



Alabama
NAACP

October 26, 2021

Sent via email

Limestone County Commission
Collin Daly, Chair
310 W. Washington Street
Athens, AL 35611
collin.daly@limestonecounty-al.gov

Dear Chair Daly and Members of the Limestone County Commission:

The NAACP Legal Defense and Educational Fund, Inc. (“LDF”),¹ the Alabama State Conference of the NAACP, and the Limestone County Branch of the NAACP write to convey our grave concern regarding the Limestone County Commission’s proposed redistricting plan. That proposed plan appears to diminish the opportunity for Black voters and other voters of color in Limestone County to meaningfully participate in the electoral process by influencing the elections of candidates of their choice.²

With the current redistricting process, Limestone County has a baseline affirmative obligation to develop an electoral structure for the Commission that complies with the U.S. Constitution’s equal population mandate, the Fourteenth Amendment’s ban on the unjustified use of race as a predominant consideration in redistricting, and Section 2 of the Voting Rights Act of 1965 (“Section 2”), which forbids racially discriminatory vote dilution. The Commission must not produce maps that intentionally “pack” Black voters into districts with unnecessarily high Black populations or “crack” them into districts with unnecessarily low ones—both of which are stratagems that can illegitimately elevate race over other considerations and wrongfully diminish the political power of Black voters in violation of the Constitution.³

¹ Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in education, economic justice, political participation, and criminal justice. Throughout its history, LDF has worked to enforce and promote laws and policies that increase access to the electoral process and prohibit voter discrimination, intimidation, and suppression. LDF has been fully separate from the National Association for the Advancement of Colored People (“NAACP”) since 1957, though LDF was originally founded by the NAACP and shares its commitment to equal rights.

² See Limestone Cty., Ala., *Redistricting Proposal*, at 2, <https://limestonecounty-al.gov/wp-content/uploads/2021/10/Redistricting-Proposal.pdf> (last visited Oct. 25, 2021).

³ *Ala. Leg. Black Caucus v. Alabama*, 575 U.S. 254, 278 (2015).

We are concerned that Limestone County’s proposed redistricting plan for the County Commission reflects an intent to minimize Black voting power by unnecessarily moving Black voters out of District 3. Under the existing 2010 plan, Black residents are 20% of District 3’s total population.⁴ And 2020 Census data shows that Limestone County’s Black population has increased at more than twice the rate of its white population over the last decade.⁵ Yet the County’s proposed redistricting plan *reduces* District 3’s Black population by over 1,500 people, redrawing District 3’s boundaries such that under it only 17% of the district’s population is comprised of Black voters. At the same time, a substantial number of the county’s Black voters have been moved into neighboring District 4, where they are unlikely to be able to exercise significant electoral influence because, even with their addition, the Black voting age population in District 4 remains low.

Under the 2010 plan, Black candidates and other candidates of color preferred by Black voters have been increasingly able to obtain support from substantial proportions of District 3’s electorate.⁶ The proposed map appears likely to reverse this pattern, increasing the likelihood that candidates preferred by white voters will defeat candidates preferred by Black voters. Such a change in the district’s racial composition is likely to produce harmful outcomes for the Black community. Moreover, there appears to be little reason for drawing the lines in a way that reduces the Black population in District 3 other than an intent to reduce the electoral influence of District 3’s Black voting community.

The Limestone County Commission’s electoral structure may further exacerbate the potential for racially harmful outcomes. As you know, the Commission currently includes a combination of four commissioners elected from single-member districts and one commissioner elected at-large. Federal courts have repeatedly held that such “mixed” districting plans, when they result in the dilution of Black electoral strength, violate Section 2.⁷ If the Limestone County Commission’s at-large “chair”

⁴ *Redistricting Proposal*, *supra* note 2, at 2.

⁵ U.S. Census Bureau, *Alabama: 2020 Census* (Aug. 25, 2021), <https://www.census.gov/library/stories/state-by-state/alabama-population-change-between-census-decade.html> (reporting growth of 35.9% among Limestone County residents identifying as “Black or African American alone or in combination,” as compared to growth of only 15.9% among Limestone County residents identifying as “White alone”).

⁶ For example, in 2018, Hanu Karlapalem, who appears to be a person of South Asian descent, ran for District 3 Commissioner and was defeated by Commissioner Jason Black, who appears to be a white person. Mr. Karlapalem obtained approximately 4,035 votes, or 40.70% of votes cast. https://www.votelimestone.com/wp-content/uploads/2018/11/44GEN18_OFFICIAL-RESULTS.pdf (p. 40). In 2014, James “Curtis” Turner, who is Black, ran in District 3 and was also defeated by Commissioner Black. Mr. Turner obtained approximately 4,044 votes, or 37.22% of votes cast. <https://www.votelimestone.com/wp-content/uploads/2014/11/November-4-2014-General-Election-Results.pdf> (p. 32).

