

IN THE SUPREME COURT OF OHIO

Bria Bennett, et al.,

Petitioners,

v.

Ohio Redistricting Commission, et al.,

Respondents.

Case No. 2021-1198

Original Action Filed Pursuant to Ohio
Constitution, Article XI, Section 9(A)

*[Apportionment Case Pursuant to S.
Ct. Prac. R. 14.03]*

PETITIONERS' MOTION FOR LEAVE TO FILE REPLY BRIEF

Abha Khanna (PHV 2189-2021)
Ben Stafford (PHV 25433-2021)
ELIAS LAW GROUP LLP
1700 Seventh Ave, Suite 2100
Seattle, WA 98101
T: (206) 656-0176
F: (206) 656-0180
akhanna@elias.law
bstafford@elias.law

Jyoti Jasrasaria (PHV 25401-2021)
Spencer W. Klein (PHV 25432-2021)
ELIAS LAW GROUP LLP
10 G St NE, Suite 600
Washington, DC 20002
T: (202) 968-4490
F: (202) 968-4498
jjasrasaria@elias.law
sklein@elias.law

Donald J. McTigue* (0022849)
*Counsel of Record
Derek S. Clinger (0092075)
MCTIGUE COLOMBO & CLINGER LLC
545 East Town Street
Columbus, OH 43215
T: (614) 263-7000
F: (614) 368-6961
dmctigue@electionlawgroup.com
dclinger@electionlawgroup.com

Erik J. Clark (0078732)
Ashley Merino (0096853)
ORGAN LAW LLP
1330 Dublin Road
Columbus, OH 43215
T: (614) 481-0900
F: (614) 481-0904
ejclark@organlegal.com
amerino@organlegal.com

*Counsel for Respondent Ohio Redistricting
Commission*

Dave Yost
OHIO ATTORNEY GENERAL
Bridget C. Coontz (0072919)
Julie M. Pfeiffer (0069762)
Michael Walton (0092201)
OFFICE OF THE OHIO ATTORNEY
GENERAL
30 E. Broad Street, 16th Floor
Columbus, OH 43215
T: (614) 466-2872
F: (614) 728-7592
Bridget.Coontz@OhioAGO.gov
Julie.Pfeiffer@OhioAGO.gov
Michael.Walton@OhioAGO.gov

*Counsel for Respondents Ohio Governor Mike
DeWine, Ohio Secretary of State Frank LaRose,*

Counsel for Petitioners

and Ohio Auditor Keith Faber

W. Stuart Dornette (0002955)
Beth A. Bryan (0082076)
Philip D. Williamson (0097174)
TAFT STETTINIUS & HOLLISTER LLP
425 Walnut St., Suite 1800
Cincinnati, OH 45202-3957
T: (513) 381-2838
dornette@taftlaw.com
bryan@taftlaw.com
pwilliamson@taftlaw.com

Phillip J. Strach
Thomas A. Farr
John E. Branch, III
Alyssa M. Riggins
NELSON MULLINS RILEY &
SCARBOROUGH LLP
4140 Parklake Ave., Suite 200
Raleigh, NC 27612
phil.strach@nelsonmullins.com
tom.farr@nelsonmullins.com
john.branch@nelsonmullins.com
alyssa.riggins@nelsonmullins.com
T: (919) 329-3812

*Counsel for Respondents Senate President Matt
Huffman and House Speaker Robert Cupp*

The Bennett Petitioners understand the Court’s Order dated January 26, 2022 to preclude the filing of a reply in support of their objections to the proposed remedial plan adopted by the Ohio Redistricting Commission. *See 10/26/2022 Case Announcements*, 2022-Ohio-182, Case No. 2021-1198. Petitioners respectfully seek leave to file the attached 3-page reply (“Exhibit A”) solely to address a single and discrete – but highly material – factual issue mischaracterized by the Commission in its submission.

Specifically, the Commission asserts, as supported by an affidavit from Raymond DiRossi, that the Rodden II Plan contains certain splits of political subdivision boundaries and represents that these alleged splits affect a significant number of people. This is not factually accurate, as explained in the attached proposed reply. Given the highly expedited nature of these proceedings, and the highly technical characteristics of this specific small – but again, highly material – issue, if Petitioners are not granted leave to address it, the Court may be left with an incorrect impression based on the Commission’s Response. Petitioners seek to ensure that the Court has an accurate factual record before it as it considers Petitioners’ objection and the Commission’s response.

Dated: January 28, 2022

Respectfully submitted,

/s/ Donald J. McTigue

Donald J. McTigue* (0022849)

**Counsel of Record*

Derek S. Clinger (0092075)

MCTIGUE COLOMBO & CLINGER LLC

545 East Town Street

Columbus, OH 43215

T: (614) 263-7000

F: (614) 368-6961

dmctigue@electionlawgroup.com

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10 G St NE, Suite 600
Washington, DC 20002
T: (202) 968-4490
F: (202) 968-4498
jjasrasaria@elias.law
sklein@elias.law

Counsel for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was sent via email this 28th day of January, 2022 to the following:

DAVE YOST
OHIO ATTORNEY GENERAL
Bridget C. Coontz (0072919)
Julie M. Pfeiffer (0069762)
30 E. Broad Street
Columbus, OH 43215
Tel: (614) 466-2872
Fax: (614) 728-7592
bridget.coontz@ohioago.gov
julie.pfeiffer@ohioago.gov

*Counsel for Respondents
Governor Mike DeWine,
Secretary of State Frank LaRose, and
Auditor Keith Faber*

W. Stuart Dornette (0002955)
Beth A. Bryan (0082076)
Philip D. Williamson (0097174)
TAFT STETTINIUS & HOLLISTER LLP
425 Walnut St., Suite 1800
Cincinnati, Ohio 45202-3957
T: (513) 381-2838
dornette@taftlaw.com
bryan@taftlaw.com
pwilliamson@taftlaw.com

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John E. Branch, III (PHV 25460-2021)
Alyssa M. Riggins (PHV 25441-2021)
NELSON MULLINS RILEY & SCARBOROUGH LLP
4140 Parklake Ave., Suite 200
Raleigh, North Carolina 27612
phil.strach@nelsonmullins.com
tom.farr@nelsonmullins.com
john.branch@nelsonmullins.com
alyssa.riggins@nelsonmullins.com
T: (919) 329-3812

*Counsel for Respondents
Senate President Matt Huffman and*

House Speaker Robert Cupp

Erik J. Clark (Ohio Bar No. 0078732)
Ashley Merino (Ohio Bar No. 0096853)
ORGAN LAW LLP
1330 Dublin Road
Columbus, Ohio 43215
T: (614) 481-0900
F: (614) 481-0904
ejclark@organlegal.com
amerino@organlegal.com

*Counsel for Respondent
Ohio Redistricting Commission*

Vernon Sykes
Vernon.sykes@ohiosenate.gov
Respondent, Pro Se

Allison Russo
Allison.Russo@ohiohouse.gov
Respondent, Pro Se

/s/ Derek S. Clinger
Derek S. Clinger (0092075)

EXHIBIT A

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Abha Khanna (PHV 2189-2021)
Ben Stafford (PHV 25433-2021)
ELIAS LAW GROUP LLP
1700 Seventh Ave, Suite 2100
Seattle, WA 98101
T: (206) 656-0176
F: (206) 656-0180
akhanna@elias.law
bstafford@elias.law

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ELIAS LAW GROUP LLP
10 G St NE, Suite 600
Washington, DC 20002
T: (202) 968-4490
F: (202) 968-4498
jjasrasaria@elias.law
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Donald J. McTigue* (0022849)
**Counsel of Record*
Derek S. Clinger (0092075)
MCTIGUE COLOMBO & CLINGER LLC
545 East Town Street
Columbus, OH 43215
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Erik J. Clark (0078732)
Ashley Merino (0096853)
ORGAN LAW LLP
1330 Dublin Road
Columbus, OH 43215
T: (614) 481-0900
F: (614) 481-0904
ejclark@organlegal.com
amerino@organlegal.com

*Counsel for Respondent Ohio Redistricting
Commission*

Dave Yost
OHIO ATTORNEY GENERAL
Bridget C. Coontz (0072919)
Julie M. Pfeiffer (0069762)
Michael Walton (0092201)
OFFICE OF THE OHIO ATTORNEY
GENERAL
30 E. Broad Street, 16th Floor
Columbus, OH 43215
T: (614) 466-2872
F: (614) 728-7592
Bridget.Coontz@OhioAGO.gov
Julie.Pfeiffer@OhioAGO.gov
Michael.Walton@OhioAGO.gov

*Counsel for Respondents Ohio Governor Mike
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4140 Parklake Ave., Suite 200
Raleigh, NC 27612
phil.strach@nelsonmullins.com
tom.farr@nelsonmullins.com
john.branch@nelsonmullins.com
alyssa.riggins@nelsonmullins.com
T: (919) 329-3812

*Counsel for Respondents Senate President Matt
Huffman and House Speaker Robert Cupp*

The Bennett Petitioners submit this brief reply to address one factual issue raised in the Ohio Redistricting Commission’s response to the Bennett Petitioners’ objections.

