

TESTIMONY OF DR. ANDREW A. BEVERDIGE

Good afternoon your honor. My name is Andrew A. Beveridge. I am a Professor of Sociology at Queens College and the Graduate Center, City University of New York (CUNY) and have served as an expert in redistricting political bodies both working for such bodies, and as an expert for plaintiffs challenging such bodies. I have been retained by the Center for Law and Social Justice, and Newman Ferrara LLP, counsel for a plaintiff intervenor in the case *Favors et al., v. Cuomo, et al.*

The Unity Map coalition includes: Latino Justice, the Asian American Legal Defense Fund, the Center for Law and Social Justice and the National Institute for Latino Policy. The coalition was formed for a number of reasons:

1. To work together to protect districts which had a majority of one of the groups;
2. To develop a non-partisan map following normal redistricting principles that would lead to an increase, if possible, in the number of minority-majority districts;
3. To present that map as a benchmark so that plans drawn would take into account the concerns of the Unity Map Coalition,

In my two declarations, I presented data about the Congressional redistricting plan drawn by the Unity Map Coalition, and commented on the plans submitted by other parties in this case. Today, I would like to highlight several points, and to amplify some of my comments that were in the declaration. As everyone knows, this process has been moving at lightning speed during the last week.

As Esmeralda Simmons notes, the Unity Coalition chose to develop a benchmark plan for the part of New York State where the vast proportion of African Americans, Latinos and

Asian Americans live. This was done so that careful analysis could be carried out regarding the exact communities that were assigned to each Congressional District. Furthermore, the interest of the coalition was in protecting the interests of Asian Americans, Latinos and African Americans, so it was important to work on districts in the portions of New York where such groups either singly or in coalition would have a reasonable chance to elect a candidate of their choice.

The plan was drawn with care, so that deviations among their 16 districts were either zero or one person. In this way, the Unity plan would fit easily into a statewide plan, which would meet the standards regarding population equality. As the data that were presented makes plain, this was accomplished. So the Unity Coalition Congressional Plan could easily serve as the bench mark as it was designed to be, and the districts could be adopted, in tact, if that was the choice.

As noted in my earlier declaration, except for the Common Cause plan, the Unity Coalition Plan overall was the most compact for the area where it created districts. In the districts in the Common Cause plan with the highest concentrations of African Americans and Hispanics of voting age, those percentages are lower than those in the Unity Plan. Indeed, the Common Cause plan only has two districts that have at least a majority of African Americans of voting age, and though it has three such districts with respect to Latino voting age population, it has none when Citizens of Voting Age are considered Finally, in several districts including at least one with a minority member of Congress, the Common Cause plan paired two incumbents, a practice that could easily make it difficult for a minority group to elect their candidate of choice. In short, it appears that Common Cause was not mindful of the impact of their plan on the ability of Hispanics and African Americans to elect a candidate of their choice.

Three plans were submitted by legislative caucuses. Since these plans have not been adopted by the Legislature they do not represent the will or sentiment of the Legislature. Indeed, the very fact that there are three such plans, indicate that there is no agreement between the majorities in the Senate and the Assembly on a plan for Congressional redistricting. Because of this, none of the legislative plans are entitled to any deference and the Court is free to adopt the plan that comports with the Constitution and the Voting Rights Act. This understanding is based upon communication with the attorneys assisting the coalition. As examples of what might be appropriate, I should note that for the 16 districts that overlap the territory in the Unity Map, these plans are less compact, and in two majority plans have lower concentrations of Latinos and African-Americans in the districts with the highest concentrations than does the Unity Plan.

It is true that the Assembly minority plan does have slightly higher proportions of African American and Latino population for their most concentrated districts, than does any other plan. When a careful analysis done of how the Assembly minority plan was drawn, it is plain that they achieved this by carving up some communities that traditionally had been together: For instance, in the 15th Congressional District in Manhattan the plan adds Astoria, Queens and part of Upper West Side while subtracting Kingsbridge and Norwood. The result is a district 39.2% Latino VAP and 23% Black VAP in the Assembly minority Plan vs. 49.4% and 26.5% (respectively) for the Unity Plan. Similar carving was done in district 6 in Queens, and districts 11 and 12 in Brooklyn. It may have been the intent of this plan to maximize Hispanic and African American percentages in a few districts without regard to which communities of interest were split.

As noted in my declaration, the Rose plan has deficiencies similar to that found in the two legislative majority plans.

It should also be noted that only the Common Cause and Unity plan have any district where the Asian voting age population percentage exceeds 35 percent. Thus, none of the legislative plans, nor the Rose plan has any district where one could expect any real influence in the choice of representative to be influenced by the Asian community.

Though voting age and citizens of voting age proportions of various groups do give some indication of the likelihood of a given racial and ethnic group having an effective majority, it should be noted that performance analysis based upon Racial Polarized Voting using the so-called Goodman regression technique and the method developed by Gary King to keep the estimates within appropriate bounds would give a better estimates of likely performance. We would urge the Court to conduct a performance analysis on the districts before adopting them, to be completely sure that the ability of Latinos and African-Americans to elect a candidate of their choice is possible in the new districts.

At the same time, given the time and effort that the Unity Map coalition expended in together identifying areas of high concentrations of African-Americans, Latinos and Asians, and together deciding what was the most appropriate district for each area, it is very likely that the performance of candidates of choice of the three groups will perform well in the appropriate districts, and may even coalesce together in some.

In conclusion, I want to note that the emergence of the non-partisan Unity Map coalition should be taken by the court as a positive step towards the protection of the rights of African-American, Latino and Asian New Yorkers in the redistricting process. As noted, it had as its goal the development of common map that respected the population growth and change of each

group, while working to jointly protect the rights of a group by itself and in coalition with other groups. I do hope the Court will take the results of the efforts of the Unity Coalition into serious consideration, as it crafts its plan for redistricting New York State's Congressional Districts.