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BOARD OF APPORTIONMENT PUBLIC HEARING
HOPE, ARKANSAS
August 10, 2021

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(Recording Begins)

JUSTICE DICKEY: -- commonalities that are economical, social, political, cultural, ethnic, or religious.

Eighth is a continuity of representation. You may ask why we try to avoid making incumbents run against each other, and that is another of our goals; because incumbency or incumbents represent the will of the voters. And, if possible, we'd like to avoid that.

And the final one is minimizing partisanship, no targeting nor giving preferential treatment to someone because of political parties.

Rucho versus a Common Cause where there was -- it says that the federal courts are not going to get involved in partisan gerrymandering. It's a political question with no credible way to define it and measure fairness in the political context. It does not preclude state courts.

And we anticipate, if there's any lawsuit that involves partisanship, that it will be tried in --

(Audio Interference)

1 MR. JOHNSON: (Inaudible) very pleased to
2 be here in West Arkansas.

3 My name, again, is Shelby Johnson and I am
4 in the Arkansas Geographic Information Systems
5 Office, and we are a part of the Department of
6 Transformation and Shared Services.

7 Statutorily, our office has a role to
8 collect and archive the election geography of
9 Arkansas. This includes county election
10 precincts, county justice of peace districts,
11 city wards, school board zones, and of course,
12 our state House, state Senate districts and our
13 congressional districts of Arkansas.

14 One of the things that we do is we roll
15 that information each decade, each time that
16 information changes, we roll that up to the
17 Census Bureau and then it comes incorporated
18 into the map files that are used to tabulate
19 the decennial census at the various levels or
20 various jurisdictions.

21 As Justice Dickey already mentioned, we
22 are very far behind in the schedule in this
23 cycle. The Census Bureau normally would have
24 furnished the 2020 block level population data
25 to the state back in February.

1 And, unfortunately, we still do not have
2 that information. This prevents us from
3 providing the technical support that we would
4 normally provide to the Board of Apportionment.
5 And so the only thing we're able to do, at this
6 point in time, is to provide estimates.

7 The estimates that we are going to
8 describe this evening are based off of a data
9 product that is produced by the U.S. Census
10 Bureau and is called the American Community
11 Survey.

12 The American Community Survey is a
13 sampling. It is not a complete census. And
14 that sampling uses a combination of mortality
15 records, such as birth and deaths, and some
16 other sampling that takes place in each year.
17 And those are used to forecast or estimate
18 population in the United States.

19 What we have here, this first graphic,
20 illustrates that information and it shows the
21 population change between the period from 2010
22 to 2019.

23 I just want to take a couple of seconds
24 and describe for you the colors so that, in
25 case you're not able to see that in detail, the

1 darkest shades of red represent counties in
2 Arkansas which have seen the largest population
3 decline.

4 And then the scale moves to lighter shades
5 of red then lightest colors which indicate
6 counties that had modest or no population
7 change.

8 And then the scale slides into shades of
9 blue which indicate counties in Arkansas which
10 have gained population.

11 The light shades indicate modest gain; and
12 then, of course, the darker shades of blue
13 indicate dramatic gain.

14 If you look at Jefferson County, which is
15 in the lowest end of the scale, Jefferson
16 County is projected -- or across that nine-year
17 period, Jefferson County lost over 10,000 in
18 population.

19 And then, at the other end of the scale,
20 you contrast that with Benton County in far
21 Northwest Arkansas, gained the greatest
22 population, estimated at over 57,000.

23 As where, in this part of the state, you
24 can see Miller County had minimal population
25 loss. But, if we look at some of the others,

1 Sevier, held fairly well. But then, when we
2 look at Hempstead, Nevada, Columbia,
3 Fayetteville, River, all of those counties had
4 some population decline over the last nine
5 years.

6 Ouachita and Union County, in this part of
7 the state, had the greatest amount of decline
8 across the nine years.

9 The next thing we'll do is move to -- what
10 we were able to do is -- (audio interference)
11 -- election decline in those house districts
12 but potentially not as much.

13 The middle shades, the lightest colors,
14 indicate little to no change. And then the
15 (inaudible) turns to shades of blue indicating
16 districts in the house where population has
17 gained over the last nine years.

18 In the house, one of the largest districts
19 that lost the greatest amount of population
20 would be House District 50 in Eastern Arkansas
21 and House District 55 in Northeastern Arkansas.
22 Both of those lost nearly 5,000 in population.

