

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

**KELVIN BUCK, THOMAS PLUNKETT,
JEANETTE SELF, CHRISTOPHER TAYLOR,
JAMES CROWELL, CLARENCE MAGEE, and
HOLLIS WATKINS, on behalf of themselves
and all others similarly situated**

PLAINTIFFS

VS.

CIVIL ACTION NO. 3:11-cv-717-HTW-EGJ-DB-LRA

**HALEY BARBOUR, in his official capacity as
Governor of the State of Mississippi, JIM HOOD,
in his official capacity as Attorney General of the
State of Mississippi, and DELBERT HOSEMAN, in his
official capacity as Secretary of State of the
State of Mississippi, as members of the State Board
of Election Commissioners; THE MISSISSIPPI
REPUBLICAN PARTY EXECUTIVE COMMITTEE;
THE MISSISSIPPI DEMOCRATIC PARTY EXECUTIVE
COMMITTEE; and ELIJAH WILLIAMS, in his official
capacity as Chairman of the Tunica County, Mississippi
Board of Election Commissioners, on behalf of himself
and all others similarly situated**

DEFENDANTS

MOTION FOR A PRELIMINARY INJUNCTION

COME NOW the plaintiffs, Kelvin Buck, Thomas Plunkett, Jeanette Self, Christopher Taylor, James Crowell, Clarence Magee, and Hollis Watkins, on behalf of themselves and all others similarly situated,¹ pursuant to 28 U. S. C. § 2284 and Fed. R. Civ. P. 65, and move the Court to issue a preliminary injunction enjoining congressional elections using the benchmark districts² on

¹Plaintiffs filed the case as a class action. However, plaintiffs have not filed a formal motion for class certification yet.

²The benchmark districts are the current congressional districts implemented by the Order of this Court in 2002 with the 2010 census data applied to those districts.

the following grounds:

1. The benchmark districts violate the equal population principles of Article 1, Section 2 and the 14th amended to the United States Constitution. Compare, *White v. Weiser*, 412 U. S. 783 (1973) (congressional reapportionment plan with a total deviation range of 4.13% was unconstitutional), with *Connor v. Johnson*, 279 F. Supp. 619 (S. D. Miss. 1966) (per curiam), *aff'd*, 386 U. S. 483 (congressional reapportionment plan with a total deviation range of 3.20% was acceptable). The total range of population deviation in the benchmark districts is 16.87%. It would violate plaintiffs' constitutional rights to conduct any election under this plan. See, *White v. Weiser*, *supra*; *Smith v. Clark*, 189 F. Supp. 2d 503 (S. D. Miss. 2002), *aff'd, sub. nom., Branch v. Smith*, 538 U. S. 254 (2003).

2. The Mississippi Legislature has failed in its duty to reapportion congressional districts in a timely manner prior to the 2012 congressional elections. Consequently, this Court has an obligation to reapportion congressional districts in time for the 2012 congressional elections. *Smith v. Clark*, *supra*.

3. Plaintiffs have drafted a new apportionment plan that satisfies the equal population requirement of the United States Constitution. That plan containing a map, statistical data, and report is attached to plaintiffs' amended complaint and incorporated herein by reference.

4. Plaintiffs request the Court to take judicial notice of the Court file and the 2010 census data.

WHEREFORE, PREMISES CONSIDERED, plaintiffs move the Court to enter a preliminary injunction enjoining use of the benchmark plan for congressional elections in 2012 and implementing the apportionment plan attached to plaintiffs' amended complaint.

Since the authorities for this motion are contained herein, plaintiffs request leave of court from the requirement of filing a separate memorandum of authorities.

And, plaintiffs request general relief.

THIS, the 8th day of December, 2011.

Respectfully submitted,
KELVIN BUCK, THOMAS M. PLUNKETT,
JEANETTE SELF, CHRISTOPHER TAYLOR,
JAMES CROWELL, CLARENCE MAGEE, and
HOLLIS WATKINS, on behalf of themselves and
all others similarly situated, PLAINTIFFS

BY: /s/ Carroll Rhodes

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CERTIFICATE OF SERVICE

I, Carroll Rhodes, one of the attorneys for the plaintiffs, do hereby certify that I have this date electronically filed the foregoing Motion for a Preliminary Injunction with the Clerk of Court using the ECF system which sent notification of such filing to the following:

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This the 8th day of December, 2011.

/s/ Carroll Rhodes
CARROLL RHODES