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HOUSE REDISTRICTING COMMITTEE MEETING  
WEDNESDAY, MARCH 14, 2012

Transcribed by:  
CLARA C. ROTRUCK  
Court Reporter

1 T A P E D P R O C E E D I N G S

2 REPRESENTATIVE WEATHERFORD: All right,  
3 guys, if everybody could grab their seats,  
4 members, please, we are going to get started.

5 Ben, could you please call the roll?

6 THE CLERK: Representatives Adkins?

7 REPRESENTATIVE ADKINS: Here.

8 THE CLERK: Bernard?

9 REPRESENTATIVE BERNARD: Here.

10 THE CLERK: Chestnut?

11 REPRESENTATIVE CHESTNUT: Here.

12 THE CLERK: Dorworth?

13 REPRESENTATIVE DORWORTH: Here.

14 THE CLERK: Eisnaugle?

15 REPRESENTATIVE EISNAUGLE: Here.

16 THE CLERK: Fresen?

17 Frishe?

18 REPRESENTATIVE FRISHE: Here.

19 THE CLERK: Holder?

20 REPRESENTATIVE HOLDER: Here.

21 THE CLERK: Horner?

22 REPRESENTATIVE HORNER: Here.

23 THE CLERK: Hukill?

24 REPRESENTATIVE HUKILL: Here.

25 THE CLERK: Jenne?

1 REPRESENTATIVE JENNE: Here.

2 THE CLERK: Jones?

3 REPRESENTATIVE JONES: Here.

4 THE CLERK: Kiar?

5 REPRESENTATIVE KIAR: Here.

6 THE CLERK: Legg?

7 REPRESENTATIVE LEGG: Here.

8 THE CLERK: Nehr?

9 REPRESENTATIVE NEHR: Here.

10 THE CLERK: Precourt?

11 REPRESENTATIVE PRECOURT: Here.

12 THE CLERK: Rogers?

13 REPRESENTATIVE ROGERS: Here.

14 THE CLERK: Rouson?

15 REPRESENTATIVE ROUSON: Here.

16 THE CLERK: Schenck?

17 REPRESENTATIVE SCHENCK: Here.

18 THE CLERK: Workman?

19 REPRESENTATIVE WORKMAN: Here.

20 THE CLERK: Chair Weatherford?

21 REPRESENTATIVE WEATHERFORD: Here.

22 THE CLERK: Mr. Chairman, a quorum is

23 present.

24 REPRESENTATIVE WEATHERFORD: All right,

25 great. Show Representative Fresen is excused.

1           Members, we are going to -- first I want  
2           to thank you all for being here. As the  
3           Speaker said, I know everybody was probably  
4           enjoying their downtime and decompressing, but  
5           hopefully this will be short and sweet, and I  
6           think the Speaker gave us a good timeline, but  
7           I am going to walk you through a few things.

8           The first is, as far as today, we are  
9           going to cover only the ground that we need to  
10          cover today and during the course of these 15  
11          days in order that the House and the  
12          Legislature overall can address what the  
13          Supreme Court of Florida said, and that there  
14          are constitutional deficiencies in the Senate  
15          map and -- that was adopted by the Legislature  
16          just a little over a month ago.

17          As you know, last Friday, the Court  
18          validated the House map, but invalidated the  
19          Senate map. So pursuant to the State  
20          Constitution, the Legislature must meet in  
21          order to re-craft the remedies to the State  
22          Senate map.

23          For today, I have asked that our  
24          redistricting special counsel, Mr. George  
25          Meros, provide us with an explanation of the

1 guidance provided to the Legislature by the  
2 Supreme Court in order that this Committee can  
3 be informed about what really is the first  
4 comprehensive interpretation of Florida's new  
5 redistricting standards.

6 I would like to up front state that it is  
7 my desire to let the Senate take the lead in  
8 this process. Notably, the Supreme Court even  
9 addressed that very question and said that  
10 there's nothing wrong with one legislative  
11 chamber deferring to another on its respective  
12 map. The results are what actually matters.