23 And then the opposite end of that
24 spectrum, just a little east and south of the
25 central Arkansas, House District 31 gained

1 5,800 as an estimate.

2 So you can see that this all paints a
3 portrait of dramatic change in Arkansas'
4 population.

5 It bears mentioning that population
6 follows opportunity, follows jobs, it follows
7 where there's opportunity. So this indicates
8 that the districts in the state are going to be
9 seeing some fairly dramatic changes.

10 We cast that same analysis onto the Senate
11 districts. Here, this map shows the estimated
12 change across the last nine years for the
13 Senate districts. Again, the darkest colors of
14 red indicate greatest loss in that district and
15 then the darkest at the other end of the
16 spectrum.

17 The darkest shades of blue indicate
18 greatest population gain.

19 And one of the things that you might be
20 wondering is how does that affect the districts
21 going forward.

22 I'll briefly describe that just by saying
23 that, if a district is below population, then
24 it must expand geographically. It must get
25 more population by reaching out north, south,

1 east, or west, to grab additional territory to
2 gain population so that that area that's low
3 comes up to more equal with its neighbors.

4 In contrast, a district where the
5 population is above or dramatically high, that
6 district must contract. It will get smaller in
7 size to lose population and share that
8 population with its neighbors.

9 Another thing that I'm -- have pointed out
10 in some of the other hearings is that, when we
11 look at a district like Senate District 11 here
12 in Southwest Arkansas and we see that it needs
13 to grow by about 3,800 in order to come up to
14 equality with its neighbors, that district can
15 not grow to the west into Oklahoma and it can
16 not grow to -- into Texas. And it also can not
17 grow into Louisiana as well.

18 So that's a -- (audio interference).

19 We look forward to hearing your public
20 comments.

21 JUSTICE DICKEY: Thank you, Shelby.

22 And now this is -- it's open for comments.

23 There's a microphone on either side of me.

24 As I said, there are comment sheets.

25 If you speak on the microphone, if you

1 will, state your name and which county or
2 district you live in. All right.

3 SENATOR GARNER: How you doing? State
4 Senator Trent Garner from Union County,
5 District 27.

6 In (inaudible) tax numbers, how many
7 Senate seats do you anticipate in us losing in
8 South Arkansas? Basically, the bottom six or
9 seven Senate districts.

10 And how many House seats do you anticipate
11 we'll lose, everything south of that same kind
12 of (inaudible), just based on the pure numbers?

13 Looking at the math of it, and I'm just
14 trying to think what you anticipate we'll lose
15 in representation (inaudible).

16 JUSTICE DICKEY: Kevin, would you like to
17 answer that?

18 MR. NIEHAUS: It's hard to answer that
19 question without having the exact 2020 numbers.

20 Based on these 2019 numbers that we've
21 kind of all taken a look at, it kind of looks
22 as though three House seats from across the
23 state will probably move into Northwest
24 Arkansas; and one Senate seat.

25 So, depending on, you know, where those

1 seats are, you know, you just can potentially
2 reconfigure based on which seats, you know, get
3 moved up.

4 But, you know, Northwest Arkansas looks
5 like three House seats, one Senate seat. Hard
6 to say -- we don't know yet where those are
7 coming from. But, you know, once -- yeah.

8 I can't say that those are coming from the
9 south. It really just depends on when we get
10 the numbers and when we start fiddling with the
11 map, so. . .

12 JUSTICE DICKEY: Thank you.

13 Anyone else? Questions or comments or
14 suggestions?

15 BLAKE MONTGOMERY: Blake Montgomery, Hope,
16 Hempstead County.

17 Will there be additional public meetings
18 once you do have the real numbers that we can
19 comment on? Thank you.

20 JUSTICE DICKEY: This is our fourth of
21 eight meetings before we get the census
22 figures. We hope, after we have started the
23 process of drawing or redrawing the maps, to be
24 able to either present them to you either
25 through PBS or in other public venues.

1 They will be posted online. So you'll
2 have an opportunity for input again after we
3 start the drawing process.

4 Anyone else?

5 SYLVIA BROWN: Good afternoon. Sylvia
6 Brown, Fulton, Hempstead County.

7 I wanted to ask about the actual data
8 release and if that would show where the
9 population gained and lost as far as the census
10 tracks, I guess, that would perhaps identify
11 how that data release showed where the
12 population loss and gained.

13 And, also, will there be a redistricting
14 simulation on the website to additionally
15 encourage and support community participation?

