

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED
PEOPLE, VERMILION PARISH
CHAPTER,

Plaintiff,

v.

CITY OF ABBEVILLE,

Defendant.

Case No.: _____

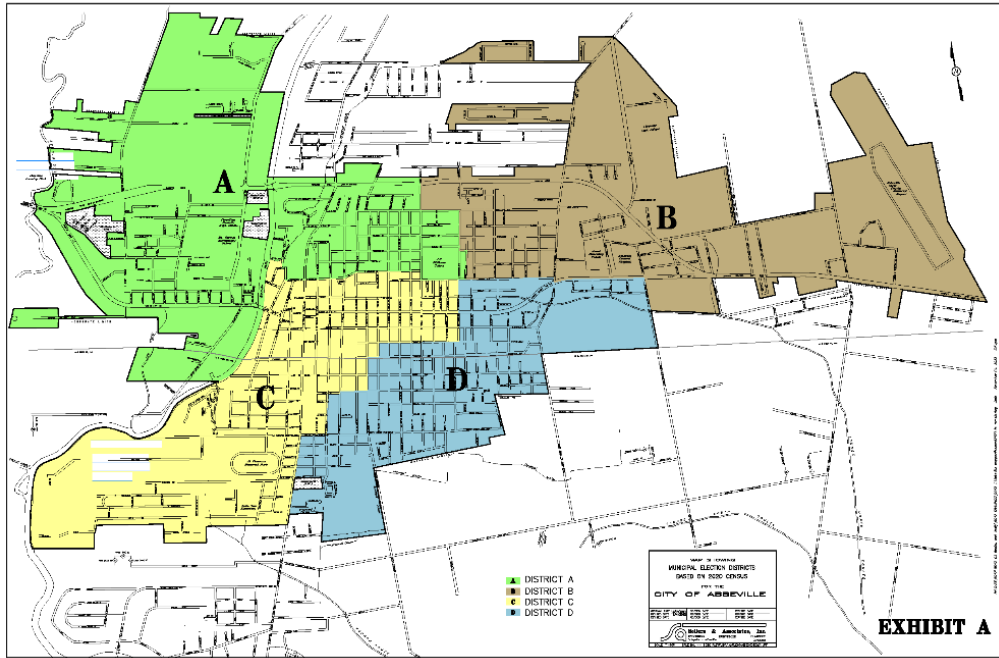
**COMPLAINT FOR DECLARATORY
and INJUNCTIVE RELIEF**

INTRODUCTION

1. On December 20, 2022, the Abbeville City Council unanimously passed Ordinance 22-12 (the “Enacted Map”) declaring that the 2020 Census results did not produce a “substantial variation” in Abbeville’s population, and that the Council would reuse its 2010 electoral districts.¹ However, the Enacted Map’s population deviation is at 19%. A 10% deviation is a *prima facie* violation of the Fourteenth Amendment’s One-Person, One-Vote (“OPOV”) requirement. *Brown v. Thomson* 462 U.S. 835, 842-43 (1983).

¹ Abbeville City Council Regular Meeting Minutes at 3, December 20, 2022.

2. According to the 2020 Census, Abbeville’s population is 11,186.² Thus, the ideal population for each of Abbeville’s four single-member districts is 2,797.³ Below is the Enacted Map⁴ and a table of the current population and deviation percentage of each district:



District	2020 Population	Deviation Percent
A	2,710	-3%
B	3,086	10%
C	2,544	-9%
D	2,846	2%

² United States Census Bureau, 2020 Public Law 94-171 Data, Abbeville, Louisiana [https://data.census.gov/table?q=Abbeville+city,+Louisiana&y=2020&d=DEC+Redistricting+Data+\(PL+94-171\)](https://data.census.gov/table?q=Abbeville+city,+Louisiana&y=2020&d=DEC+Redistricting+Data+(PL+94-171)) (last visited on October 16, 2023). The district population table is also based on the PL 94-171 data.

