February when we -- or
19 January when the issue came up.

20 Q Sure. And it goes without saying, I think, but, I
21 mean, if Jasper County or any county voted at at-large
22 there be any need for your services?

23 A You know, if you're talking at-large.

24 Q If it's totally at-large.

25 A Then there are no districts to draw, that's

1 correct.

2 Q Right, right. Thank you, Mr. Rainwater.

3 So with Jasper County, when that request for
4 assistance comes up, what are some of the initial
5 things that RFA asks for?

6 A Well, when the request come in, we send them
7 some documents; what we expect and ask for and
8 what we need. We need to verify we have their
9 latest maps, which generally we do because we
10 helped them 10 years ago. It's not always the
11 case, so we want to make sure we verify the maps.
12 One of the things we ask for is the list of their
13 incumbents and their addresses so we can mark
14 those people accordingly and showing them where
15 they live in their districts.

16 Q Why is it important to get the incumbents'
17 addresses?

18 A Well, the incumbents vote on this, so they
19 always like to know where they are. But it helps
20 to show -- one of the principles in redistricting
21 is the core constituencies. And you have to look
22 at communities of interest. So we, like, show
23 where incumbents are. Put them in relationship --
24 they know their districts better than we do. They
25 know the area. But in our mapping, it's important

1 to show them where they live in relation to where
2 the lines are and where the lines could be drawn.

3 Q And probably at least there's a thought to try to
4 not put several incumbents in the same district if you
5 can help it, correct?

6 MS. BRIGHT: Objection leading.

7 THE COURT: I ask you to rephrase the
8 question.

9 BY MR. BURCHSTEAD:

10 Q Do you try, Mr. Rainwater, to -- protecting
11 incumbents, is that one of the core redistricting
12 principles?

13 A There's a principle called core constituency
14 on there.

15 Q Okay.

16 A And we take into account when we redistrict.
17 Sometimes a member says they're not going to
18 run, and then that issue becomes easier because
19 we're not so worried about having to maintain
20 their residence -- excuse me -- their location.

21 Q Okay. In the core redistricting principles you
22 discussed, where did they come from? What is the
23 source of these principles?

24 A They are called traditional redistricting
25 principles which have been recognized in the

1 courts. It's called principles, but it's
2 basically the courts have required you look at
3 issues like contiguousness. Districts have to be
4 contiguous. They can't look like checker boards,
5 so to speak. Compactness, you don't want oddly
6 shaped districts. Communities of interest are
7 another factor in that. They're outlined in our
8 redistricting report.

9 Q So from a technical sense, after -- and I'm
10 talking about Jasper here. Did Jasper provide the
11 names and addresses of the incumbents?

12 A Yes, sir. We requested that and they sent us
13 the name of their incumbents, which was placed on
14 the map.

15 Q So from a technical sense, after you get the names
16 and addresses of the incumbents, what does RFA do with
17 that?

18 A Well, we include those in our mapping. We
19 produce several maps in there to show, again, what
20 your current districts, where people live in their
21 current districts. We do other maps, such as
22 racial mix, you know, where -- because it's part
23 of the Voting Rights Act. The core minority
24 district, the other interest you have to look at
25 and protect. So it's putting a lot of this

1 information together.

2 Q Okay. And was the incumbent information needed
3 for the benchmark report that you had mentioned?

4 A Yes.

5 Q Okay.

6 A I mean, they provided us the addresses for
7 the benchmark report.

8 Q Thank you. And have in front of you some
9 premarked exhibits, and I'm going to say the ones that
10 I'm going to ask you about have already been accepted
11 into evidence. So there isn't anything with
12 controversy there. But will you look at what's
13 premarked Exhibit 1?

14 A Yes, sir.

15 Q Do you recognize this document?

16 A Yes, sir. It's the document we prepared for
17 Jasper County.

18 Q Okay. And will you please go to page 2 of that
19 document.

20 A Okay.

21 Q I guess it's page 2 -- next page. The second
22 sentence down where it's talking about the traditional
23 redistricting principles. Those are the -- these are
24 the principles you discussed a few minutes ago,
25 correct?

1 A Yes, sir.

2 Q And these are recommendations that your office
3 made to Jasper as far as what to consider?

4 A Yes, sir. These are standard recommendations
5 we provide in all counties, including Jasper.

6 Q Okay. Next page, please. There's a table at the
7 left-hand side and the graph chart on the right-hand
8 side of the page. And if you go and look you see
9 districts 1, 2, 3, and 4. What does that represent?

10 A So those are a table as well as graphical
11 representation of the population in each one of
12 these districts. To maintain one person, one
13 vote, that is -- look at the graph on the right,
14 that's the red line. And that is the target that
15 each district should try to achieve. District 1
16 you can see had a significant number of people
17 above that line. You see it in table 1 there on
18 the left. They were over by more than 3500
19 people. So in the redistricting process, we were
20 making everybody aware you needed to take 3500
21 people out of district 1 and sort them into
22 districts 2, 3, and 4 in this particular case.

23 Q Sure. District 1 is Coosawhatchie, correct?

24 A Yes, sir.

25 Q So if you take people from district 1, you have

1 find another place for them to balance it out,
2 correct?

3 A Yes, sir.

4 Q Okay. Go to the next page, please. Page 4, the
5 type is a little bit small on here, but, I mean, do
6 you recognize what this page shows?

7 A Yes, sir. This is the benchmark report where
8 it shows the current district -- what the current
9 district configurations are.

10 Q In a current time as of the time that you were
11 assisting Jasper, correct?

12 A Yes.

13 Q And are the physical addresses of the incumbent
14 council members marked on this map? It may be a
15 little hard to see it on this one.

16 A Yes, sir.

17 Q Okay.

18 A This was our -- in the benchmark report, this
19 was our initial intent, yes, sir.

20 Q Okay. We're going to have a little bit of a
21 bigger map in a few minutes. I may ask a few more
22 questions about that when we have a larger one.

23 But the date at the bottom, December 1, 2021,
24 was this on or about the time that you prepared the
25 report?

1 A Yes, sir.

2 Q And presented it to the county?

3 A It was certainly at the time we prepared -- I
4 can't remember off the top of my head exactly when
5 we sent it, if it was December or January, but
6 this was the document we created.

7 Q And was this document presented to the county in a
8 meeting, or was it sent to the people coordinating
9 with you, with your office?

10 A We sent it -- we forwarded it to the county,
11 and then we presented it at a public hearing in
12 January.

13 Q Okay. Go forward to --

14 MR. BURCHSTEAD: I beg your indulgence
15 for a second.

16 BY MR. BURCHSTEAD:

17 Q These documents were attached to your affidavit.
18 I don't have a Bates number to refer to, but -- here
19 we go. If you will look a few pages -- a few pages
20 ahead from the map you were looking at --

21 A Yes, sir.

22 Q -- is this the larger version of the same map we
23 talked about a minute ago?

24 A This is Exhibit 2?

25 Q This is -- well, this is Exhibit 2 to the

1 affidavit that you previously prepared.

2 A Yes, sir. This is the larger version of that
3 map you had of the districts.

4 Q And this Jasper County Council, benchmark 2020.
5 And this shows where the five council members resided
6 at the time this was being prepared, correct?

7 A Yes, sir.

8 Q Okay, thank you.

9 And the RFA logo is at the bottom of the
10 screen?

11 A Yes, sir.

12 Q So, how many incumbents does that map show in
13 district 2.

14 A In district 2, we did not have say incumbents
15 here on this map. We're not showing any
16 incumbents in district 2.

17 Q Well, the purple area.

18 A The purple area.

19 Q The purple district 2, Hardeeville.

20 A Yes, sir.

21 Q Let's start with Hardeeville. So how many
22 incumbents is it showing?

23 A This map showed, in district 2, there were
24 not any incumbents in district 2.

25 Q District 2 is --

1 A The purple area.

2 Q Okay, okay. Well, this map right here -- how many
3 incumbents did this show in district 1?

4 A They had three incumbents in district 1.

5 Q How many did this show in district 3?

6 A No incumbents in district 3.

7 Q Okay. And there wasn't -- was there an error on
8 the map? There may have been an issue with -- in 2
9 you're referring to?

10 A At the public hearing, one of the councilmen
11 raised a question: Why are there three incumbents
12 in district 1?

13 Q Let me get -- I was going to ask you about that in
14 a minute. Thank you.

15 Let's go to the public hearing, if we will.
16 So when did you have the public hearing on this map?

17 A Middle of January.

18 Q Okay.

19 A Somewhere in the middle of January.

20 Q Okay. And what was the purpose of the public
21 hearing?

22 A To present the presentation to the council,
23 to answer their questions, but also for the public
24 to see it.

25 Q Okay. At the time that this hearing was about to

1 start and when the draft redistricting plan was
2 provided to Jasper County, had any of the Jasper
3 County Council members seen the draft redistricting
4 plan, to your knowledge?

