IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ALABAMA LEGISLATIVE BLACK CAUCUS, et al., Plaintiffs, v. THE STATE OF ALABAMA, et al., Defendants.	)	CASE NO. 2:12-CV-691 (Three-Judge Court)
ALABAMA DEMOCRATIC CONFERENCE, et al., Plaintiffs, v. THE STATE OF ALABAMA, et al., Defendants.	)	CASE NO. 2:12-CV-1081 (Three-Judge Court)

ORDER

By separate order entered this date, the court has declared that twelve of Alabama's legislative districts are unconstitutional and has enjoined the State of Alabama from using those districts in future elections. The twelve districts are Senate District 20, Senate District 26, Senate District 28, House District 32, House District 53, House District 54, House District 70, House District 71, House District 77, House District 82, House District 85, and House District 99. With liability

established, the issue of an appropriate remedy comes to the forefront. There is a deeply rooted recognition by the courts that "reapportionment is primarily the duty and responsibility of the State through its legislature or other body, rather than of a federal court." *Chapman v. Meier*, 420 U.S. 1, 27 (1975); *see also Upham v. Seamon*, 456 U.S. 37, 41 (1982) ("From the beginning, we have recognized that 'reapportionment is primarily a matter for legislative consideration and determination, and that judicial relief becomes appropriate only when a legislature fails to reapportion according to federal constitutional requisites in a timely fashion after having had an adequate opportunity to do so.'" (quoting *White v. Weiser*, 412 U.S. 783, 794–95 (1973)); *Wise v. Lipscomb*, 437 U.S. 535, 540 (1978) ("When a federal court declares an existing apportionment scheme unconstitutional, it is . . . appropriate, whenever practicable, to afford a reasonable opportunity for the legislature to meet constitutional requirements by adopting a substitute measure rather than for the federal court to devise and order into effect its own plan."); *Gaffney v. Cummings*, 412 U.S. 735, 749 (1973) ("From the very outset, we recognized that the apportionment task, dealing as it must with fundamental 'choices about the nature of representation' . . . is primarily a political and legislative process." (quoting *Burns v. Richardson*, 384 U.S. 73, 92 (1966), and citing *Reynolds v. Sims*, 377 U.S. 533, 586 (1964)).

Consonant with the forgoing principles, the court intends to give the state legislature the opportunity to remedy the unconstitutional components of its legislative apportionment plans. It is this court's expectation that the state legislature

will adopt a remedy in a timely and effective manner, correcting the constitutional deficiencies in its plans in sufficient time for conducting the 2018 primary and general elections, without the need for court intervention.

For purposes of implementing the court's intended remedy in a manner that will best enable the state legislature to fulfill its task of redistricting both effectively and timely, it is ORDERED that an on-the-record status conference is set on **February 14, 2017**, at **11:00 a.m.** in Courtroom 2FMJ of the Frank M. Johnson, Jr. United States Courthouse, One Church Street, Montgomery, Alabama. To prepare for that conference, we direct the parties to confer with each other and, if possible, to submit a joint procedure, in light of the principles set out above, for how they propose the court should proceed in the remedy phase of this litigation. In either event, it is ORDERED that the parties file their proposed procedure or procedures no later than **5:00 p.m.** on **February 7, 2017**.

DONE this 20th day of January, 2017.

/s/ William H. Pryor Jr.
UNITED STATES CIRCUIT JUDGE
PRESIDING

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE