

**Written Testimony of
Major Shalela Dowdy
Submitted to
the United States Senate Committee on the Judiciary,
Subcommittee on the Constitution
In connection with its March 1, 2024, hearing entitled
“Modern Day Voting Discrimination in Alabama”**

Chair Butler, Ranking Member Cruz, and other distinguished Committee members. Thank you for the opportunity to submit this testimony concerning my experiences with racial discrimination in voting in Alabama over the past decade.

I am a Major in the United States Army Reserves and graduate of the United States Military Academy at West Point, 2nd Vice President of the Mobile Branch of the Alabama NAACP, and Founding President of Stand Up Mobile, a non-profit voter education and advocacy organization committed to bringing the power of the Black vote to elections at all levels. We believe that it is important for all people to have their voices heard, especially those who are too often excluded from the political, economic, and social institutions that shape their lives.

I submit this testimony as an organizer who is passionate about voting rights and fair access to the ballot. This work led me to become a plaintiff in the ongoing historic voting rights case *Allen v. Milligan*, where alongside my co-plaintiffs we fought against Alabama’s racially discriminatory 2021 Congressional map and 2023 congressional maps. Both the 2021 map and the 2023 map that the Alabama legislature passed in response to the U.S. Supreme Court affirming that its 2021 map likely violated Section 2 of the Voting Rights Act fail to provide Black Alabamians a fair and equal opportunity to elect preferred candidates, and instead unfairly prioritize the needs of white Alabamians and limit Black voters to true influence in one out of seven Alabama districts in the United States House of Representatives.

Alabama’s elected officials and those in positions of power have a continuous history of unfairly minimizing the voting power of Black people and enacting

voting restrictions that make it disproportionately more difficult to vote and have their votes counted. This pattern continued during the redistricting cycle after the 2020 Census. Alabama's Reapportionment Committee was tasked with drawing new Congressional, State House, State Senate, and State School Board Maps. The committee held over 20 public hearings around the state both in person and virtually. I attended the hearing in Mobile in person and virtually attended a number of additional hearings held around the state. At hearing after hearing, Black voters urged the committee to stop unfairly limiting the voting power of Black Alabamians and draw two districts in which Black voters could have a real chance at electing their candidates of choice.

The Reapportionment Committee ignored these voices. It rushed through its process in a matter of a few days and with limited chance for public input, and once again produced a map that unfairly limited Black voting power to one Congressional district. It did so by continuing to crack the Black Belt region into four districts, splitting Montgomery, and failing to unite communities of interest in my hometown of Mobile with those of the Black Belt. The committee also failed to allow citizens the opportunity to provide public commentary on the maps the committee produced. The committee also did not allow the Black elected officials adequate time to review and provide input in the creation of the map. The actions of the Reapportionment Committee showed a lack of responsiveness to Black Alabamians.

In January 2022, the three-judge court agreed with me and the other *Milligan* plaintiffs that Alabama's 2021 congressional map likely unfairly diluted the voting power of Black Alabamians in violation of Section 2 of the Voting Rights Act as it provides "Black voters [] less opportunity than other Alabamians to elect candidates of their choice to Congress." The Court decided that "the appropriate remedy is a congressional redistricting plan that includes either an additional majority-Black congressional district or an additional district in which Black voters otherwise have an opportunity to elect a representative of their choice," but told the Legislature to "be mindful of the practical reality, based on the ample evidence of intensely racially polarized voting adduced during the preliminary injunction proceedings, that any remedial plan will need to include two districts in which Black voters either comprise a voting-age majority or something quite close to it."

After putting the decision on hold, the Supreme Court ultimately agreed that the congressional map violated Section 2 of the VRA. Given this decision, the three-judge court allowed the Alabama legislature to reconvene and produce a congressional map with a second congressional district in which Black voters have

a fair opportunity to elect a candidate of choice. The legislature chose to defy what was ordered by the highest court in our nation. The committee once again produced a map that was not fair and equitable and, in the summer of 2023, did not produce its proposed map in time to allow public commentary on the map. The 2023 map consisted of Congressional District 2 having a Black voting-age population percentage of under forty percent which the State itself admitted was not one in which Black voters would have been able to elect a preferred candidate in any of the past elections they studied.