5 A We shared with the county contact. I don't
6 remember if that was the county administrator or
7 county attorney. I do not know if they had seen
8 it prior to that or not.

9 Q As of the beginning of this meeting, had the
10 situation, the residency issue in district 1 been
11 discovered?

12 MR. THICKENS: Objection; lack of
13 foundation, calls for speculation.

14 THE COURT: I'll ask that you rephrase
15 the question.

16 MR. BURCHSTEAD: Sure.

17 BY MR. BURCHSTEAD:

18 Q Did something get pointed out at this meeting that
19 was a surprise, that was an issue with location of
20 incumbents in certain districts?

21 MR. THICKENS: Objection; calls for
22 hearsay.

23 THE COURT: This is a non-jury setting.
24 I'm going to allow him to answer.

25 MR. BURCHSTEAD: And he was there.

1 BY MR. BURCHSTEAD:

2 Q Yes.

3 A I was surprised, a little worried and maybe
4 embarrassed, when a councilmen said, *Why do you*
5 *have three incumbents in one, in district 1?* And
6 I thought we may have made a mistake in trying to
7 identify those. And so we said, *Let's go back and*
8 *look at that and verify our mapping to make sure*
9 *we had identified that.*

10 Q Do you recall the names of the three incumbents in
11 district 1?

12 A They are the ones on the map. I think
13 they're identified there, but -- I know Mr. Adkins
14 because of this case, but I don't remember the
15 names of the other two names there.

16 Q Let's go to Exhibit 2, if we can. If you look at
17 Exhibit 2 -- because you do go to your staff and get a
18 larger -- well, what did you do after the issues was
19 raised at the hearing?

20 A So when we did this map, we did, basically, a
21 manual insert of these addresses where we had the
22 map, but our staff looked at another map and then
23 visually marked these addresses on the
24 benchmarking map. After that, we went back and
25 actually used geocode files, the address files, to

1 match things.

2 And so, first, we wanted to verify that the
3 addresses were correct, but then we went back and
4 verified -- went back and verified rather than just
5 marking it on the map. And we were able to verify the
6 map with what you see there on the screen there on the
7 map that we created at that time after going back and
8 verifying the addresses. We were correct on the ones
9 on district 4, but -- excuse me, on district 1. I
10 will note that we had -- on the benchmark map, we had
11 two people in district 4, but then we corrected that
12 for this subsequent map for district 2 to show that
13 you actually had somebody in district 2.

14 Q Sure. So can you explain to me -- and for the
15 record, you're talking about Exhibit 2, correct?

16 A Yes.

17 Q Plaintiff's Exhibit 2.

18 So, the issue was raised at the January 13th
19 meeting, and did everybody know right at that meeting
20 that somebody didn't live in the district?

21 MS. BRIGHT: Calls for speculation.

22 MR. BURCHSTEAD: He was there.

23 MS. BRIGHT: Still, he's asking what
24 everybody at the meeting --

25 THE COURT: You can ask him somebody's

1 name.

2 MR. GILLIAM: The county council members
3 he's asking about, I mean, they're parties. If
4 they're testifying, that's not hearsay. It's not
5 speculation.

6 THE COURT: You can ask him when he made
7 the determination.

8 BY MR. BURCHSTEAD:

9 Q I mean, what did you do after Councilman Kemp
10 raised that issue at the January 13th meeting?

11 A I said, what is -- I asked, Let us go back
12 and verify this. We did not catch it before the
13 meeting. I did not know if this was totally
14 accurate or did we make a mistake or did we have a
15 bad address. I don't know where the problem was.

16 But it was brought up in the meeting. I was
17 embarrassed by it because I didn't have a clean
18 answer. And so we took the next couple of days to
19 verify the addresses, and that is what you see there
20 on the exhibit shown on the screen.

21 Q Can you explain -- you used the term geocoding, I
22 mean, can you explain for somebody who doesn't know
23 anything about any of that, how geocoding works?

24 A I mean, basically the census -- I mean, we
25 have the street files and we have the addresses

1 for all the street files. But you can imagine not
2 all street files are consistent. So you actually
3 have to go back -- our staff goes back in and
4 works with the counties to mark the addresses on
5 the streets themselves. 100 block may not be the
6 same length as the 200 block, so to speak, or 300
7 block.

8 So our staff goes back and you actually
9 pinpoint the structures and the addresses on each one
10 of these files. So we use that layer. It's called a
11 layer. It's like putting another just layer of
12 addresses on top of a map that may have precinct lines
13 and you had the addresses on top. But we wouldn't use
14 those actual address locations.

15 One of the other things we do is, we work
16 with the county 911 offices, so we work with the
17 911 offices to make sure that these addresses are
18 correct. So we took that information, that
19 geocoded file, so to speak, to make sure that
20 these addresses align to the actual streets on the
21 map.

22 Q And the addresses that you had, those were the
23 ones provided by the county as to the incumbents?

24 A The addresses, yes, sir.

25 Q Yes. And you double check -- you or your office

1 double checked everything?

2 A We double checked, yes, sir.

3 Q And made sure they were correctly geocoded,
4 correct?

5 A Yes.

6 Q And was Exhibit 2 with the dots there as to where
7 the incumbents lived, was that the confirmed and
8 accurate result of that diligence?

9 A Yes, sir.

10 Q Thank you. And what does this show in
11 Coosawhatchie, district 1, as far as the residences of
12 incumbents?

13 A You had three incumbents in Coosawhatchie.

14 Q Who were they as you see on the map?

15 A I can't read the names here, I'm sorry.

16 Q Does Alvin Adkins, Martin Sauls, and John Kemp
17 sound right?

18 A Mr. Adkins, Mr. Sauls, and Mr. Kemp.

19 Q And how many incumbents in Robertville? Is that
20 Hardeeville? I can't ready anymore either.

21 A Which?

22 Q How many incumbents in district 2?

23 A I'm sorry. District 2 is the green?

24 Q District 2 is the blue.

25 A District 2 is the dark blue. One incumbent,

1 Miss Clark.

2 Q Yes. And how many incumbents in district 3,
3 Pocotaligo?

4 A There were no incumbents in Pocotaligo.

5 Q And how many incumbents in district 4,
6 Robertville?

7 A Just one, Mr. Brantley. We had two addresses
8 for him and we've applied both of those.

9 Q Sure. So after everything was confirmed, what did
10 your office do next?

11 A We shared this with the county.

12 MR. BURCHSTEAD: Could we go to Exhibit
13 11, please.

14 BY MR. BURCHSTEAD:

15 Q I'm going to ask you look at Exhibit 11. But
16 before, the map that we were shown -- actually, bear
17 with me for one second.

18 MR. BURCHSTEAD: I'm sorry. Please go
19 back to Exhibit 1, the last page.

20 BY MR. BURCHSTEAD:

21 Q I'm sorry. I got a little bit ahead of myself.

22 Okay. We are looking at the last page of
23 Exhibit 1 that has previously been -- previously been
24 introduced into evidence. What does this map show?
25 Can you identify this document?

1 A I'm sorry. This is the last map in
2 Exhibit 1?

3 Q This was Exhibit 2, to your affidavit. So it's
4 tap -- under tab 1, and it should be the last page.
5 I'm sorry. Exhibit 3 to your affidavit.

6 A I'm sorry. I see a map somewhere in there
7 but the color is a little bit different. That's
8 what is throwing me off.

9 Q If you look over there, it says Jasper County
10 redistricting, RFA draft January 12, 2022.

11 A Okay. Yes, sir, I see that now.

12 Q Okay. So do you recognize this document?

13 A Yes.

14 Q Okay. And I got a little bit ahead of myself, but
15 this was the document that was shown at the January
16 13th meeting, was it? The presentation where
17 Councilman Kemp called out the districts.

18 MR. BURCHSTEAD: May I approach?

19 THE COURT: Yes.

20 BY MR. BURCHSTEAD:

21 Q My apologies. I have a copy of it. There you go.

22 A Sorry. Thank you.

23 Q No, you're good.

24 A Yes, sir.

25 Q So, do you recognize this map?

1 A Yes, sir.

2 Q Is this one that was prepared by your office?

3 A Yes, sir.

4 Q And, in this map, was this the one that was
5 presented to RFA that showed -- presented to council
6 to show RFA's initial work?

7 A Yes, sir.

8 Q Okay. At the meeting where -- on January 13th
9 when Councilman Kemp said -- called out the residency
10 issue, for lack of a better word?

11 A Yes, sir.

12 Q Okay, thank you.

13 So after this issue was discovered in the
14 January 13th meeting, you previously testified that
15 you went back and confirmed -- confirmed that --
16 confirmed the accuracy. And then after that, did you
17 produce a new map? Did you draft a new map?