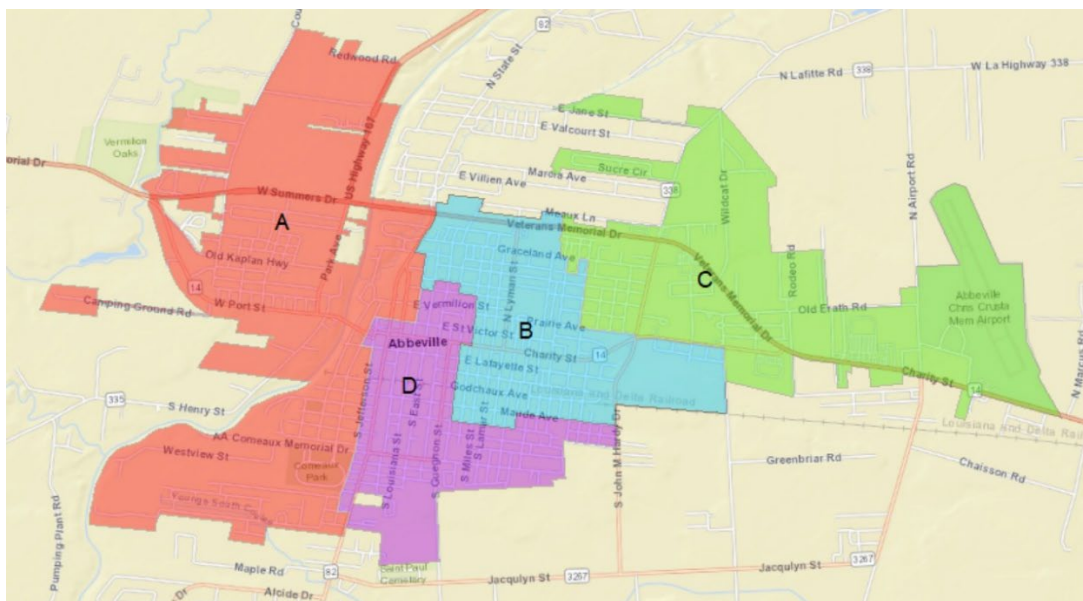
³ The ideal population is calculated by dividing the total population by the number of districts, $11,186/4 = 2,796.5$. Plaintiff rounded up to avoid an ideal population with a decimal.

⁴ Abbeville Regular City Council Meeting Agenda at 43, December 19, 2022.

3. The Council understood that, according to the 2020 Census, the Enacted Map was a *prima facie* OPOV violation for exceeding ““tolerable limits”” of malapportionment. *Coleman v. Winbigler*, 615 F. Supp. 3d 563, 573 (E.D. Ky. 2022) (quoting *Mahan v. Howell*, 410 U.S. 315, 326 (1973)). Nevertheless, the Council proceeded with the Enacted Map after expressing disagreement with the results of the Census due to its belief that the Census employees did not do a sufficient job in Abbeville.

4. Since the Council’s reapportionment efforts began on approximately November 2021, The Vermilion Parish chapter of the National Association for the Advancement of Colored People (“Vermilion NAACP”) has been advocating for fair representation for its members in Abbeville. The Vermilion NAACP organized and educated its members about the reapportionment process and attended council meetings to explain to the Council about its obligations under the Voting Rights Act of 1965 (“VRA”) and the U.S. Constitution. The Vermilion NAACP presented multiple illustrative maps to the Council that were under 6% deviation. The Council disregarded these compliant maps.

5. To resolve this clear *prima facie* violation and to save judicial resources, on or about September 25, 2023, the Vermilion NAACP again requested the Council to comply with its reapportionment obligation and enact a map (the “Vermilion NAACP Map”) that is nearly proportional. The Council, again, declined to pass a compliant map. Below is the Vermilion NAACP Map and the population and deviation percentage of each district:



District	2020 Population	Deviation Percent
A	2,798	0.04
B	2,796	-0.04
C	2,796	-0.04
D	2,796	-0.04

6. To protect the voting rights of its members in Abbeville, the Vermilion NAACP now files this action because “[d]iluting the weight of votes because of place of residence impairs basic constitutional rights under the Fourteenth Amendment just as much as invidious discrimination based upon factors such as race.” *Reynold v. Sims*, 377 U.S. 533, 566 (1964). Plaintiff respectfully asks this Court for injunctive relief and a declaratory judgment that the Enacted Map violates the Fourteenth Amendment’s OPOV requirement.

JURISDICTION AND VENUE

7. This Court has jurisdiction to hear this case pursuant to 28 U.S.C. §§ 1331; 1343; and 1357. This action arises under the Fourteenth Amendment of the U.S. Constitution, U.S. Const. amend. XIV, § 1, and 42 U.S.C. § 1983.

8. This Court also has jurisdiction under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202; and Rules 57 and 65 of the Federal Rules of Civil Procedure to grant the declaratory and injunctive relief requested. Upon prevailing, Plaintiff would further be entitled to fees and costs pursuant to 42 U.S.C. § 1988.

9. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims occurred in this district, and Defendant maintains their principal place of business and resides in the district.

10. This action is properly filed in the Lafayette Division because the Defendant's primary office is in this judicial division and because a substantial part of the events or omissions giving rise to Plaintiff's claim occurred in this judicial division.

PARTIES

11. Plaintiff the Vermilion Parish chapter of the National Association for the Advancement of Colored People ("Vermilion NAACP") is a nonprofit, nonpartisan membership organization in Vermilion Parish. The Vermilion NAACP has approximately 56 total dues-paying members, a majority of whom reside in Abbeville.