13 At the same time, it is important that the  
14 House be able to scrutinize the results of the  
15 maps that come from the Senate. To that end,  
16 you can expect that the House will use  
17 March 26th, 27th and 28th -- that is Monday,  
18 Tuesday and Wednesday -- to conduct its formal  
19 business regarding the revisions to the Senate  
20 map; in other words, we will not -- we will not  
21 meet at all next week. The following Monday,  
22 Tuesday and Wednesday, expect to be here in  
23 Tallahassee for a possible committee meeting  
24 and certainly time for the floor.

25 In addition, like any issue before the

1 House, all 120 members have the opportunity to  
2 file amendments, as long as they are consistent  
3 with the call of this Extraordinary  
4 Apportionment Session. To that end, everyone  
5 received an e-mail on Monday from the House  
6 Bill Drafting with reminders about the House  
7 rules with regards to redistricting bills and  
8 amendments.

9 With that, members, if you take a look at  
10 your packet for today's meeting, you will find  
11 several tabs. In tab one, it contains the  
12 actual court order that Mr. Meros will be  
13 referencing when he speaks in a few minutes,  
14 and in tabs two through five, there will be  
15 reference materials, there will be maps and  
16 data, bill analysis related to the State Senate  
17 map that was passed during the regular session.

18 Now, with that, if there's any questions,  
19 we will address those questions now, and then  
20 we will have Mr. Meros speak to us. Is there  
21 any questions in regard to anything I said or  
22 something else that was not touched on?

23 I believe Representative Jenne has a  
24 question. You are recognized, sir.

25 REPRESENTATIVE JENNE: Thank you, Mr.

1 Chair.

2 Just a technical question in terms of how  
3 the bills will travel through the process. I  
4 understand we are going to defer in some way to  
5 the Senate, so will then the Senate  
6 subcommittee hear the bill over here, then this  
7 full Committee, then on to the floor, would  
8 that be the path for the bill?

9 REPRESENTATIVE WEATHERFORD: That  
10 determination has not been made. My assumption  
11 is the full Committee would meet. If there's  
12 going to be a committee meeting to scrutinize  
13 the bill, whether it is in a workshop format or  
14 a format where we would vote the bill out of  
15 Committee, that would be this Committee here  
16 probably, so the Senate Committee probably will  
17 not meet again specifically. A lot of that is  
18 for time purposes so it doesn't have to go  
19 through two committees. So this would be the  
20 committee that that would go through.

21 Any other questions? Representative  
22 Clarke-Reed.

23 REPRESENTATIVE CLARKE-REED: Thank you,  
24 Mr. Chair.

25 In giving the dates that we would be

1 coming back, you were saying that the Committee  
2 would probably meet on the 26th and the 27th,  
3 and the 28th, the entire House would meet?

4 REPRESENTATIVE WEATHERFORD: Well, like I  
5 said, a lot of this is -- are based off of  
6 assumptions, but I think right now, the way we  
7 are planning it out, for purposes of members of  
8 this Committee, we would have a committee  
9 meeting, most likely, if we were to have one,  
10 on that Monday, the 26th. So what we would ask  
11 you is to kind of keep that date open in case  
12 we need you here for that. Obviously, second  
13 reading takes a day and third reading takes a  
14 day, so you would need two days on the floor to  
15 actually pass the maps. And so if we had a  
16 committee meeting, for example, on Monday, you  
17 would need Tuesday and Wednesday to have second  
18 and third reading. So that is how we envision  
19 it taking place, but I would not lock anything  
20 in stone. I think it is fluid. We want to  
21 have flexibility depending on what comes over  
22 from the Senate, but I would say those three  
23 days should be the days we should be watching.

24 REPRESENTATIVE CLARKE-REED: Thank you.

25 REPRESENTATIVE WEATHERFORD:



1 Representative Precourt for a question?

2 REPRESENTATIVE PRECOURT: Thank you.

3 Thank you, Mr. Chairman, and I appreciate and  
4 am wholly supportive of the idea of giving  
5 deference to the Senate on drawing their maps.  
6 It's similar to the process -- the very open  
7 process that we used in making our staff  
8 accessible to the members to see what was going  
9 on, to ask questions, provide input. Is the  
10 Senate going to make their staff open and  
11 available to House members to participate in  
12 this process as well?