18 A We did draw a new map to comply with
19 redistricting for the county.

20 Q Okay. So who asked you to draw a different map
21 than the one that you initially drafted?

22 A Just in the conversation. I'm not sure
23 exactly who, whether it stemmed from the meeting
24 or stemmed through our conversations with the
25 county representative. At the time, we went back

1 to draw a new map --

2 Q It was requested by the county.

3 A It was requested by the county, yes.

4 Q Somebody from the county --

5 A Yeah.

6 Q -- asked you to draw a new map. Can you go to
7 Exhibit 11?

8 A Yes, sir.

9 Q Take a minute to look at it?

10 A Yes, sir.

11 Q Do you recognize this document?

12 A Yes, this was the second draft -- or the
13 final map that we produced for the county.

14 Q And under the title, the top is a final map, and
15 it names the ordinance. And then there's some small
16 language in the bottom right-hand corner. Can you
17 read that?

18 A Prepare -- I'm sorry. I don't have my
19 reading glasses.

20 Q Okay.

21 A The type is very small.

22 Q It's okay. Well, no doubt. This was the final
23 map that was -- ended up being passed by the county,
24 correct?

25 A Yes, sir.

1 Q And what were the differences between this map and
2 the previously drafted map, the final map and the
3 initial draft this was presented on January 13th?

4 A The main difference was we amended the
5 Pocotaligo district to put Mr. Adkins in that
6 district.

7 Q And with that, did you have to swap some people?

8 A Yes, sir. I mean, it's just a balancing act.
9 You have to try to equalize the population. So
10 you can see where Pocotaligo came over more across
11 the top in that, and then there were some
12 adjustments there between the other districts.

13 Q Thank you.

14 MR. BURCHSTEAD: Go back to Exhibit 2 one
15 more time.

16 BY MR. BURCHSTEAD:

17 Q Just finally -- and we're going back to prior to
18 the passage of the ordinance prior to this map with
19 the dots that reflect the incumbent's addresses. I
20 wanted to reaffirm that this accurately reflects the
21 accurate location of the incumbents at that time after
22 RFA did its geocoding?

23 A Yes. When we went back and verified, this is
24 what we're able to verify, these locations.

25 Q Thank you.

1 MR. BURCHSTEAD: I don't have anything
2 further.

3 THE COURT: Cross-examination.

4 MR. THICKENS: Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. THICKENS:

7 Q All right. Mr. Rainwater, first of all, did you
8 recommend that Jasper County file this action to make
9 Mr. Adkins -- either do ratify to his election to the
10 county council or to make him a de facto member of the
11 council?

12 A No, sir.

13 Q You didn't have anything to do with recommending
14 that this action be filed against Mr. Adkins?

15 A I was curious, but I deal with the elections.

16 Q Okay. Are you familiar with the fact that Jasper
17 County elects all five of its council members
18 at-large?

19 MR. GILLIAM: Object to the form. Or
20 objection, it calls for facts that aren't in
21 evidence. That's not how an election happens.

22 THE COURT: It's probably leading, but,
23 in this setting, I'll allow you to ask it.

24 MR. THICKENS: Yes, it's cross-examining
25 of the witness.

1 THE COURT: Yes, sir.

2 MR. THICKENS: Thank you, Your Honor.

3 BY MR. THICKENS:

4 Q All right. So, Mr. Rainwater, I'll pose the
5 question: Are you familiar with the fact that Jasper
6 County elects all five of its council members
7 at-large?

8 A I'm aware that everybody votes at-large. My
9 understanding was, they vote at-large with four
10 residency requirements.

11 Q You would agree that every voter in Jasper County
12 votes for all five county council seats?

13 A Yes.

14 Q Every voter?

15 A Yes.

16 Q Okay. Regardless of what district they live in,
17 when they get in the ballot box, they're voting for
18 either three or two council members depending on what
19 cycle they're in?

20 A Yes.

21 Q You agree that the people who Mr. Adkins now
22 represents voted for him?

23 A He got elected, yeah. Yeah.

24 Q They voted for him because everybody voted for
25 him?

1 A They vote at-large.

2 Q And you would agree that Mr. Adkins was elected at
3 at-large, voted at-large, correct?

4 A I'm not sure I agree with the voted -- he was
5 elected by everybody in the -- everybody is
6 elected by everybody at the district. It depends
7 on what you mean by "at-large." That's what I'm
8 struggling with.

9 Q How would you define at-large?

10 A There's no residency requirement.

11 Q At-large voting to you means that there is no
12 residency requirement?

13 A Yes. Like your -- in my understanding, the
14 chairman here is voted at-large because there is
15 no designation, no single-member district, no
16 residency requirement.

17 Q The chairman is elected at-large because they're
18 voted on too by all of the members of Jasper -- all
19 the electorate of Jasper County, correct?

20 A Yes.

21 Q As was Mr. Adkins and the other four council
22 members, as we've established?

23 A Yes.

24 Q You agree that Mr. Adkins based on your maps is a
25 resident of Jasper County, correct?

1 A Yes.

2 Q And, in fact, he is a resident of one of the four
3 townships of the county, correct?

4 A Yes.

5 Q Thank you.

6 MR. THICKENS: No further questions.

7 THE COURT: Any redirect.

8 REDIRECT EXAMINATION

9 BY MR. BURCHSTEAD:

10 Q Very briefly, Mr. Rainwater. Were you aware or
11 made aware at some point during what Jasper -- your
12 redistricting services to Jasper County, the way that
13 Jasper elects it's council members, the method of
14 objection?

15 MR. THICKENS: Objection; outside the
16 scope of cross and calls for hearsay.

17 MR. BURCHSTEAD: You brought -- opposing
18 counsel brought up the method of election.

19 THE COURT: I'll allow you to ask it.

20 MR. BURCHSTEAD: Okay.

21 THE WITNESS: I'm sorry. I'm trying to
22 remember your question.

23 BY MR. BURCHSTEAD:

24 Q Were you aware when you were drawing these lines
25 or did somebody make you aware during the course of

1 the process of Jasper's method of election for council
2 members?

3 A I was well aware through our history and
4 previous work that Jasper County, and I believe
5 one other county, has its method of electing
6 at-large with residency requirements.

7 Q Did that make your work more difficult or
8 complicated?

9 A I mean, it's a normal thing that we do,
10 adjusting for population and knowing where the
11 incumbents are. It's no different in this than
12 any other map we do.

13 Q Thank you.

14 MR. BURCHSTEAD: I have nothing
15 further.

16 THE COURT: You may step down.

17 MR. BURCHSTEAD: Your Honor, I know that
18 Mr. Rainwater has business in Columbia, and we
19 don't need anything else from him.

20 THE COURT: Anything from the defense?

21 MR. THICKENS: No, Your Honor.

22 THE COURT: All right. You're free to
23 leave, but you're welcome to stay.

24 You may call your next witness.

25 MR. BURCHSTEAD: Thank you. The county

1 will call Andy Fulghum.

2 THE COURT: Place your left hand on the
3 Bible, raise your right hand, as the clerk
4 administers the oath.

5 THE CLERK: Do you swear the testimony
6 you give the Court will be the truth so help you
7 God?

8 THE WITNESS: Yes, ma'am.

9 THE CLERK: Come right around. Watch
10 your step.

11 THE COURT: Have a seat in the witness
12 chair. Pull up real close to that microphone.
13 Speak loudly, clearly and slowly so we can hear
14 everything you have to say. Let's start your full
15 name, please, sir.

16 THE WITNESS: My name is Andrew Patrick
17 Fulghum. It's spelled F-u-l-g-h-u-m.

18 WHEREUPON:

19 ANDREW FULGHUM,
20 after having been sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. BURCHSTEAD:

23 Q Thank you, Mr. Fulghum. Who is your employer, Mr.
24 Fulghum?

25 A My employer is Jasper County.

1 Q And what is your current job title with Jasper
2 County?

3 A I served as the county administrator for
4 Jasper County.

5 Q How long have you served in this role?

6 A Nineteen years.

7 Q Is that the longest of any administrator you're
8 aware of?

9 A No, it is not. Mike Brandon, Dorchester
10 County, has me beat by one year.

11 Q You've been there a long time?

12 A Yes, sir.

13 Q Very good.

14 Now, what form of government does Jasper
15 County have?

16 A It's a council administrator form of
17 government.

18 Q How long has Jasper had the council administrator
19 form of government?

20 A Since 1976.

21 Q Thank you. And, to your understanding, I mean, is
22 that -- can Jasper County change that form of
23 government if it wants to?

24 A It could, by referendum.

25 Q By referendum, okay. You said you had 19 years

1 with the county. That's all been as administrator?