12. The Vermilion NAACP is an affiliate chapter of both the Louisiana and national NAACP. The Vermilion NAACP's mission is to ensure the political, educational, social, and economic equality of rights of all persons, and to eliminate race-based discrimination. Pursuant to

this mission, the Vermilion NAACP advocates for the voting rights of Black voters and other voters of color in Abbeville, including its members.

13. The Vermilion NAACP conducts monthly member meetings which consist of educating members about their voting rights, and how to become more civically engaged. The Vermilion NAACP also hosts voter registration and voter advocacy events in Abbeville such as phone banking, canvassing, and rides to the polls.

14. Defendant the City of Abbeville is an incorporated city in Vermilion Parish. It has the capacity to sue and be sued. Abbeville, La. ORDINANCES Part 1 § 3(1). Through its city council, Abbeville has the authority to “reapportion its voting districts”. La. Stat. Ann. § 18:1921, *see* Abbeville, La. ORDINANCES Part 1 § 2. The Abbeville City Council is comprised of five councilors: four representing each of the single-member districts, and one representing the at-large district. *Id.*

STATEMENT OF FACTS

15. The Equal Protection Clause of the Fourteenth Amendment requires reapportionment of legislative districts to allow for equal legislative representation and voting power for all citizens, regardless of the location of their residence. *Reynolds*, 377 U.S. at 565-66. Louisiana also requires municipalities, “within one year after the official release of every decennial census, [to] examine the apportionment plan of the municipal districts composing the municipal governing authority to determine if there exists any substantial variation in the representation of the districts.” La. Stat. Ann. § 33:1371(A)(1). “After the examination the governing authority of such municipality shall, by ordinance adopted by a majority of the members thereof, either declare the apportionment of the districts to be equitable and continue its existing apportionment plan or provide for a new apportionment plan.” *Id.*

16. On November 5, 2021, Louisiana Secretary of State Kyle Ardoin sent a letter to Mark Piazza, the former mayor of Abbeville, explaining the Council’s obligations under La. Stat. Ann. § 33:1371. On December 7, 2021, the Ordinance Committee of the City Council held a meeting reviewing a presentation from Sellers and Associates, Inc. that included proposed illustrative maps. Sellers explained to the Council that Abbeville’s population decreased from 12,257 to 11,186, but that District B increased in population.

17. During this committee meeting, the Council stated that the reason Abbeville’s population decreased was because the Census employees did not do a “good job” in Abbeville.⁵ Mayor Piazza explained though, “[t]he numbers are what they are and there isn’t much we can do but live with them for the next ten years.”⁶

18. Marilyn Mitchell, a Vermilion NAACP member, attended this meeting and explained that the community desired fair representation. Ms. Mitchell encouraged the Council to review the letter sent by the Southern Poverty Law Center (“SPLC”) that contained two illustrative maps that complied with the VRA and the Constitution. The Council stated that it would hear public comment during the December 21, 2021, meeting where it also planned on adopting a new apportionment plan.

19. The Council, however, did not review any plan until November 15, 2022—at which point, the Council reversed its decision on reapportionment and determined that there was no “substantial variation” in the representation of the districts and that it would declare the existing districts, the 2010 districts, to be equitable and to continue with them as the apportionment plan.⁷

⁵ Abbeville City Council Ordinance Committee Meeting Minutes at 2, December 7, 2021.

⁶ *Id.*

⁷ Abbeville City Council Ordinance Committee Meeting Minutes November 15, 2022.

20. Newly elected Mayor Roslyn White said that even though it was “recommended . . . that we make some changes to the district line,” that it was determined there was “no substantial changes in the makeup of the existing districts.”⁸ Mayor White also stated that “she ha[d] some real doubts about the accuracy of the 2020 census.”⁹ Sellers also altered its recommendation to the Council for it to “leave the existing districts as is.”¹⁰ The Council held public comment on December 6, 2022, and planned on voting on the ordinance on December 20, 2022.

21. The SPLC sent another letter to the Council alerting the members about their obligation under OPOV and that the current plan to keep the 2010 districts would violate it. The SPLC also provided an illustrative map with a deviation below 6%.

22. Sellers began the December 6, 2022, meeting explaining that the Council did not need to reapportion, because “the 2020 census [was] not accurate” that, “the numbers appear off and [they] do not believe that Abbeville lost that many residents.”¹¹ In support of keeping the 2010 districts, Sellers stated that the 2010 map was precleared by the United States Department of Justice.

23. Mayor White reinforced Seller’s position when she said the Council was “potentially going to make a change,” but they felt “that the 2020 census was not that accurate.”¹²

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Abbeville City Council Regular Meeting Minutes at 3, December 6, 2022.