13 REPRESENTATIVE WEATHERFORD: That is a  
14 very good question and one that I have not  
15 asked them yet. I think our staff is  
16 communicating with theirs. I am communicating  
17 with the Chair of the Senate as well. So that  
18 is actually a question that has not been asked  
19 yet. I think it is a fair one. A way to  
20 potentially do that so we don't overwhelm  
21 Senate staff while they are trying to draw maps  
22 is maybe to communicate with our staff. If our  
23 members of this Committee or members of our  
24 chamber have questions or suggestions on how to  
25 improve the map that the Senate is working on,

1 we can create a process where maybe we  
2 communicate that through our staff so we don't  
3 overwhelm the Senate, but that is a very good  
4 question, and we will get an answer to you.

5 Any other questions, members? Okay,  
6 great. Thank you.

7 With that, Mr. Meros, if you could please  
8 come forward. We've got, I believe, a bit of a  
9 presentation that you are going to give us, and  
10 thank you for your diligent work. Mr. Meros  
11 and his team have done just a tremendous job  
12 representing the Florida House, and in large  
13 part, our maps being unanimously supported by  
14 the Supreme Court is -- certainly a lot of  
15 credit goes to our general counsel, who did a  
16 great job. So, Mr. Meros, thank you for your  
17 effort on behalf of the State of Florida and  
18 for the House of Representatives. You did a  
19 phenomenal job. Thank you.

20 MR. MEROS: Thank you very much, Mr.  
21 Chair. I want you to know that staff and you  
22 and members of this Committee and Speaker  
23 Cannon made the job very, very easy. And with  
24 that, let me just give you a brief overview of  
25 where we have been and where we are now.

1           On February 9th, the Legislature passed  
2           Senate Joint Resolution 1176. On  
3           February 10th, the Attorney General submitted  
4           that to the Supreme Court for its  
5           constitutionally-required automatic review of  
6           the plans. On February 17th, proponents and  
7           opponents of the bill submitted briefing to the  
8           Supreme Court. A second round of briefing back  
9           and forth occurred the following week. On  
10          February 29th, the Court heard three hours of  
11          oral argument, one hour more than occurred in  
12          Bush versus Gore. And on March 9th, the Court  
13          issued a 191-page majority opinion. In all,  
14          with concurrences and dissents, the decision  
15          totals 233 pages.

16                 We certainly are still reviewing the  
17          opinion for a complete analysis of it. What I  
18          can do today is to try to highlight the major  
19          holdings and the conclusions and some of the  
20          factual matters resolved by the Court so that  
21          you can have some idea of where the Supreme  
22          Court has come out.

23                 The first standard in Tier 1, of course,  
24          is if the legislative body has an intent to  
25          favor or disfavor a political party or

1 incumbent. The Court made a number of findings  
2 in that regard. It said that there is no  
3 acceptable level of intent. Any inappropriate  
4 intent, whether on the plan as a whole or an  
5 individual district, is determinative and would  
6 invalidate a map. The Court also said there's  
7 not one piece of evidence that is determinative  
8 regarding intent.

9 There are some factors that are probative  
10 and relevant. One is, does there appear to be  
11 consistent compliance with the standards. If  
12 so, that is indicative of a lack of improper  
13 intent. On the other hand, if there is a  
14 disregard for standards or an inconsistent  
15 application of standards, that can be  
16 indicative of lack of intent. The shape of a  
17 district in relation to an incumbent's address  
18 can be indicative of improper intent, and  
19 there, obviously, if you have a district that  
20 is reasonably compact, but there is a curlicue  
21 here or a finger there that happens to include  
22 an incumbent, that can be indicative of  
23 improper intent.

24 Importantly, a political imbalance in the  
25 map where at the end of the day it favors

1           Republicans in elections or favors Democrats in  
2           election is not indicative of an improper  
3           intent. There was a lot said by the opponents  
4           that what this did was require a political  
5           balance in the map, and the Court says that is  
6           not the standard, and that is not a standard in  
7           the Constitution. The knowledge of where an  
8           incumbent lives or the lack of knowledge of  
9           where an incumbent lives is not really  
10          probative of an improper intent. The Court  
11          made that finding as well. And in that regard,  
12          possession of or use of political data in the  
13          drawing of maps is, again, not an indication of  
14          improper intent.