2 A Correct.

3 Q Okay. The council administrator form of
4 government, what -- describe those -- the powers of
5 the administrator under the council administrator form
6 of government.

7 A I work at the pleasure of the county council.
8 Currently five elected officials and I serve as
9 the chief administrator officer for the county.

10 Q Has it always been a five-member council since
11 you've been there?

12 A Yes, sir.

13 Q Thank you. And who do you report to? You said
14 you report to the council?

15 A The council, yes, sir.

16 Q Does anybody else within the county report to the
17 council?

18 A Yes, sir. Both the county attorney and the
19 clerk council.

20 Q Who at the county reports to you?

21 A Ultimately, all employees, but for those that
22 serve the six constitutional officers; the
23 treasurer, the clerk of court, probate judge,
24 coroner, and the sheriff.

25 Q Who are the current sitting members of council?

1 MR. BURCHSTEAD: And I'd ask you to put
2 up exhibit --

3 BY MR. BURCHSTEAD:

4 Q Will you please look at Exhibit 3.

5 MR. BURCHSTEAD: And for the record,
6 there wasn't any objection to Exhibit 3.

7 BY MR. BURCHSTEAD:

8 Q But if you -- I would ask first: Who are the
9 current members of council?

10 A I'll start down at the bottom. Mr. Martin
11 Sauls is currently serving as the chairman of the
12 county council. Miss Barbara Clark is currently
13 serving as the vice chair of the county council.
14 Mr. Alvin Adkins serves as a council member. Mr.
15 John Kemp serves as a council member. This
16 indicates Dr. Curtis Brantley, who is no longer
17 serving as a council member. The new council
18 member to fill that seat is Mr. Coy Garbade.

19 Q Okay. And in Exhibit 3, which you're looking at
20 right now, would this accurately reflect the council
21 members who were in office as of the time that the
22 redistricting process was happening in Jasper?

23 A Yes, sir, that's right.

24 Q Okay, thank you. So late 2021 to early 2022,
25 correct?

1 A Yes, sir.

2 Q Thank you.

3 MR. BURCHSTEAD: Exhibit 4, please.

4 BY MR. BURCHSTEAD:

5 Q In Exhibit 4 -- and, again, we're going back. I
6 know there's been one changeover, but the list of the
7 council members as of about -- let's just say when
8 this action was filed, February 2022, is this the
9 accurate list of the council members?

10 A It is, yes, sir.

11 Q At that time? And their addresses.

12 A Yes.

13 Q Okay, thank you.

14 What method -- are you familiar with the term
15 with method of election? Does that mean anything to
16 you?

17 A Yes, sir.

18 Q What method of election does Jasper County elect
19 its council members by?

20 A Council members are elected at-large. They
21 are required to reside in the district, but for
22 the at-large seat.

23 Q All right. So for the four township districts,
24 what are they for Jasper?

25 A Coosawhatchie, Robertville, Hardeeville --

1 I'm missing one.

2 Q Pocotaligo?

3 A Pocotaligo, yes, sir.

4 Q Okay, thank you.

5 Is Jasper elected that way since you've been
6 its administrator?

7 A Yes, sir.

8 Q How long has Jasper been electing its council
9 members that way?

10 A As far as I know, since 1976.

11 Q Thank you.

12 Do all the council members in Jasper run for
13 election at the same time?

14 A No, sir. It's every other year we have an
15 election.

16 Q Okay. When there is an election, are all five
17 council members ever on the ballot at the same time?

18 A No, sir. It's staggered. Three and two.

19 Q Three and two, okay.

20 MR. BURCHSTEAD: If you could, go to
21 Exhibit 7, please.

22 BY MR. BURCHSTEAD:

23 Q And please turn to Exhibit 7.

24 MR. BURCHSTEAD: And this has been
25 previously, just for the record, Exhibits 3 and 4

1 were previously accepted into evidence, same thing
2 with Exhibit 7. Would you zoom in a little bit.

3 Thank you.

4 BY MR. BURCHSTEAD:

5 Q Do you recognize this document, Mr. Fulghum?

6 A Yes, sir.

7 Q What is this?

8 A That recognizes the method of election that
9 Jasper adheres to.

10 Q Okay. And, I mean, it says what it says, but
11 right under the text of the ordinance it says there's
12 a date. Do you see that?

13 A Yes, sir.

14 Q And what is that date?

15 A June 25, 1976.

16 Q That is when this ordinance was passed?

17 A Yes, sir.

18 Q Thank you.

19 Does this ordinance -- does this ordinance
20 have a residency requirement?

21 A Yes, sir.

22 Q Except for the at-large.

23 A Correct.

24 Q Thank you.

25 And based on your -- you attend council

1 meetings as administrator. That's one of things you
2 do, correct?

3 A Yes, sir.

4 Q And there are public comments at council meetings,
5 correct?

6 A Yes, sir.

7 Q And you interact with the council and the staff in
8 all manner of -- on all manner of issues, I would
9 imagine.

10 A Yes, sir.

11 Q I can only imagine what comes up day-to-day. But
12 in all that, is it widely and customarily known, is it
13 a topic of conversation that Jasper elects -- jasper's
14 method of election of at-large with residency
15 requirement?

16 MS. BRIGHT: Objection; calls for
17 speculation. Not only of other members of
18 council, but now we got the employees involved.

19 MR. BURCHSTEAD: I mean, is it something
20 that's mentioned? Because, he's a county
21 administrator. He has interaction with all manner
22 of people and he attends public meetings where
23 issues are discussed.

24 THE COURT: I'll allow him to answer
25 that.

1 THE WITNESS: Yes, sir. The method of
2 election has been a matter -- a topic of
3 discussion among council members and also the
4 public at-large.

5 BY MR. BURCHSTEAD:

6 Q Is it fair to say it is a topic of controversy?

7 A I think you could characterize it that way.

8 Q Which may be depending on the perspective. It may
9 be controversy for some.

10 And so when is this -- has there ever been a
11 discussion along with the method of election about a
12 -- trying to change this method of election by
13 referendum?

14 A Yes, sir.

15 Q And has a referendum ever been attempted to change
16 this method of election?

17 A Yes, sir.

18 Q Are you familiar with the legal requirements, what
19 it takes to get a referendum on a ballot?

20 A Yes. The time line to get it onto the
21 ballot, yes, sir.

22 Q Since you've been with the county, has a
23 referendum to change the method of election ever been
24 on the ballot?

25 A Yes, sir. Let me answer to tell you that

1 there was discussions as early as, that I can
2 recall, 2000 -- maybe 2009. There was an
3 ordinance that the county council adopted ordering
4 that issue, the method of government -- I mean,
5 the method of election question to referendum in
6 2011. There was a subsequent ordinance that
7 paused that. And then there was an actual
8 ordinance, I believe, to go to referendum in
9 November of 2012.

10 MR. BURCHSTEAD: Can you please go to
11 Exhibit 9. And this is one of the documents that,
12 maybe, we would have to handle when we come --
13 your Honor, I don't know how you want to handle
14 it. But, I mean, this is an ordinance. Mr.
15 Fulghum was there. We were at a bench trial. He,
16 you know, I can ask him about it, I believe an
17 ordinance that he has personal knowledge of. It
18 was a referendum. It was an ordinance about a
19 referendum about the method of election which is
20 an issue in this case.

21 So, I mean, I think it's clearly -- I
22 don't think there's a question as to authenticity.
23 But, I mean, I think it's clearly admissible
24 because the method of election has been brought up
25 as an issue by Mr. Adkins as council.

1 THE COURT: Yes, sir.

2 MR. THICKENS: Yes, sir. We are
3 objecting to this referendum, and, actually, for
4 the opposite reason that was just stated. We
5 think that the ordinance as written clearly
6 qualifies Mr. Adkins. This referendum from back
7 in 2012 is really just completely inapplicable in
8 this case because they did not change the method
9 of election. The ordinance is still in place. It
10 still harkens to Section 6-10. It's just not in
11 front of the Court for purposes of whether Mr.
12 Adkins is qualified under Section 2-31.

13 MR. BURCHSTEAD: I mean, this shows, to
14 me, Your Honor, that they -- there was an effort
15 to try to change this method of election and the
16 people just decided, ultimately, to keep what they
17 had. And this issue, I mean, again, of the method
18 of election --

19 THE COURT: There is no real dispute
20 about what method is in place now is there?

21 MR. THICKENS: I don't think there's --
22 well, I think there is a dispute on how to read
23 the ordinance that authorizes --

24 THE COURT: I understand that. But we
25 understand --

1 MR. THICKENS: Yes, sir. Yes, sir.

2 THE COURT: I'm going to allow that in
3 with over your objection. I do think it's, to
4 some extent, immaterial. Go ahead.

