



**Testimony of Leah Aden
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**Before the South Carolina Senate
Senate Judiciary Redistricting Subcommittee**

**Testimony on Proposed Senate
Redistricting Plans**

November 12, 2021

Good afternoon, Chair Rankin and other Subcommittee members. My name is Leah Aden, and I am a Deputy Director of Litigation with the NAACP Legal Defense and Educational Fund, Inc. (also known as “LDF”). LDF has been a separate organization from the NAACP since 1957.

We thank the Senate staff for its work in developing this Committee’s proposed Senate plan, which we continue to evaluate to provide you with feedback. We do have concerns about certain proposed districts.

First, we ask the Subcommittee to reconsider its proposed boundary lines for **Senate District 39**, for the reasons Dr. John Ruoff with the League of Women Voters detailed this morning and the reasons set forth in the League’s written comments, and instead to adopt the approaches of our proposed plan or the League’s. The approaches in either of those proposals would be more protective of Black voters’ ability to continue to elect candidates of choice in that area given ongoing population changes and would give due consideration to the communities of interest in that area of the state that need to be protected.

Second, we also share the concerns of our colleagues at the League about proposed **Senate District 17**. Based on recent trends of population growth, SD17 as proposed by this body, which I understand differs both from our proposed plan and the League’s, puts at risk in the coming years the ability of Black voters to continue influencing elections in **SD17**.

Third, with respect to the configurations of proposed **Senate Districts 23, 24, 25, 26, and again 39**, we are concerned by the cracking of Black voters in communities within them, echoing the specific communities that the League has detailed this morning and in its written comments. We request that you look more closely at these areas and revisit any splitting of communities of interest impacting Black voters in these proposed districts.

Fourth, following testimony today, we also request that this body revisit the split of Spartanburg—which is split three ways into **Senate Districts 11, 12, and 13**—in its proposed plans. Spartanburg should be kept whole. Members of the public pointed out that Spartanburg’s split

runs afoul of this Committee's purported criteria, which express a commitment to endeavor to keep counties whole. And, as you know from the plan proposed by the League, it is possible to keep Spartanburg whole (as does Senate District 12 in the League's map). Testimony to this Subcommittee expressed the negative impact this split would have on Black voters in Spartanburg. For these reasons, we urge you to revisit how Spartanburg is treated in the Senate's proposed map.

We appreciate the opportunity to bring these areas of concern to your attention and encourage you to revisit them. As we continue to review the Senate's proposed plan, we will provide further comments in writing *if* we identify other areas of concern.

I also note, based on some of the comments made here today, that retrogression under Section 5 of the Voting Rights Act, which has been immobilized by the 2013 Supreme Court decision, remains an important consideration. For example, it is an important indicium of discrimination if a redistricting plan intentionally cracks or packs a community of interest of Black voters or eliminates a majority-minority district.

I'd also note that the VRA protects Black voters' ability to elect candidates of choice, regardless of those candidates' race, gender, or other identity. I agree, however, that often the candidate of choice for Black voters is a Black candidate; but, of course, Black voters elect non-Black candidates all of the time.

Moreover, the Legislature has an affirmative obligation to consider any evidence of racially polarized voting patterns. Indeed, the U.S. Supreme Court recently instructed: a "legislature undertaking a redistricting must assess whether the new districts it contemplates (not the old ones it sheds) conform to the [Voting Rights Act]'s requirements."¹ Our previous correspondence with this Subcommittee, including the letter accompanying our October 8 submission of two Congressional plans and a proposed Senate plan, go into more detail about these required analyses. Even if this body has not done its own RPV analysis, which, once again, it is obliged to do, federal courts hearing redistricting disputes, decade after

¹ *Cooper v. Harris*, 137 S. Ct. 1455, 1471 (2017).

decade, have found that RPV patterns exist across the State. Moreover, the League proposed a district, SD39, comprised of a majority of Black voters at 50%+1. While the Senate Plan that our coalition proposed did not take this same approach, nor does this body's proposed plan, this Subcommittee has an obligation to ensure that SD39 can function for Black voters with a Black voting-age population below 50% in the presence of any racial bloc voting in that area, consistent with *Thornburg v. Gingles*.

Thank you.