15                 The Court focused substantially on the  
16          issue of if there appears to be compliance with  
17          Tier 2 and there is a way to comply with the  
18          Tier 1 requirements while also trying to comply  
19          with Tier 2 to the extent possible, that is a  
20          solid indication of a lack of improper intent.  
21          If, on the other hand, one is using Tier 1 as a  
22          shield against implementing Tier 2 when it is  
23          not clear that you have to do that to comply  
24          with Tier 1, that is an indication of improper  
25          intent.

1           With regard to the minority protections,  
2           which is the second element of Tier 1, the  
3           Court confirmed that our Amendment 5 standards  
4           essentially mirror the standards of the Federal  
5           Voting Rights Act, Section 2 of the Voting  
6           Rights Act, which is the vote dilution  
7           requirements under the Voting Rights Act, and  
8           then Section 5 of the Voting Rights Act, which  
9           is the non-diminishment provision. Now,  
10          importantly, the Court found that a Section 5  
11          diminishment standard applies to all 67  
12          counties in Florida. But it is equally  
13          important to understand that it is not federal  
14          law that does that, it is state law. So it is  
15          not that the 67 counties are subject to some  
16          sort of pre-clearance requirement. It is the  
17          same legal standard, but it does not go through  
18          the same process.

19          The Court also found that Section 5 should  
20          be interpreted in accordance with the  
21          congressional intent reflected in the 2006  
22          reenactment of the Section 5 of the Voting  
23          Rights Act and the Congress' rejection of the  
24          decision in Georgia v. Ashcroft. And so in  
25          that regard, what the Court said is

1 majority-minority districts must be recognized,  
2 and one may not weaken other districts that are  
3 not majority-minority that have historically  
4 performed for a minority candidate. A slight  
5 change in majority voting age population might  
6 not result in diminishment, but the standard  
7 will be -- and this is consistent with what we  
8 advised this Committee early on -- is the  
9 minority population in a district more, less or  
10 just as able to elect a candidate of choice.  
11 If by virtue of a change in a district, a  
12 minority candidate is less able to elect, that  
13 would result in diminishment.

14 In reviewing minority districts, the Court  
15 took into effect voting age population, voting  
16 registration data, voting registration of  
17 actual voters and election results history.  
18 The Court noted what is described as a  
19 functional analysis in Department of Justice  
20 guidance to those who are drawing maps, and  
21 that functional analysis is a fact-specific,  
22 district-by-district analysis of these very  
23 issues and others to try to determine actually  
24 what is the minority voting strength, as a  
25 matter of fact, based on a number of

1           circumstances. The standard for contiguity is  
2           the same now as it was before, so there's  
3           really no reason to get into that.

4           Now, going to the Tier 2 standards, the  
5           first standard there is the obligation to have  
6           population nearly as equal as practicable.  
7           What the Court there said was -- and to some  
8           extent it appears to be stronger than what it  
9           was in 2002, and that any deviation from  
10          exactness in population must be justified by  
11          conformance with and faithfulness to the other  
12          standards in Tier 1. However, in doing so, the  
13          Court indicated a flexible approach to that.  
14          The Court noted that what the House did was in  
15          following county lines, it started with  
16          Charlotte County. The population there is  
17          approximately two percent higher than perfect  
18          population. And then in Lee County, it kept  
19          five -- or four cities whole, and the  
20          population disparity there was 1.9, I believe,  
21          and so a disparity of 3.9 percent was okay  
22          because there was an effort to comply with  
23          county boundaries. So to the extent there is a  
24          reasonable, good faith effort to comply with  
25          other standards, then a deviation of 3.9 at



1 least is certainly acceptable.

2 Compactness: Here the Court did make some  
3 findings about is appropriate in terms of  
4 compactness and what is not. The Court defined  
5 the obligation of a compact district to be  
6 geographic rather than functional. And the  
7 goal, and I will quote from the Court, is to  
8 "ensure that districts are logically drawn and  
9 that bizarrely-shaped districts are avoided."  
10 Now, that is pretty general, and so it is not  
11 entirely clear how you do that. Districts can  
12 be evaluated on a visual basis and by applying  
13 mathematical measurements. The Court used two  
14 measurements, the Reock standard and the convex  
15 hull standard, without indicating that those  
16 are the only two relevant standards. There can  
17 be others.