5 MR. BURCHSTEAD: Thank you, Your Honor.

6 BY MR. BURCHSTEAD:

7 Q So can you identify this indictment Exhibit 9,
8 Mr. Fulghum?

9 A Yes, sir. That's the ordinance that orders
10 the referendum regarding the change in the method
11 of election for the county.

12 Q And can you briefly discuss what you remember
13 about what happened with this referendum?

14 A Yes, sir. The voters voted to retain the
15 existing method of election.

16 Q Thank you.

17 Have there been any subsequent referenda on
18 this issue since 2011.

19 A No, sir.

20 Q Thank you.

21 As we established, Jasper still has the same
22 method of election that it had since 1976, correct?

23 A Yes, sir.

24 Q Thank you.

25 Have there been discussions in public

1 meetings about changing method of election or ordering
2 a new referendum?

3 A Yes, sir.

4 Q Thank you.

5 Will you put up Exhibit 5, please? And
6 this is another one that we have an issue that we
7 have to take up. And if I could just say, Exhibit
8 5 is materials that were pre-clearance submissions
9 of the 1976 ordinance that were received from the
10 attorney general's office via the archives. I
11 don't believe there is any dispute as to the -- as
12 to the authentication here. I believe they're
13 self-authenticated as ancient documents. The
14 ancient -- and of the public records or reports so
15 it would be under the hearsay exception. So,
16 certainly, I don't think there's a question as to
17 authentication. If there's a question as to
18 relevance, if there's a hearsay issue, I think
19 this is a statement and an ancient document under
20 Rule 803-16 because it's over 20 years old.

21 And, also, I would say we're in a bench
22 trial right here, and if we just accept it, you
23 can give it whatever -- you know, whatever weight
24 you see. So I don't think --

25 THE COURT: Let me just ask him what his

1 objection is.

2 MR. THICKENS: Your Honor, I agree with
3 that, where you can give it the weight. I think,
4 honestly, this would be more appropriate for an
5 argument directly to counsel -- or to Your Honor.
6 But this witness was certainly not around when
7 these documents were submitted to the DOJ, and has
8 not been qualified as someone who can interpret
9 documents and submissions to the Department of
10 Justice from a legal perspective.

11 And, furthermore, the document itself
12 states in it that the Department of Justice is
13 just raising an objection to what was submitted to
14 them, but they make no opinion as to whether it
15 complies with statutes or any law.

16 THE COURT: I will admit it into
17 evidence. I think the document pretty much speaks
18 for itself.

19 MR. BURCHSTEAD: Sure. Yes, I think
20 whatever it says, it says. You know, there are --
21 that's the reason for the ancient documents rules
22 because there aren't many people who might be able
23 to testify to this from 47 years ago.

24 THE COURT: Right.

25 MR. BURCHSTEAD: Thank you, Your Honor.

1 BY MR. BURCHSTEAD:

2 Q So if you look at Exhibit 5, and I know that this
3 predates you by a lot as far as the -- when it was
4 generated, but does that look like, up on the top
5 left-hand side, the seal for Jasper County Council --
6 Jasper County?

7 A Yes, sir.

8 Q And is that the same seal that Jasper County has
9 today?

10 A It's slightly modified.

11 Q Sure. I mean, Henry C. Lawton, Sr., I don't know,
12 was he ever around when he crossed paths with you? I
13 know some people do have tenures in office, they go a
14 long time.

15 A Yes, sir, I did know Mr. Lawton.

16 Q You did know Mr. Lawton, okay. And he was the
17 chairman of council in 1976?

18 A Yes, sir.

19 Q Thank you.

20 So are the names on -- the other names on the
21 left-hand side of the letter familiar to you?

22 A Some, yes, sir.

23 Q Which one? Well, Marty Sauls -- Martin Sauls, I
24 assume that's a different one than the currently
25 serving Martin Sauls.

1 A Yes, sir. That would be the father of the
2 current serving council member.

3 Q Okay, thank you.

4 Did you, as county administrator, ever have
5 to send letters to pre-clearance -- for pre-clearance
6 to the department of justice?

7 A Yes, sir, we have.

8 Q Okay. On what occasions?

9 A I'm wondering if we had to do it as part of
10 referendum for a transportation sales tax. I
11 can't recall the instance, but I do remember the
12 letters had allowed the law firm of Howell Linkous
13 & Nettles in Charleston doing that on our
14 behalf.

15 Q Thank you.

16 And would you scroll in to the first
17 beginning of the letter, and just -- would you just
18 read the first sentence of that letter? I mean, let
19 me just truncate it a little bit. Does this look like
20 he is -- Mr. Lawton is sending to the DOJ two
21 ordinances, the legislative act creating Jasper County
22 Council and information of population by enumeration
23 redistricting?

24 A Yes, sir.

25 Q Thank you.

1 MR. BURCHSTEAD: And would you go to the
2 next page, please?

3 BY MR. BURCHSTEAD:

4 Q Okay. And do you recognize this document or does
5 this look familiar to you, the next page in this
6 exhibit?

7 A Yes, sir.

8 Q What is this?

9 A That is the resolution adopting the form of
10 government for Jasper County.

11 Q What is the date of this resolution?

12 A Adopted the 25th day of June 1976.

13 Q Thank you.

14 Is there any significance about the 25th day
15 of June 1976?

16 A I'm assuming that that corresponds with the
17 Home Rule.

18 Q The Home Rule Act?

19 A That's correct.

20 Q As county administrator, do you hear about the
21 Home Rule Act a fair amount?

22 A Yes, sir.

23 Q Thank you.

24 And, generally, what is your understanding as
25 it applies to your current job as to what the Home

1 Rule Act did? What the intention of the Home Rule Act
2 is.

3 A To grant authority to local government to
4 govern themselves.

5 Q Thank you.

6 And --

7 MR. BURCHSTEAD: Please bear with me for one
8 second.

9 BY MR. BURCHSTEAD:

10 Q Okay. And we're looking -- this is the page
11 marked Plaintiff's 22, Resolution, and that "whereas"
12 -- if you look, take a second and read the first
13 "whereas" clause in this resolution. And what is
14 this -- what is the effect of this "whereas" clause,
15 or what is this saying? Is this in reference to the
16 Home Rule act?

17 A It appears to be the section 14-70-1(b).

18 Q And is this the county adopting -- adopting --
19 what was the form of government in Jasper County
20 before the resolution, and the method of election
21 Jasper County before this resolution?

22 A I don't know that.

23 Q Okay, sure.

24 But in your knowledge, as long as Jasper
25 County has been around, has it had any other method of

1 election other than the one it has now?

2 A Not that I'm aware of.

3 Q Thank you.

4 And if you go to the fourth -- the third
5 "whereas" clause where this is discussing apparently
6 the method of election of council, does this look to
7 you to be the same as the method of election that
8 Jasper has today?

9 A Yes, sir.

10 Q Thank you.

11 And if you go to the fourth "whereas" clause,
12 what does that indicate?

13 A That there had not been a referendum held in
14 Jasper County to determine that method prior to
15 July 1, 1976.

16 Q Do you have any doubt, even looking at this
17 document, that that's an accurate statement?

18 A No, sir. I have no reason to doubt it.

19 Q Thank you.

20 If you go to page 24, ahead a couple of
21 pages, what does this document appear to be?

22 A An ordinance providing for the composition
23 and election for a new county council pursuant
24 14-3-701 and 14-3-706.

25 Q Thank you.

1 If you go down past the "whereas" clauses,
2 where it says, "Now, therefore, be it enacted," does
3 that seem to describe the method of election in Jasper
4 County as of today?

5 A Yes, sir, it does.

6 Q Thank you.

7 Go to the next page, please, starting at page
8 25 through 29. And what -- if you just take a minute
9 to look at it, but what does this appear to be?

10 A It appears to be the state statute.

11 Q Thank you.

12 And what is the date of the statute? It
13 should be at the top of 1968. Does that sound right?

14 A Yes, sir. I see it now.

15 Q Thank you.

16 Under section one where it says, "County
17 council created in Jasper County," and then go down to
18 the second sentence and take a second to read that and
19 tell me whether you think that is describing a method
20 of election any different than what Jasper has today.

21 A Yes, sir. It appears to be the same.

22 Q Please go to the Exhibit 6.

23 MR. BURCHSTEAD: I guess this is one with
24 the same objection.

25 MR. THICKENS: Objection, Your Honor.

1 THE COURT: I'll allow it into
2 evidence.

3 MR. BURCHSTEAD: Thank you, Your Honor.

4 BY MR. BURCHSTEAD:

5 Q Exhibit 6, what does this appear to be?

6 A It appears to be a receipt -- letter of
7 acknowledgement of a receipt of Mr. Lawton.

8 Q And from the Department of Justice?

9 A Yes, sir.

10 Q Does this letter indicate any objection?

11 A Yes, sir. It specifically does not interpose
12 any objection.

13 Q Thank you.

14 And, in your experience as administrator, at
15 least when you had to pre-clear things with DOJ,
16 typically, you would get a response, or you would hope
17 for one?