16 JUSTICE DICKEY: Shelby?

17 MR. JOHNSON: Yes, ma'am.

18 The Census Bureau assigns population at
19 the lowest level which is known as the block
20 level. That block level population that -- lay
21 persons tend to think of that as a city block
22 but it is not. That's just the terminology
23 they use.

24 A census block can be bounded by any kind
25 of physical feature that you see on the

1 landscape. For example, roads, railroads,
2 rivers and streams, and lakes. Those all fall
3 in the boundaries of blocks.

4 And then layered on top of that are the
5 administrative geographies of cities, county
6 boundaries, school district boundaries, civil
7 divisions or townships.

8 And those administrator geographies are
9 layered on top of that. All of that composed
10 together forms the census blocks. And those
11 will allow you to see local level population
12 trends, population gains, population declines.

13 So, hopefully, that answers your first
14 question.

15 JUSTICE DICKEY: You mind repeating your
16 second question again?

17 SYLVIA BROWN: (Inaudible) Senate races to
18 allow the public to (inaudible).

19 JUSTICE DICKEY: As I said earlier, we
20 hope to be able to present that after we've had
21 your input and start drawing that too, to show
22 that. Does that answer --

23 SYLVIA BROWN: (Inaudible.)

24 MR. JOHNSON: There are a number of tools
25 that are online that would allow users to run

1 scenarios.

2 However, the board, at this time, is
3 relying on desktop software. And that desktop
4 software is the software where they're doing
5 their work and their analysis. And I don't
6 think that, at this point in time, the board
7 has inclination to be able to put out fully
8 interactive simulations online.

9 Rather, instead, would be potentially
10 drafts of what they are attempting to produce.

11 JUSTICE DICKEY: Any other questions or
12 suggestions?

13 FRED WEITZEL: Good evening. Fred Weitzel
14 from Sevier County.

15 Knowing that all models are wrong, some
16 are useful, will -- this model is purely a
17 planning process model. And will it be
18 modified after the pure census data comes out
19 and the final maps will reflect the pure data?

20 JUSTICE DICKEY: The simple answer to that
21 is yes.

22 Other questions?

23 UNIDENTIFIED SPEAKER: Additional
24 questions, in a typical timeline, what would
25 have been the process and what adjustments are

1 being made to -- that process to be inclusive
2 and transparent? And then, secondly, does this
3 information impact and/or inform state
4 legislative deliberations and local
5 deliberations?

6 And then, lastly, transmission of info
7 data to local bodies, when was the timeline on
8 that?

9 MR. JOHNSON: I'll answer the question
10 about history.

11 In the prior decade, in 2011, the Census
12 Bureau delivered the 2010 block file to
13 Arkansas on February the 10th. At that point,
14 all of the various levels of redistricting
15 could then begin.

16 And the Board of Apportionment worked from
17 that period all the way up until about July.
18 And, during that course of that time, they had
19 the benefit of the data and then that board, at
20 that time, held public comment hearings around
21 the state. And they adopted the current
22 districts that we live with now on about July
23 26th or 29th, I believe.

24 And so, for that cycle, they had about 170
25 days work that they used to adopt those

1 districts.

2 Contrast that with this time around, here
3 we are in almost middle of August and the state
4 has yet to receive the full 2020 block file.

5 Obviously, that compresses the timeline
6 that they are under. And the Board has set the
7 goal to have that work completed by December
8 31st.

9 So that's a quick answer on the history
10 information.

11 JUSTICE DICKEY: Will you repeat your
12 second question?

13 UNIDENTIFIED SPEAKER: (Inaudible.)

14 MR. JOHNSON: So the -- once the Board
15 receives the 2020 data, then they would be able
16 to begin their work. And the timeline at which
17 they would put -- publish out drafts, anything
18 like that, I couldn't speculate on. That would
19 be up to the Board on furnishing out those
20 drafts that they might produce.

21 And then the other question I think you
22 had asked, Kevin reminded me, was when might
23 local data be available to cities, counties,
24 school boards, et cetera.

25 One of our goals is to try to, as soon as

1 the information becomes available, we're going
2 to try to get that information into the hands
3 of county election commissions, people who are
4 going to be working on school board zones,
5 municipal wards, and et cetera.

6 And so we'll be coordinating those
7 communications to those entities as soon as
8 that information is available for use.

9 UNIDENTIFIED SPEAKER: (Inaudible.)

10 MR. JOHNSON: So her question was, does it
11 need to be modified in order to be able to be
12 used by the public. And the answer is, yes,
13 dramatic modification.