18 Importantly, the compactness -- as we  
19 argued, the compactness standard has to be  
20 assessed in connection with the other Tier 2  
21 standards and Tier 1 standards, and the  
22 obligation can be mitigated to some extent by  
23 compliance with other standards. For instance,  
24 Tier 1 minority districts do not have to be as  
25 compact as areas where there is not significant

1 minority population. The need to comply or the  
2 preference to comply with county boundaries or  
3 city boundaries can offset areas of a district  
4 that appear not to be compact.

5 At the end of the day, what the Court  
6 said, and this is consistent with what one  
7 would think, is an odd-looking district has to  
8 be subject to close examination. One has to  
9 look and say are there legitimate,  
10 non-protectoral reasons for a district looking  
11 odd, having fingers or having irregular shapes.

12 With regard to political and geographic  
13 boundaries, the Court did lay down some bright  
14 line rules. The Court accepted the House's  
15 view of appropriate political and geographic  
16 boundaries by saying counties, cities, rivers,  
17 railroads, Interstates and state roads are  
18 appropriate geographic and political  
19 boundaries. It said that creeks or minor roads  
20 are not appropriate political or geographic  
21 boundaries for use in districts. Notably, the  
22 Court did not require adherence to VTDs, Voter  
23 Tabulation Districts, or census-designated  
24 places. The opposition submitted a map with  
25 adherence to census-designated places, and I

1 would suggest that the Court has said that  
2 those are not appropriate boundaries for  
3 consideration.

4 Other rulings of interest: I said a  
5 little bit about this before. The very notion  
6 of partisan imbalance does not -- number one,  
7 is not a standard. The notion that fair  
8 districts, and this means partisan equality, is  
9 rejected by the Court. A partisan imbalance,  
10 if caused by other -- compliance with other  
11 standards, is legally irrelevant and does not  
12 give rise to a notion of improper intent. If  
13 there is inconsistent compliance with the  
14 standards, or irregular districts that appear  
15 to unpack or to pack adversaries, that can be  
16 indicative of improper intent.

17 If the Legislature draws a map and  
18 recognizes that it is highly imbalanced in a  
19 partisan way, it is not required to undo that.  
20 We argued, and appropriately, that that would  
21 be favoring or disfavoring a party or  
22 incumbent, and the Court certainly accepted  
23 that. And so one is not -- the body is not  
24 required to do that.

25 There were assertions that the House's --

1 the House and Senate's earlier resistance to  
2 Amendments 5 and 6 indicated some level of  
3 mal-intent. The Court said that is not legally  
4 relevant at all.

5 The Court -- opponents also suggested that  
6 the House's willingness to defer to the Senate  
7 and to have the Senate draw a map is somehow  
8 indicative of improper intent. The Court  
9 rejected that out of hand.

10 A few other -- a few other findings: The  
11 failure to adopt an alternative plan is not  
12 indicative of improper intent. The Court made  
13 it clear in a number of instances that it is  
14 not a matter of what is the best plan  
15 presented. If the Legislature has presented a  
16 compliant plan, that is all that is required.  
17 An alternative plan can be relevant to  
18 assessing whether there is a way to comply with  
19 standards which perhaps the map-drawer is  
20 saying was not capable of being done, and so it  
21 can be probative of lack of compliance, but  
22 there is no such thing as a best map.

23 It did say, for good or for ill, that the  
24 pairing of incumbents shows a lack of intent,  
25 and to the extent there are incumbent pairs,

1           that can show an effort to comply in good faith  
2           with the standards.

3           The failure of the Legislature to have  
4           legislative maps in the public hearing process  
5           was viewed to be completely meaningless by the  
6           Supreme Court. They do not have the obligation  
7           to do that.

8           Now, I will briefly -- and if you could  
9           just bring up some of the Senate maps issue --  
10          the Senate districts at issue -- just describe  
11          in summary the findings of the Court with  
12          regard to the Senate maps found out of  
13          compliance.