¹² *Id.*

She stated that the Council did not believe that Abbeville “lost 1,000 people.”¹³ However, neither Sellers nor Mayor White were able to support their beliefs with actual evidence.

24. Both the SPLC and Vermilion NAACP members were present at this meeting and explained to the Council that the current plan was a *prima facie* OPOV violation, and presented the illustrative map that was sent with the letter. Additionally, the SPLC representative clarified to the Council that prior preclearance would not excuse the Enacted Map from being a *prima facie* violation because of the new Census results, and that Abbeville was no longer required to obtain preclearance after *Shelby Cnty., Ala. v. Holder*, 570 U.S. 529 (2013).

25. Nevertheless, on December 20, 2022, the City Council unanimously passed Ordinance 22-12, which declared that there was not a “substantial variation.”¹⁴

26. On February 23, 2023, the SPLC sent a public records request to the Council for all records related to redistricting of the Council since January 1, 2010. The Council’s response did not sufficiently address the 19% deviation.

27. Notably, the Council sent its 2010 preclearance submission where it reapportioned due to an almost 50% total deviation. With a total population of 12,257, the ideal population for each district in 2010 was 3,064. Sellers set a permissible population range of 3,217 to 2,911. The Council enacted a map that had a 9% deviation. This map, reenacted as Ordinance 22-12, currently has more than double that deviation percentage and is a clear *prima facie* violation.

28. The Council understood its obligations in 2010 under OPOV, but has now set aside this constitutional requirement due to a belief that is *only* supported by the Council’s own assertion and without any actual evidence.

¹³ *Id.*

¹⁴ Abbeville City Council Regular Meeting Minutes at 3, December 20, 2022.

29. As mentioned above, the Vermilion NAACP sent a letter to the Council explaining that the Enacted Map is a *prima facie* violation, and that because a 19% deviation is not justifiable, the Council needed to enact a new map. Attached to this letter was the Vermilion NAACP Map which was created to show that a near perfect map was possible, but the Council rejected the map.

30. Protecting the voting rights of its members is germane to Vermilion NAACP's purpose and mission. Vermilion NAACP members who live in District B have standing to seek redress for the violations complained of herein. On behalf of Vermilion NAACP's District B members, the Vermilion NAACP challenges the Enacted Map for violating the Fourteenth Amendment's OPOV requirement.

31. The next election using the Enacted Map is on or about March 26, 2026.

COUNT 1

Fourteenth Amendment, U.S. Const. amend. XIV, § 1; 42 U.S.C. § 1983.

32. Plaintiff repeats and realleges the allegations contained in the proceeding paragraphs as if fully set herein.

33. The City of Abbeville must make an "honest and good faith effort to construct districts . . . as nearly of equal population as is practicable." *Reynolds*, 377 U.S. at 577. An overall maximum population deviation of greater than 10% "creates a prima facie case of discrimination and therefore must be justified by the state." *Brown*, 462 U.S. at 842-43. However, the 10% figure should also not be construed as a "safe harbor." *Larios v. Cox*, 300 F. Supp. 2d 1320, 1340-41 (N.D. Ga.) (three-judge court), *aff'd*, 542 U.S. 947 (2004).

34. A deviation rate higher than 10% must be "based on legitimate considerations incident to effectuation of a rational state policy." *Reynolds*, 377 U.S. at 579. "[H]owever rational,

cannot constitutionally be permitted to emasculate the goal of substantial equity.” *Mahan*, 410 U.S. at 326.

35. Abbeville’s map creates a *prima facie* case of discrimination at 19% total deviation. The only justification Abbeville has is that they do not believe that the Census was accurate. That is not sufficient. *See Valdespino v. Alamo Heights Indep. Sch. Dist.*, 168 F.3d 848, 853–54 (5th Cir. 1999). Moreover, a 19% deviation exceeds ““tolerable limits.”” *Coleman*, 615 F. Supp. 3d at 573 (quoting *Mahan*, 410 U.S. at 326). This is further supported by the creation of the Vermilion NAACP Map—a near proportional map.

36. Defendant, acting under color of state law, is depriving Plaintiff of a right secured by the laws of the United States.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully request that the Court enter a judgment providing the following relief:

(1) Declare that Ordinance 22-12 violates the OPOV requirement of the Fourteenth Amendment of the U.S. Constitution;

(2) Permanently enjoin Defendant from implementing any election under the Enacted Map;

(3) Establish a schedule that will enable the Court, in the absence of timely enacted and lawful plan from the City of Abbeville, to adopt and implement a new plan for the Abbeville City Council districts.

(4) Grant Plaintiff their fees, costs, and expenses, including reasonable attorneys’ fees; and

(5) Grant Plaintiff such additional and further relief as this Court deems just and proper.

DATED: October 17, 2023

Respectfully submitted,

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**Pro hac vice* motion forthcoming

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