14 The raw data in its raw form is not able
15 to be used by the layperson. So that raw data
16 requires processing and it is processed into a
17 geographic information system format.

18 That is why the Census Bureau's original
19 timeline of September 30th for publication of
20 the block level data, that data that's
21 published at that point in time will be more
22 searchable, more user friend, and will be in a
23 form that public and others can be able to
24 access on line.

25 The data that we're receiving currently on

1 the schedule is going to be the raw data that
2 will be processed into a GIS form that can be
3 used by the Board.

4 Once the data is received, the data is not
5 changed. The numbers do not change. The
6 demographic information, the race, ethnicity,
7 et cetera, the age brackets, none of that data
8 changes in any of that processing. It's just
9 an effort to make it more user friendly for the
10 public and others. Thank you.

11 JUSTICE DICKEY: Any other questions?

12 Yes, sir. Could you come to the
13 microphone unless --

14 (Indiscernible Crosstalk)

15 UNIDENTIFIED SPEAKER: Yes. My question
16 to you all is --

17 JUSTICE DICKEY: I'm sorry. Can you give
18 us your name and which county or district
19 you're from?

20 UNIDENTIFIED SPEAKER: Thank you. Yes.
21 My name is Romarez Diddle (ph) and I am in
22 Columbia County of this -- Magnolia.

23 My question to you all is I know that
24 population and demographics make up -- is the
25 driving force of redrawing districts.

1 I would like to know, what other factors
2 are there in redrawing districts such as the
3 kind of economies each different community has?
4 Because I know Magnolia, for example, the chief
5 thing that pulls Magnolia, pushes Magnolia to
6 keep Magnolia stable, is Southern Arkansas
7 University. So it's education.

8 Where as, with like El Dorado, it's oil.
9 In Texarkana, it's really residential for
10 commerce on the Texas side.

11 So I'd like to know, what other factors
12 contribute to redrawing districts?

13 UNIDENTIFIED SPEAKER: Thank you. That's
14 a good question. There has been discussion in
15 the states, in the various states, for many,
16 many years, about using other data like
17 projected growth or projected loss. Economic
18 data, growing industries, dying industries, and
19 that sort of thing.

20 Under our State Constitution, we can only
21 use the data that's provided by the United
22 States Census Bureau in the ten year census.
23 We're not allowed to -- the Board is not
24 allowed to project what might happen or what
25 might -- what might not happen in any

1 particular area. So that's under our
2 Constitution.

3 And, once the data is released, the way
4 the Constitution reads, that's what the Board
5 has to use, is that data provided by the U.S.
6 Census.

7 JUSTICE DICKEY: Does that answer your
8 question?

9 UNIDENTIFIED SPEAKER: (Inaudible) with
10 just numbers, numbers doesn't necessarily give
11 you (inaudible) complete picture about the
12 community. So (inaudible) the community -- the
13 thing about the community (inaudible).

14 JUSTICE DICKEY: Well, those were
15 addressed, to a certain extent, in the nine
16 criteria. But Brad, do you -- okay. Doug?

17 REPRESENTATIVE HOUSE: Yes. When the
18 census data comes, it breaks it down by race,
19 breaks it down by age, households, ethnic
20 groups, language groups. And all of that is
21 compiled in the census.

22 Sometimes it has some economic data that
23 comes up like income levels. That's one of the
24 reasons that the census is supposed to be
25 confidential, so people can open those things

1 freely.

2 Now, if it's not within the census
3 though -- I think the data you're asking about,
4 you can look at the blocks data and you can
5 tell what kind of community this one is versus
6 what kind of community this one is.

7 Let me use an easy example. Little Rock
8 Air Force Base, that's going to show that there
9 are a lot of military people on Little Rock Air
10 Force Base. So you're going to see that kind
11 of data reflected in the census but it won't
12 address like outside industries or what
13 industries are growing or what industries feed
14 that economy such as the timber industry or the
15 oil and gas industry. That's not included in
16 the census itself.

17 JUSTICE DICKEY: Andres Rhodes from the
18 governor's office is going to also -- okay.

19 MR. RHODES: So that's a good question.
20 Again, my name is Andres from the governor's
21 office.

22 What you're referring to, you kind of hit
23 the nail on the head, is communities of
24 interest.

25 So, as Representative House said, the data

1 that we have to utilize for drawing this
2 (inaudible) comes from the census. And it's
3 not that granular when it comes to which
4 communities are similar to others.