18 A Yes, sir.

19 Q Thank you.

20 If you would look at --

21 MR. BURCHSTEAD: Beg the Court's
22 indulgence for a second.

23 BY MR. BURCHSTEAD:

24 Q Look at Exhibit 17, please. And what does Exhibit
25 17 -- can you -- what does Exhibit 17 look like to

1 you, Mr. Fulghum?

2 A The election results in 2018, statewide
3 generals.

4 Q Do these results appear to be the Jasper County
5 election results?

6 A Yes, sir.

7 MR. BURCHSTEAD: If you go to the next
8 page and scroll down on the county council races.
9 Page 75, the two county council races.

10 BY MR. BURCHSTEAD:

11 Q And if you go, Mr. Fulghum to page 75, it's marked
12 Bates stamped 75 of this exhibit, towards the bottom,
13 and I think we're going to scroll in in a minute, but,
14 I mean, do you see on there races for Jasper County
15 Council?

16 A I do.

17 Q Which races do you see?

18 A I see Coosawhatchie County Council,
19 Robertville. Those are the only two for the
20 county council position.

21 Q Thank you. And you testified earlier that the
22 Jasper County elects members staggered. They're not
23 all up for election at the same time, correct?

24 A That's correct, yes, sir.

25 Q Okay, thank you.

1 So the fact Coosawhatchie and Robertville are
2 on the ballot together, that sounds accurate to you,
3 based on your experience?

4 A Yes, sir.

5 Q Thank you.

6 Go to Exhibit 16, which is -- what does this
7 appear to be, Exhibit 16?

8 A 2020 statewide election results.

9 Q So we just looked at 2018 and this is 2020.

10 A Yes, sir.

11 Q Thank you.

12 Which Jasper County Council races -- go to
13 page 72 towards the bottom, and which Jasper County
14 Council races does this show were on the ballot in
15 2020? I know the type is a little bit small on that.
16 We're trying to blow it up.

17 A It shows the at-large position.

18 Q Okay.

19 A And it shows the Hardeeville district --
20 Hardeeville township.

21 Q Okay. And anything else?

22 A And the Pocotaligo township.

23 Q Thank you.

24 So, after looking at this, does it fit with
25 your knowledge and your understanding that Pocotaligo

1 and Hardeeville, and at-large are on the ballot up for
2 election at the same time?

3 A Yes, sir.

4 Q Thank you.

5 So, Coosawhatchie and Robertville 2018, 2022,
6 et cetera, and Pocotaligo, Hardeeville, and at-large
7 2020, 2024, and so forth?

8 A That's correct.

9 Q Thank you. And that was the general election.
10 Does this show -- in 2020, who won the Pocotaligo race
11 in 2020, the general election?

12 A Councilmen Adkins.

13 Q Thank you.

14 And who won the at-large race?

15 A Councilman John Kemp.

16 Q Thank you.

17 MR. BURCHSTEAD: If you go to Exhibit 15,
18 please.

19 BY MR. BURCHSTEAD:

20 Q If you go back to Exhibit 15, can you identify
21 this document? Does this document look familiar to
22 you?

23 A It appears to be 2020 statewide primary
24 results for Jasper County.

25 Q Thank you.

1 MR. BURCHSTEAD: And if you go to -- yes.

2 BY MR. BURCHSTEAD:

3 Q And if you look, which primary elections were on
4 the ballot in that primary?

5 A I'm sorry. It's very difficult for me to
6 see.

7 Q Okay.

8 A Well, I see Pocotaligo townships.

9 Q Sure. So Pocotaligo. Who were the candidates in
10 the Pocotaligo?

11 A Mr. Adkins and Mr. Ethridge.

12 Q Thank you.

13 Who won that election?

14 A Mr. Adkins.

15 Q Okay. And who were the candidates in the
16 at-large -- and that was for the Democratic primary,
17 correct?

18 A That's correct.

19 Q Because county council in Jasper, they elect in
20 partisan elections, correct?

21 A Yes, sir.

22 Q Thank you.

23 Was there -- were there primaries in the
24 at-large seat?

25 A Yes, sir, I see that now.

1 Q Okay. And what were the results of the at-large
2 race, the primary?

3 A Mr. Samuel Gregory beat Mr. Tom Jones.

4 Q Thank you.

5 And that was in the Democratic primary?

6 A Yes, sir.

7 Q Thank you.

8 Moving on to Exhibit 8, we're going to go
9 into just a little bit of redistricting. Mr.
10 Rainwater pretty well covered that.

11 THE COURT: We are going to take a break
12 for lunch. We'll reconvene at 1:15.

13 MR. BURCHSTEAD: Sure. Your Honor, I
14 only have a couple minutes left. Would it be
15 better to wrap it up now?

16 THE COURT: We're going to have some
17 cross-examination.

18 MR. BURCHSTEAD: Yes, Your Honor. Sure,
19 sure.

20 THE COURT: We will take a break until
21 1:15. We have the luxury of time. We'll break
22 now for lunch.

23 MR. GILLIAM: Just for the record, I
24 think this was clear, but Plaintiff's Exhibit 5,
25 6, and 9 are in evidence.

1 THE COURT: Yes.

2 MR. GILLIAM: Thank you.

3 THE COURT: We stand at ease until 1:15

4 p.m.

5 MR. BURCHSTEAD: Thank you Your Honor.

6 (A break was taken from 12:01 p.m. to 1:22 p.m.)

7 THE COURT: I remind you, you're still

8 under oath.

9 MR. GILLIAM: Thank you, Your Honor.

10 BY MR. BURCHSTEAD:

11 Q Mr. Fulghum, before our break, I believe we were
12 looking at Exhibit 8. And for the record, all the
13 exhibits are into evidence right now, including this
14 one. Please let me know when you found it.

15 A Yes, sir, I have it.

16 Q Thank you.

17 Do you recognize this document?

18 A I do.

19 Q What is it?

20 A It's a resolution that we recommended to the
21 county council for adoption establishing the
22 criteria to be used for the reapportionment of the
23 Jasper County Council district.

24 Q Thank you.

25 And was there anything in this resolution

1 about the revenue and fiscal affairs office? Well,
2 let me phrase that -- let me phrase that a different
3 way.

4 So, backing up, this is a resolution. What's
5 the difference between a resolution and an ordinance?

6 A A resolution is a local law. It takes one
7 reading of the county council. An ordinance is a
8 little more formal. It takes three readings and a
9 public hearing.

10 Q Thank you.

11 If you go to page 2 of this document, it's
12 marked as 51, and after the "Now therefore be it
13 resolved," number 2, what did that second paragraph
14 prescribe?

15 A It authorized that -- the county council
16 authorized staff to work with the RFA.

17 Q Thank you.

18 Why did the county desire to work with RFA in
19 redistricting?

20 A County staff didn't want any part in the
21 reapportionment process. It can be politically
22 charged and opted to go to a neutral party to do
23 that for us.

24 Q Thank you.

25 And did you perceive RFA to have their

1 requisite expertise?

2 A Yes, sir.

3 Q Okay, thank you.

4 Who is the designated person? Was there a
5 designated person with the county who worked with RFA?

6 A Yes, sir. I believe it was.

7 Q It was you, okay. Thank you.

8 And Mr. Rainwater testified earlier about how
9 some counties had -- some counties were more involved
10 in the redistricting process and other counties were
11 less involved.

12 A Yes, sir.

13 Q As far as Jasper County's posture in
14 redistricting, where would you put this county?

15 A We were hands off from the staff perspective.
16 Again, it can often be politically charged, and we
17 always think it's best to stay out of that.

18 Q So, did RFA do all the work in creating the
19 maps?

20 A Yes, sir.

21 Q And drawing the maps?

22 A Yes, sir.

23 Q Thank you.

24 And how did you see your role in the
25 redistricting process? And keeping to this latest

1 redistricting.

2 A In this latest redistricting, my role was to
3 serve as the staff person in contact with the RFA,
4 and to establish to the criteria by which the
5 apportionment would be completed by. That's on
6 the first page of the "whereas" there. And all
7 those are fairly standard. The final one, the
8 decision to exclude the prison population, was one
9 that staff and the RFA staff discussed and thought
10 was a good idea, so we added that. That was one
11 that was, sort of, optional. And then we, again,
12 took this forward in a recommendation to the
13 county council to proceed in this manner.

14 Q Thank you.

15 To your recollection, I mean, was everyone on
16 the county council on board? Was this a controversial
17 resolution?

18 A No, sir.

19 Q Thank you.

20 Mr. Rainwater testified about a meeting when
21 RFA's initial draft was being presented in January of
22 2022, and I think it was Mr. Kemp who raised some
23 questions about the location of certain incumbents.
24 Were you at that meeting?