14          With regard to Districts 1 and 3, the  
15          Court found there was a lack of compactness and  
16          improper use of geographic boundaries, and the  
17          improper use of geographic boundaries both --  
18          there were suggestions that they were --  
19          boundaries were used sporadically and  
20          inconsistently, and some boundaries were creeks  
21          and another boundary were minor roads, and  
22          found those to be insufficient.

23          Districts 6 and 9: District 6 sacrifices,  
24          in the Court's words, compactness and  
25          geographic boundaries when it was not necessary

1 to do so to comply with the racial provisions  
2 of Tier 1.

3 District 10 was found to be non-compact  
4 and appeared to protect an incumbent.

5 District 30 was found to be non-compact  
6 and to split counties, cities and geographic --  
7 geographical features where those were not  
8 required to comply with other standards.

9 And Districts 29 and 34 were found to have  
10 violated compactness without the Senate having  
11 performed a functional analysis of the type I  
12 described earlier, which, in the Court's view,  
13 was indicative of a political intent, improper  
14 political intent.

15 That is my report.

16 REPRESENTATIVE WEATHERFORD: Thank you  
17 very much, Mr. Meros. Members, do we have any  
18 questions for Mr. Meros?

19 Representative Kiar, you are recognized  
20 for a question. Why don't we -- so it is on  
21 the record, why don't we make sure that the  
22 mike is on and so everybody can hear you.

23 REPRESENTATIVE KIAR: Thank you, Mr.  
24 Chair.

25 Mr. Meros, with regard to District 34, I

1 am just curious, I know in the -- in the order,  
2 I believe it stated the Court's -- another  
3 alternative District 34 that was, I guess,  
4 submitted by -- I don't know if it was the  
5 League of Women Voters, NAP or something of  
6 that nature, and I am wondering, was that just  
7 the recommendation of how it should be, or were  
8 they almost mandating that the Legislature draw  
9 it that way in order to comply? I was kind of  
10 curious about that.

11 MR. MEROS: Are you talking about how to  
12 read the order?

13 REPRESENTATIVE KIAR: No. If you look at  
14 -- I can't remember which page it is on. The  
15 Court -- actually, I just opened it up. On  
16 page 171, it talks about District 34 and how it  
17 was very much out of whack, and then it shows  
18 District 29, which would be the District 34  
19 that was submitted by the -- I guess the  
20 coalition. It says, "The coalition has  
21 submitted an alternative plan that shows a  
22 different configuration for this area that is  
23 more compact overall."

24 So I guess is -- was the Court basically  
25 stating that this is more in line with how the

1 area should be made, or were they mandating  
2 that we draw it that way, or were they just  
3 giving -- was that almost like dicta? So I am  
4 just curious.

5 MR. MEROS: I think, as I said before,  
6 when the Court talks about alternative plans,  
7 it is to try to determine whether there are  
8 other ways to comply with the standards that  
9 would show that there could be a better  
10 attempt. The Court said at this very point  
11 that the role of alternative plans is not to  
12 select the best plan, it is just it is  
13 probative of how one might do it. So I would  
14 certainly not suggest that the Court is  
15 indicating how to draw the map. It is saying  
16 that by virtue of an alternative plan, it saw  
17 ways to comply where the Senate map, in their  
18 view, did not.

19 REPRESENTATIVE KIAR: Follow-up,  
20 Mr. Chair?

21 REPRESENTATIVE WEATHERFORD: Follow up.

22 REPRESENTATIVE KIAR: Then another  
23 question I had, it seemed like in your  
24 testimony, for me, there may have been two  
25 conflicting statements. Maybe it was, and I



1 appreciate you, you know, letting us know what  
2 went on in Court, but I believe at the  
3 beginning you -- it almost appeared that you  
4 stated that the Court indicated that where an  
5 incumbent lives or doesn't live doesn't  
6 evidence intent, but then you stated that the  
7 Court appeared to state that the fact that in  
8 the Senate map there were no two incumbents  
9 drawn within each other did evidence intent,  
10 and I was actually wondering if you could -- if  
11 -- did I understand that correctly?