5 That's when public comment is helpful; so
6 this is why we're having these meetings.

7 But, as Representative House said, we have
8 to go by the census data. So if it says, hey,
9 x number of people live in this town and x
10 number of people live in this town and that
11 exceeds the number of people that can be in a
12 House district, for example, but you may not be
13 able to put them together.

14 That being said, again, it is very helpful
15 that you all are here giving us public comment
16 so we can take that back, when we're drawing
17 the districts, once we have the data from the
18 Census Bureau, and try to keep communities of
19 interest together.

20 That's not always possible. Again, all of
21 those factors that Justice Dickey went into in
22 detail, those are as possible or when possible.

23 But the one thing that is a constitutional
24 requirement is population. And so, again, the
25 first thing that we're looking at is what did

1 the Census Bureau tell us about how many people
2 reside in this particular place.

3 And, as Shelby said, it's -- we're looking
4 at census blocks and voter precincts then
5 counties and then state population.

6 Did that answer your question? Great.

7 JUSTICE DICKEY: At Benton, last week,
8 they asked us to prioritize those criteria.
9 And it's population, as Andres says; and then
10 the next two are the legal requirements that --
11 strong legal parts of it.

12 And then the rest of it, as you were
13 talking about, communities of interest and
14 other factors that are brought into it.

15 Other questions?

16 MS. JACKSON: (Inaudible) Jackson from
17 Craighead County. Okay. I know census does --
18 is responsible for the data. Only of the data
19 that are houses that are counted, not for the
20 ones that are not counted; because there are
21 people who don't do census, what -- what goes
22 with that?

23 The ones that do not do census. So that
24 means --

25 JUSTICE DICKEY: Like in a pandemic?

1 MS. JACKSON: Places can lose
2 representatives or Senate, so what happens
3 then? When there aren't enough people in that
4 area but it's just because census didn't count
5 them.

6 MR. RHODES: So you're talking about an
7 undercount by the Census Bureau; right? Okay.

8 So -- and this is the case for all 50
9 states. This is not unique to Arkansas. The
10 states, when they're drawing districts, have to
11 go by the Census Bureau.

12 There are few exceptions but they also
13 draw from the Census Bureau, even if they have
14 exceptions.

15 So, if the Census Bureau says 50 people
16 live in this block, then for all intense and
17 purposes, 50 people live in that block.

18 If there's an undercount, there are ways
19 for cities to do a supplemental census. But
20 there are additional things that you would have
21 to talk to the U.S. Census Bureau about such as
22 cost, logistics, things of that nature.

23 And it would have to occur reasonably
24 quickly because we're going to have very little
25 time to draw districts.

1 I don't know if we got into the whole
2 timeline of the last time. But the previous
3 Board of Apportionment received data in
4 February and they were finished by July. So
5 they had an entire springtime to do this
6 process. We're looking at it, just a handful
7 of months.

8 That's why we're having these public
9 comment periods on the front end, so that we
10 can ensure that the public has adequate, A,
11 notice of these meetings; but, B, also an
12 opportunity to give public comment.

13 But, yes, to draw back to the question, if
14 the Census Bureau says 50 people live there, 50
15 people live there.

16 JUSTICE DICKEY: Any other questions?

17 Thank you for your input, for coming
18 tonight. You can reach us at the website
19 online. Several ways you can talk to any of
20 these people from the governor's office,
21 secretary of state's office, or attorney
22 general's office.

23 We will wait if you want to talk to us
24 tonight.

25 Again, thank you for coming. The hearing

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is adjourned.

(End of Recording)

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C E R T I F I C A T E

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

I, CRIS M. BRASUELL, Certified Court Reporter and Notary Public do hereby certify the proceedings which appear in the foregoing pages contain a true and correct record of the testimony given by said witness held to the best of my ability, along with all items of evidence admitted hereto.

I FURTHER CERTIFY, that I am not a relative or employee of any attorney or employed by the parties hereto, nor financially interested or otherwise, in the outcome of this action, and that I have no contract with any parties within this action that effects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original transcript or copies of the transcript before it is certified and delivered to the custodial attorney, or that requires me to provide any service not made available to all parties in the action.

WITNESS MY HAND AND SEAL this 4th day of October, 2021.

Cris M. Brasuell
CRIS M. BRASUELL, CCR
Arkansas State Supreme Court
Certified Court Reporter No. 742

My Commission Expires:
August 16, 2031