25 A Yes, sir, I was.

1 Q Thank you.

2 And were you in communication with RFA
3 subsequently when RFA, as Mr. Rainwater testified,
4 went back and made sure that incumbents' addresses
5 were properly geocoded, that everybody was in the
6 right place and there wasn't any mistake about the
7 location?

8 A Yes, sir, I was part of that follow-up.

9 Q Thank you.

10 And is an ordinance required to pass -- for a
11 redistricting plan, is an ordinance required?

12 A Yes, sir.

13 Q So three readings have to pass?

14 A Yes, sir.

15 Q What is the time frame for that? Well, as you
16 were sitting there in a meeting in January of 2022,
17 how much more time was there to get a -- per your
18 understanding, to get the ordinance -- a redistricting
19 passed to be ready for the next election?

20 A Oh, I don't recall what the time line was.

21 Q Okay, thank you.

22 Do you remember when the redistricting
23 ordinance did pass?

24 A No, sir, I don't.

25 Q Okay. If you would go to Exhibit 10, please. Do

1 you recognize this document, Exhibit 10?

2 A Yes, sir. That's the reapportionment for the
3 redistricting ordinance.

4 Q And this was the ordinance that was -- do you
5 recognize this as the ordinance that passed, correct?

6 A Yes, sir.

7 Q Thank you.

8 And if you'll go to page 59, does this
9 page show you when the effective date -- does this
10 refresh your recollection as to the effective date of
11 the redistricting ordinance?

12 A Yes, sir.

13 Q And what does that say?

14 A Adopted February 22nd of '22.

15 Q So the ordinance was adopted in February 22nd.
16 And when did it go into effect? That same paragraph.
17 Is that effective immediately? Is that correct?

18 A I believe so. I'm seeing if there's anything
19 else that could impede that.

20 Q Thank you.

21 And Mr. Rainwater testified that after the
22 January 13th meeting when the potential issue with the
23 coding of the incumbents was discovered, and then
24 after RFA went, and confirmed that the residency of
25 everybody, that a second map was drawn.

1 A Yes, sir.

2 Q What was the intention in putting forth that
3 second map?

4 A The intention of the second map was to see if
5 the district of the Pocotaligo district could be
6 redrawn to include Mr. Adkins's residence.

7 Q Thank you.

8 So this was after it was discovered that he
9 wasn't a resident. Council was trying to -- what was
10 the intention of that? Council was trying to fix it?

11 A Yes, sir.

12 Q Okay, thank you.

13 And were there two maps that were actually
14 presented to council, do you recall?

15 A Yes, sir. I don't remember the names of
16 them, but they were something like version 1 and
17 version 2.

18 Q And version 2, or one of the two versions, drew
19 Mr. Adkins into Pocotaligo.

20 A Yes, sir. That would be the version 2, yes,
21 sir.

22 Q Thank you.

23 And that one was the one that passed?

24 A Yes, sir.

25 Q Thank you.

1 Do you recall what the vote was on that?

2 A Yes, sir. It was three to two.

3 Q Thank you.

4 If you'll look at Exhibit 11, and we've
5 already discussed Exhibit 11 with Mr. Rainwater, but
6 you recognize this as the final map?

7 A Yes, sir.

8 Q Okay, thank you.

9 And just to wrap it up, Mr. Fulghum, I mean,
10 right now what is -- is there a residency requirement
11 for members of the Jasper County Council in the four
12 -- except for the at-large?

13 MR. THICKENS: Objection; calls for an
14 opinion.

15 THE COURT: I'm allowing him to ask.

16 THE WITNESS: Yes, sir, was my answer.

17 BY MR. BURCHSTEAD:

18 Q Thank you.

19 And it's been the same way as long as -- how
20 long has it been that way?

21 A As long as I've known it to be. Since I've
22 been in the position.

23 Q And what is the residency requirement? I mean,
24 for the four districts -- for the four election
25 districts other than the at-large?

1 A That all candidates are voted upon at-large,
2 but they must reside in one of the four
3 districts.

4 Q And what are the four districts again?

5 A Pocotaligo, Coosawhatchie, Robertville, and
6 Hardeeville.

7 Q Thank you.

8 MR. BURCHSTEAD: Nothing further.

9 THE COURT: Any cross-examination?

10 MR. THICKENS: Yes, Your Honor. If it
11 pleases the Court?

12 Could we keep Exhibit 7 up there? Do
13 you-all mind?

14 CROSS-EXAMINATION

15 BY MR. THICKENS:

16 Q All right. Mr. Fulghum, let's pick up a little
17 where we left off. How long have you been the county
18 administrator?

19 A Since June of 2004.

20 Q Now, since June of 2004, how many -- have you
21 submitted DOJ pre-clearances to -- you know, on behalf
22 of Jasper County?

23 A I haven't. Our law firm has in the past. I
24 just don't know how many times.

25 Q Do you know how many DOJ pre-clearances have been

1 submitted since you took your position in 2004?

2 A I do not, no, sir.

3 Q Do you know how many were prior to 2004?

4 A I do not.

5 Q Do you how many were submitted subsequent to the
6 one in 1976 -- or the 1975 submission that we saw on
7 the screen?

8 A No, sir, I do not.

9 Q Do you know whether any subsequent ordinances or
10 versions of this ordinance were submitted for DOJ
11 approval subsequent to the one that was put up on the
12 screen?

13 A I do not.

14 Q Do you see the Plaintiff's number 7 ordinance in
15 your binder in front of you?

16 A Yes, sir.

17 Q You have a copy of it that you're looking at?

18 A I do.

19 Q Okay. You realize this is Jasper County's Exhibit
20 Number 7, correct?

21 A Yes, sir.

22 Q Okay.

23 All right. Let's read through that together.

24 "County council shall consist of five members elected
25 at-large." Did I read that correctly?

1 A Yes, sir.

2 Q Does the county council currently consist of five
3 members?

4 A Yes, sir.

5 Q Were each of them elected at-large?

6 A Yes, sir.

7 Q Okay. "Provided that each member of the council
8 shall be a resident from one of the four townships of
9 the county." Did I read that correctly?

10 A Yes, sir.

11 Q All right. Who are the five members of council?

12 A A chairman, Marty Sauls, Vice Chairman,
13 Barbara Clark, Mr. John Kemp, Mr. Alvin Adkins,
14 and Mr. Coy Garbade.

15 Q All right. Mr. Adkins is currently a member of
16 the Jasper County Council?

17 A Yes, sir.

18 Q Is he a resident from one of the four townships in
19 the county?

20 A He is.

21 Q Which township?

22 A Coosawhatchie.

23 Q And Coosawhatchie is a township where?

24 A In Jasper County.

25 Q "And one member shall have no residency

1 requirement."

2 Now, you would agree with me that Mr. Adkins
3 was elected at large, correct?

4 A Yes, sir.

5 Q And you've already agreed with me that he's a
6 resident from one of the four townships of the county,
7 correct?

8 A Correct.

9 Q Is this Jasper County's ordinance number 2-31 that
10 governs the composition and residency of members of
11 the Jasper County Council?

12 A Yes, sir.

13 Q What part of that ordinance does he not meet?

14 MR. GILLIAM: Your Honor, I'm going to
15 object in the sense that it calls for a legal
16 conclusion in terms of what the ordinance means.

17 MR. THICKENS: He's been giving legal
18 conclusions for the last hour.

19 THE COURT: All right. Well, I'm going
20 to allow him to ask it.

21 THE WITNESS: Can you repeat the
22 question, please?

23 BY MR. BURCHSTEAD:

24 Q I think you may have already answered it?

25 MR. THICKENS: No further questions, Your

1 Honor.

2 THE COURT: Any redirect?

3 MR. BURCHSTEAD: No, Your Honor. Thank
4 you.

5 THE COURT: All right. You may step
6 down.

7 THE WITNESS: Thank you.

8 THE COURT: Any objection to Mr. Fulghum
9 being released?

10 MR. THICKENS: We may need to call him in
11 reply.

12 THE COURT: I'm going to ask that you
13 stay with us.

14 THE WITNESS: Yes, sir.

15 THE COURT: You may call your next
16 witness.

17 MR. GILLIAM: Your Honor, Jasper County
18 will call Mr. Alvin Adkins.

19 THE COURT: Mr. Adkins, could you please
20 come forward. Yes, sir. I'm going to ask, if you
21 could, you approach the clerk. Place your left
22 hand on the Bible and raise your right hand as she
23 administers the oath.