12 MR. MEROS: I did not say that about the  
13 Senate map. What I said was the position of an  
14 incumbent in connection with the shape of the  
15 district can be probative. So if, in fact, in  
16 whoever's map you have an area that doesn't  
17 have substantial minority voting strength and  
18 you don't have other compelling reasons to have  
19 some irregular shape, but in that irregular  
20 appendage there is an incumbent who is unpaired  
21 with another incumbent, that is probative of  
22 intent. It is not determinative by any  
23 stretch. It is evidence of intent.

24 But really what that goes to is what we  
25 talked about before, and that is good faith

1 effort to comply with each of the standards  
2 takes away the notion of suspicious or  
3 protectoral reasons why you are doing  
4 something. So if, in fact, you have an  
5 irregular shape, but you say that irregularity  
6 is because of this county boundary or because  
7 of this city boundary or because of this  
8 Interstate, then that would -- that would argue  
9 substantially against wherever that incumbent  
10 might live. But if one cannot see other  
11 reasons to do so, other than some sort of  
12 improper intent, then that can be indicative of  
13 a political motive.

14 REPRESENTATIVE KIAR: Follow-up,  
15 Mr. Chair?

16 REPRESENTATIVE WEATHERFORD: For a  
17 follow-up.

18 REPRESENTATIVE KIAR: The Courts, as you  
19 know, upheld the House map seven to zero, and  
20 when I was reading through the order, it  
21 appeared that the Court determined that the  
22 House did it appropriately, but the Senate  
23 utilized an entirely different method in  
24 enacting its map. And I was just wondering, so  
25 the mistake isn't made again, if you could just

1 please tell us, you know, why was it that the  
2 House map was uphold seven to zero, but the  
3 Senate map, because it was done differently,  
4 you know, was overturned five to two. And I  
5 just wanted to ask that because I just want to  
6 make sure that we don't make the same mistakes  
7 in the Senate map.

8 REPRESENTATIVE WEATHERFORD: I think, if I  
9 could, let me answer that one for you, Mr.  
10 Meros. I mean, that is the whole purpose of  
11 the opinions, what you have in front of you.  
12 So if you want to know an explanation as to why  
13 they unanimously supported our map and  
14 invalidated the Senate map, it is written out  
15 over 230 pages, and you can read it.

16 I think what is important, though, is that  
17 they gave the Senate specific direction;  
18 frankly, they gave the Legislature specific  
19 direction, and defined, frankly, the standards  
20 that Mr. Meros just gave us. And so the hope  
21 and the expectation is that both the Senate and  
22 the House, now that we have those expectations  
23 -- now that we have those definitions now from  
24 the Court, they can take those definitions,  
25 they can take the districts that were

1 specifically targeted in that opinion and try  
2 to make sure that we are compliant the second  
3 time. So if there is anything you want to add  
4 to that, but I think that is -- that is the  
5 direction we are going in. I think the Senate  
6 is taking that charge very seriously. I can  
7 assure you this Committee and our chamber will  
8 take that charge very seriously. The Court was  
9 anything but ambiguous. They were very direct  
10 and very specific about what needed to be done.

11 REPRESENTATIVE KIAR: One more follow-up,  
12 Mr. Chair?

13 REPRESENTATIVE WEATHERFORD: With a  
14 follow-up.

15 REPRESENTATIVE KIAR: And that kind of  
16 leads into my last question I was going to ask  
17 him. I wanted to ask him about how ambiguous  
18 and specific the order was. I know, Mr. Meros,  
19 in your testimony, you seemed -- you seemed  
20 very direct and very specific, but then as you  
21 went into it, you said there were specific  
22 areas where the Court actually set down rules  
23 that you have to follow. And so my question  
24 was -- my question is, was the Court very  
25 specific -- is everything that you said exactly

1           what the Court said, almost like the black  
2           letter of the law, or was that your  
3           interpretation how the Court -- was that your  
4           interpretation of the order? Could it have  
5           been interpreted differently by somebody else?

6           MR. MEROS: I tried to use either very  
7           close paraphrases or quotations in what I have  
8           given you. Now, having said that, I did  
9           mention in compactness, there were indications  
10          of how compactness would be applied, but by no  
11          stretch a determinative analysis. Visual  
12          comparisons are relevant, but not  
13          determinative. Mathematical evaluations,  
14          again, are relevant, but not determinative, the  
15          need to diverge from a perfect shape in order  
16          to comply with other standards, all of which  
17          are relevant. So there is no way that one can  
18          say that there is only one way to do that.

19          With geographic and political boundaries,  
20          the Court was more specific that creeks and  
21          minor roads are insufficient to be a reasonable  
22          geographic or political boundary.

23          With regard to the minority protections,  
24          the Court said that federal case law on Section  
25          2 and Section 5 of the Voting Rights Act is

1           persuasive, very persuasive, but it did not say  
2           that it would in no instance in the future  
3           interpret something somewhat differently than a  
4           federal case.

5                   And so there are -- there are guidelines,  
6           there are statements that in some ways are  
7           categorical and others not. So it is -- you  
8           really have to look at it as a whole in each  
9           specific provision, but I did not try to  
10          distill this into Meros on constitutional --  
11          Florida constitutional law.

12                   REPRESENTATIVE KIAR: One more follow-up?

13                   REPRESENTATIVE WEATHERFORD: One last  
14          follow-up for Representative Kiar.

15                   REPRESENTATIVE KIAR: My last one. The  
16          last question I had pertained to you'd spoke  
17          about the partisan composition of the  
18          districts, and I believe that you stated that,  
19          you know, after you follow the different tiers,  
20          whatever the partisan makeup of the district,  
21          doesn't have any indication of intent to favor  
22          or disfavor a political party. And my question  
23          is, though, just like you stated where two  
24          incumbents aren't the same, that could be  
25          evidence -- circumstantial evidence of intent.

1           Couldn't it -- couldn't the fact if a map leans  
2           very partisan one way or the other, that could,  
3           in fact, be circumstantial evidence that there  
4           is an intent to favor or disfavor a political  
5           party?

6           MR. MEROS:  If there appears to be good  
7           faith compliance with the standards, no.  I  
8           think the Court made it very clear that -- and  
9           the notion was made and debate on the floor  
10          here and in briefing in the Florida Supreme  
11          Court, that the fact that the House map had a  
12          perceived imbalance of Republicans of 75,  
13          whatever, is of no relevance absent other  
14          suggestions of violations of the actual  
15          standards, and what I think the error was, not  
16          in the Court, but in the arguments, was the  
17          notion that a partisan imbalance reflects  
18          necessarily an intent to effect that result.  
19          And the Court said no, what fair means in Fair  
20          Districts is compliance with the standards.  
21          And as I have -- as I told this Committee long  
22          ago, if you make a good faith effort to comply  
23          with these standards, the result matters not  
24          whatsoever.  And so, in some instances, if  
25          there is lack of compliance in some areas, or

1 inconsistent or not readily discernible effort  
2 to comply, then perhaps. But if there is a  
3 good faith effort to comply, no, it does not  
4 matter.

5 REPRESENTATIVE WEATHERFORD: Thank you.  
6 Any other questions, members? Any other  
7 questions?

8 Okay. Seeing none, Mr. Meros, thank you  
9 very much for your presentation, and, again,  
10 for all of your service.

11 Members, that concludes today's meeting.  
12 Again, you should expect that we will not be  
13 meeting at all next week; rather, expect to be  
14 back here March 26th, 27th and 28th. If you  
15 have any questions or need assistance at this  
16 time, please reach out to our staff. They are  
17 here to help in any way, shape or form. Thank  
18 you all again, and I look forward to seeing  
19 everybody in a little more than a week.

20 I think, with that, Representative  
21 Dorworth moves we rise. Thank you.

22 (Whereupon, the proceedings were  
23 concluded.)

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C E R T I F I C A T E

STATE OF FLORIDA )

COUNTY OF LEON )

I hereby certify that the foregoing transcript is of a tape-recording taken down by the undersigned, and the contents thereof were reduced to typewriting under my direction;

That the foregoing pages 2 through 32 represent a true, correct, and complete transcript of the tape-recording;

And I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

Dated this 9th day of April, 2012.

\_\_\_\_\_

CLARA C. ROTRUCK

Notary Public

State of Florida at Large

Commission Expires:

November 13, 2014