⁷ See, e.g., *United States v. Dallas Cty. Comm’n*, 850 F.2d 1433, 1439-40 (11th Cir. 1988) (rejecting a school board’s proposed remedial plan which created four SMDs and one at-large seat because it did not reflect Black voting strength in violation of Section 2); *Wright v. Sumter Cty. Bd. of*

position was abolished and all five commissioners were instead elected from single-member districts, Black voters could likely form a greater proportion of the voting-age population in one or more districts, increasing their ability to participate in the electoral process on an equal basis and elect candidates of their choice.⁸ Such a structure could include a rotating chair designation, or the commissioners could vote to elect one of their members as the chair.

As an alternative, to provide a more equitable opportunity for Black voters to participate in county elections, Limestone County may also consider adopting cumulative voting for Commission seats. Cumulative voting is an alternative voting practice that provides each voter as many votes as there are vacant seats.⁹ Other jurisdictions in Alabama and elsewhere have adopted cumulative voting with success. For example, in the first election conducted under cumulative voting by the City of Pleasant Grove, in August of 2020, there was record turnout, and voters elected three new Black city councilmembers—the first Black candidates elected in the city’s history.¹⁰

As a first step, **we request a response in writing from the Commission by 5:00 p.m. on Friday, October 29**, explaining whether, and how, the Commission plans to address the issues we have identified. We are prepared to assist the Commission, consistent with public participation rules or guidelines, in developing an inclusive redistricting plan that complies with Section 2 and the U.S. Constitution

Elections & Registration, 301 F. Supp. 3d 1297, 1324 (M.D. Ga. 2018) (finding that a plan featuring five SMDs and two at-large seats violated Section 2 where half of the county’s population was Black, but only two of the board’s seven districts were comprised of a majority of Black voters); *United States v. Osceola Cty.*, 474 F. Supp. 2d 1254, 1256 (M.D. Fla. 2006) (rejecting a proposed remedial plan featuring five SMDs and two at-large seats because it violated Section 2); *see also Harper v. City of Chi. Heights*, 223 F. 3d 593, 600 (7th Cir. 2000) (affirming the district court’s finding that an at-large plan violated Section 2); *Patino v. City of Pasadena*, 230 F. Supp. 3d 667, 718 (S.D. Tex. 2017) (finding that a plan featuring six SMDs and two at-large seats violated Section 2 because Latino voters made up half of the population, but held a majority in only three seats, i.e., “one district short of proportionality”); *Benavidez v. Irving Indep. Sch. Dist.*, No. 3:13-CV-0087-D, 2014 WL 4055366, at *23 (N.D. Tex. Aug. 15, 2014) (finding that a plan featuring five SMDs and two at-large seats violated Section 2); *Jamison v. Tupelo*, 471 F. Supp. 2d 706, 716 (N.D. Miss. 2007) (finding that a plan featuring seven SMDs and two at-large seats violated Section 2).

⁸ *See Dillard v. Crenshaw Cty.*, 649 F. Supp. 289, 295 (M.D. Ala. 1986), adhered to, 679 F. Supp. 1546 (M.D. Ala. 1988), *aff’d* 831 F.2d 246 (11th Cir. 1987) (“the requirement for an at-large chairperson commissioner . . . violate[s] section 2”).

⁹ Cumulative voting is used in dozens of localities in the United States, including in Alabama. *See, e.g.*, Richard L. Engstrom, Delbert A. Taebel & Richard L. Cole, *Cumulative Voting as a Remedy for Minority Vote Dilution: The Case of Alamogorado, New Mexico*, 5 J.L. & Pol. 469 (1989); Richard L. Engstrom, *Cumulative and Limited Voting: Minority Electoral Opportunities and More*, 30 St. Louis Univ. Pub. L. Rev. 97 (2010).

¹⁰ Anna Beahm, *Pleasant Grove makes history; elects first Black councilors*, AL.com (Aug. 25, 2020), <https://www.al.com/news/2020/08/pleasant-grove-makes-history-elects-first-blacks-to-council.html>.

and look forward to your response. The Commission's counsel should also feel free to contact Steven Lance at slance@naacpldf.org.

Sincerely,

/s/ Steven Lance

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cc (via email): Commissioner Daryl Sammet (District 1)
Commissioner Danny Barksdale (District 2)
Commissioner Jason Black (District 3)
Commissioner LaDon Townsend (District 4)