24 THE CLERK: The testimony you're about to
25 give the Court will be the truth so help you God?

1 THE WITNESS: Yes, sir.

2 THE CLERK: Come right around.

3 THE COURT: Have a seat in the witness
4 chair, please, sir.

5 THE CLERK: Spell your last name, sir.

6 THE COURT: Pull up real close to the
7 microphone. I'm going to ask that you speak
8 loudly, clearly, and slowly in order that we can
9 hear everything that you have to say. Let's start
10 with your full name and spell that last one.

11 THE WITNESS: Alvin Adkins. Adkins is
12 A-d-k-i-n-s.

13 WHEREUPON:

14 ALVIN ADKINS,
15 after having been sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. GILLIAM:

18 Q Mr. Adkins, my name is Jim Gilliam. We met before
19 when I took your deposition on July the 7th in
20 Miss Matthews's office. Do you remember that?

21 A Yes, sir.

22 Q Is it true that you're currently a member of the
23 Jasper County Council?

24 A Yes, sir.

25 Q And you're familiar with districts at the Jasper

1 County Council?

2 A Yes, sir.

3 Q Is Jasper County divided into four districts?

4 A Yes, sir.

5 Q Okay. And one of those districts is
6 Coosawhatchie; is that right?

7 A Yes, it is.

8 Q And one of them is Robertville.

9 A Yes, sir.

10 Q One of them is Hardeeville.

11 A Yes, sir.

12 Q And one is Pocotaligo?

13 A Yes, sir.

14 Q And the address that you currently reside at is
15 67 Bolden Lane, in Yemassee, South Carolina; is that
16 right?

17 A Yes. Yemassee is our mailing address. Our
18 mail comes through Yemassee, but I live in Jasper
19 County.

20 Q Okay. Do you -- so I'm showing you up on the
21 screen, but you can look in your book too. However is
22 best for you. That book, the way you work it is,
23 there's tabs on it. If you pull at 13, this is going
24 to be that document. However you prefer to read it.
25 Just tell me when you're ready.

1 A Go ahead, sir.

2 Q So this Exhibit Number 13, this is a Statement of
3 Intention of Canidatcy and Party Pledge; is that
4 right? That's what it says at the top?

5 A Yes, sir.

6 Q So we call that -- or I'm going to call it this,
7 we call it SIC application. Can we agree that if I
8 say SIC application, I mean the Plaintiff's Exhibit
9 number 13?

10 A Yes, sir.

11 Q Okay. And that's your signature down there,
12 right?

13 A Yes, sir.

14 Q Okay. In fact, all this handwriting above this
15 sentence right here that says, "Candidate must sign in
16 the presence of an election official or notary
17 public," everything north of that, above that is your
18 handwriting, right?

19 A Yes, sir.

20 Q Okay. And on this document, did you write in what
21 party? Did you write in something next to the
22 party?

23 A Yes, sir.

24 Q And wrote in what?

25 A Democrat.

1 Q D-e-m, that meant Democrat, right?

2 A Yes.

3 Q Next to district, you wrote what?

4 A Pocotaligo.

5 Q And next to -- do you see where it says your
6 address?

7 A Yes, sir.

8 Q Tell me what you wrote in for your address.

9 A 67 Bolden Lane, Yemassee, South Carolina, zip
10 code 29945.

11 Q So it says Yemassee, right?

12 A Yes, sir.

13 Q That's where I was getting that from. But you're
14 telling me that's just where you get your mail?

15 A Yes, sir.

16 Q Okay, understood.

17 But this address, 67 Bolden Lane, my
18 understanding is -- you started living there in 2000;
19 is that right?

20 A Yes, sir.

21 Q And you lived there from 2000 to present day?

22 A Yes, sir.

23 Q Never moved?

24 A No, sir.

25 Q All right. And just so we can, kind of, orient

1 ourselves from a date perspective. So, you ran for
2 county council in the primary on June 9, 2020,
3 right?

4 A Yes, sir.

5 Q And you ran in the general election on November
6 the 3rd, 2020; is that correct?

7 A Yes.

8 Q And then to you ran -- or you were sworn in on
9 January 4, 2021; is that right?

10 A Yes, sir.

11 Q Okay. So from the year 2000 to 2021, have you
12 voted in every election in Jasper County?

13 A Say that again.

14 Q Yes, sir. From the year 2000 to 2021, have you
15 voted in every election in Jasper County?

16 A Yes, sir.

17 Q Okay. And from 2000 to 2001, did you ever vote in
18 the Pocotaligo district?

19 A No, sir.

20 Q Okay. So every time you went to vote from 2000 to
21 2022, you went to vote in the Coosawhatchie district;
22 is that right?

23 A No, sir. I used in vote in Ridgeland until I
24 moved where I'm at at 67 Bolden Lane.

25 MR. GILLIAM: Your Honor, I have the

1 original deposition transcript from Mr. Adkins. I
2 request permission to open it.

3 THE COURT: Certainly.

4 MR. GILLIAM: Thank you.

5 BY MR. GILLIAM:

6 Q Okay. I'm going to read from your deposition
7 transcript. And, just for the record, when I took
8 your deposition on July the 7th, 2023, you took an
9 oath and swore you were going to tell the whole truth
10 and all that, right?

11 A Yes.

12 Q All right. Same as you did today?

13 A Yes.

14 Q So I'm going to publish page 39, lines 9 through
15 11 for the Court. It's the same question I just asked
16 you. "From 2000" --. I apologize. It's going to be
17 lines 5 through 7. So page 39, lines 5 7. The answer
18 is going to be on line 8: "So every time you went to
19 vote from 2000 to 2022, you went to vote in the
20 Coosawhatchie district; is that right?"

21 A Yes.

22 Q The answer is yes.

23 So prior to running for Jasper County, I
24 remember you telling me that you worked for Jasper
25 County for 18 years; is that correct?

1 A Yes, sir, about 18 years.

2 Q I remember you told me you held a few different
3 jobs. You told me one of the jobs that you had was a
4 park ranger; is that right?

5 A Yes, sir.

6 Q And one of them was a landscaping-type job; is
7 that right?

8 A Yes. We done last year, but also, while I
9 was with the park, I had to cut grass, weed eat,
10 spread weed kill, and et cetera.

11 Q And you told me you also drove a bus; is that
12 right?

13 A Yes, sir.

14 Q I know you're going to remember this day because
15 everybody remembers this day. You told me you retired
16 from Jasper County on May 24, 2019; is that right?

17 A Yes.

18 Q You told me right before you retired, you had a
19 dream a few days before that.

20 A Yes, sir.

21 Q And in that dream, you heard a voice and the voice
22 told you to run for county council.

23 A Yes, it did.

24 Q Okay. And it's because of that dream, when you
25 heard that voice, that's why you made the decision to

1 run for county council; is that right?

2 A Yes, sir.

3 Q And before you had that dream and heard that
4 voice, you had never run for political office
5 before?

6 A No, sir.

7 Q Okay. So we talked a little bit about this form,
8 about this SIC application, and just so -- I know I
9 asked you this once, but the district that you put in
10 the SIC application, what district did you write in?

11 A Pocotaligo.

12 Q When you filled out this SIC application, did you
13 believe you lived in the Pocotaligo district?

14 A Yes, sir, I did.

15 Q Okay. I'm going to publish your testimony here.
16 We're going to go to page 66, lines 2 through 5.

17 "When you filled out" -- The question: "When you
18 filled out this SIC application, did you believe you
19 lived in the Pocotaligo district?" Answer: "No,
20 sir."

21 So when you completed this SIC application,
22 what district did you think you lived in?

23 A When I went and applied, and when I asked --
24 I told them I wanted to run for county council,
25 they asked me where I lived at, and I said I lived

1 in the Pocotaligo area.

2 Q So let me ask my question again. When you
3 completed this SIC application, what district did you
4 think you lived in?

5 A Pocotaligo.

6 Q Okay. I'm going to publish your testimony from
7 your deposition. Page 76, lines 22 through 25: "When
8 you completed this SIC application, what district did
9 you think you lived in." Answer: "Coosawhatchie."

10 On this SIC application, do you see where you
11 had to fill in the blank under the party pledge?

12 A Which line is this here, sir?

13 Q It starts with, "I hereby file my notice," and you
14 see the blank you wrote in?

15 A Yes, sir.

16 Q Okay. And here's what it says. It says, "I
17 hereby file my notice as a candidate for the
18 nomination as," and what did you write?

19 A County council, Pocotaligo.

20 Q Okay. So when you signed this SIC application,
21 you say that you were running for the county council
22 position for the Pocotaligo district, correct?

23 A Yes, sir. Because, like I said, when they
24 asked me, they told me I was running against Henry
25 Ethridge. They told me that that was his area,

CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Jasper County, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

February 19, 2024

A handwritten signature in black ink, reading "Sharon G. Hardoon". The signature is written in a cursive, flowing style with a large initial 'S'.

Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III