The words of the Court to Alabama were blunt and unmistakable in calling out Alabama's blatant and purposeful failure to fix the racially discriminatory map. The Court states that it was "deeply troubled that the State enacted a map that the State readily admits does not provide the remedy we said federal law requires" and that it was "disturbed by the evidence that the State delayed remedial proceedings but ultimately did not even nurture the ambition to provide the required remedy." It further explained it was "not aware of any other case in which a state legislature — faced with a federal court order declaring that its electoral plan unlawfully dilutes minority votes and requiring a plan that provides an additional opportunity district — responded with a plan that the state concedes does not provide that district." Section 2 of the Voting Rights Act required Alabama to create "an additional district that affords Black Alabamians, like everyone else, a fair and reasonable opportunity to elect candidates of their choice," but the "2023 Plan plainly fail[ed] to do so."

This time, the Court echoed the voices of Black Alabamians in explaining that it could not "help but find that the circumstances surrounding the enactment of the 2023 Plan reflect a significant lack of responsiveness on the part of elected officials to the particularized needs of Black voters in Alabama." The Court noted the Legislature's purposeful "decision not to create an additional opportunity district" was strong evidence that it "was unwilling to respond to the well-documented needs of Black Alabamians. . . ."

Alabama chose to defy the order and the opinions of both the lower court and the United States Supreme Court, which revealed its dismissive attitude toward the requirements of federal law and to an effort to stop its decades long pattern of excluding Black Alabamians from exercising their full and fair measure of political power. The legislative branch makes the law, but we have the judicial branch in place to expertly interpret the law. Choosing to defy the courts resulted in a court-ordered map being produced that cost Alabama taxpayers over \$500,000, not to

mention the several million dollars in attorney fees they will undoubtedly owe. This is funding that could have gone towards much-needed Medicaid expansion, healthcare issues, education, and so much more.

The Alabama legislature does not seem at all shamed by the Court's rebuke and instead has doubled down this legislative session on another exercise of modern-day voter discrimination in Senate Bill 1, which has passed in the state senate and is moving through the state house. SB 1 will criminalize average Alabamians who assist others with their absentee ballot or the process. By the time this testimony is admitted into the record the bill will likely have passed in the Alabama legislature. This is a dangerous voter suppression tactic that is being implemented that will have drastic negative effects on the Black voting populations and voters with disabilities, who disproportionately rely on ballot assistance to navigate Alabama's burdensome and confusing absentee voting process.

During the 2021 municipal elections in Mobile, Alabama, I had the opportunity to work in the city's absentee election office for three months. I assisted citizens who walked in to complete the in-person absentee ballots due to Alabama not having early voting as an option. I had the opportunity to witness many citizens who do not understand Alabama's complicated absentee process, which requires not only a copy of their photo identification but also signatures by two witnesses or notarization. On election day I assisted with the counting of the absentee ballots and witnessed numerous ballots that were not counted because the citizen did not adequately complete the absentee process. In my experience in Mobile, these ballots and those in need of assistance were disproportionately Black voters. This is not surprising, as I know a federal court in Alabama recently found that Black voters are also less likely to have access to the internet or a computer in their home, less likely to have broadband internet, and less likely to have a computer, smartphone, or tablet compared to white households. The same Court found that "12.7 percent of Black households do not have a vehicle compared to 3.9 percent of White households," and that Black Alabamians with health risks face poverty at higher rates than their White high-risk counterparts. All of this fits with my experience that Black voters are more likely to need access to the absentee voting process, but Alabama law has made it more burdensome for them to use it compared to white voters. SB 1 continues this trend.

In closing, Congress must restore and strengthen the Voting Rights Act. Alabama has shown that it is shameless in consistently enacting discriminatory voting laws, which then must be challenged in court, and which can take years to play out and can negatively effective individuals like myself who are working to assist Black

Voters in Alabama. Requiring jurisdictions like Alabama which persistently continue to discriminate against Black voters and other voters of color to seek preapproval once again for voting changes would help ensure more equal access to the voting process and voting power will go a long way in making the state live up to its professed values and comply with federal law.

Thank you for the opportunity to testify and for being willing to listen to myself and the others who are testifying. It feels reassuring knowing that we have elected officials who care about what is going on out in the districts.