The Commission submitted an affidavit by Raymond DiRossi, dated January 28, 2022, in which Mr. DiRossi claims that the state legislative plan authored by Dr. Jonathan Rodden and submitted by the Bennett and LWV Petitioners to the Commission on January 20, 2022 (“Rodden II Plan”) violates Article XI, Section 3(D)(3) of the Constitution. *See* Appendix to Merit Brief of Respondent the Ohio Redistricting Comm’n at Appx.236 (“DiRossi Aff.”) ¶ 27. Section 3(D)(3) provides that “not more than one municipal corporation or township may be split per representative district,” except in limited circumstances. *See* Article XI, Section 3.

Mr. DiRossi presents the alleged violations in Rodden II as requiring “significant adjustments” and claims they “raise . . . population concerns.” DiRossi Aff. ¶ 27-28. The Commission’s Response relies on these statements to claim that the alleged violations in the Rodden II Plan “affect thousands of people and would require substantial redrawing.” Response of Resp. The Ohio Redistricting Comm’n to Petitioners Objections at 28 n.4. But the assertions from Mr. DiRossi upon which the Commission relies to reach this conclusion are factually inaccurate and materially misleading.

Each of the alleged violations in the Rodden II Plan identified by Mr. DiRossi correspond to a “zero-population split,” meaning an instance in which a district technically divides more than one township or municipality, but only *one* of the “splits” places populated areas of the township or municipality on both sides of the district line. Because a zero-population split does not affect population, it can be “remedied” simply by reallocating the unpopulated area from one side of the “split” to another.

The Commission’s Remedial Plan itself contains several zero-population splits. Affidavit of Jonathan Rodden at ¶ 37 n.5; Bennett Pet’rs’ Objections at 20 n.6. Mr. DiRossi does not, however, similarly count (or even mention) these zero-population splits in his list of technical violations committed by the Commission in the Remedial Plan. This inconsistent treatment of zero-population splits in his analyses of the Rodden II Plan and the Remedial Plan renders Mr. DiRossi’s affidavit materially misleading.

And because zero-population splits do not affect population, the ones identified by Mr. DiRossi can be easily addressed by the reassignment of no more than a handful of Census blocks in each district; not one of these reassignments raises “population concerns” as he claims. Specifically, the “errors” Mr. DiRossi lists can be easily corrected as follows:

- Reassign Census blocks 390250415062045, 390250415062044, and 390250415062046 from District 60 to 61.
- Reassign Census blocks 390230025011014 and 390230025011046 from District 69 to 73.
- Reassign Census blocks 391590506022067 and 391590507011012 from District 96 to 92.
- Reassign Census blocks 390490094951033, 390490103001007, and 390490094951030 from District 1 to 7.
- Reassign Census blocks 391130506003082, 391130506003083, 391130204004005, 391130503021013, and 391130301003004 from District 39 to 38.
- Reassign Census blocks 390110405003066 and 390110405003072 from District 98 to 79.

Each of the Census blocks listed above has a population of zero. No voters would be reassigned to a different district by making these changes.

Finally, Mr. DiRossi’s suggestion that the zero-population split between Districts 68 and 69 is “difficult to remedy without ripple effects” is also misleading. DiRossi Aff. ¶ 27. As discussed above, that split can be remedied by simply reassigning the unpopulated portion of Springfield from District 69 to 68. The same is true for Mr. DiRossi’s statement that “if Buckland and Wapakoneta were wholly contained within District 98, the district would be 13.35% above target population.” *Id.* Remedying the zero-population splits between Districts 98 and 79 does not

require pairing all of Buckland and Wapakoneta within a district; instead it requires only reassigning the unpopulated portion of Buckland within District 79 to District 98. Neither of these revisions would change the population of a single district.

Dated: January 28, 2022

Respectfully submitted,

/s/ Donald J. McTigue

Donald J. McTigue* (0022849)

**Counsel of Record*

Derek S. Clinger (0092075)

MCTIGUE COLOMBO & CLINGER LLC

545 East Town Street

Columbus, OH 43215

T: (614) 263-7000

F: (614) 368-6961

dmctigue@electionlawgroup.com

dclinger@electionlawgroup.com

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Seattle, WA 98101

T: (206) 656-0176

F: (206) 656-0180

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bstafford@elias.law

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Counsel for Petitioners

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Fax: (614) 728-7592
bridget.coontz@ohioago.gov
julie.pfeiffer@ohioago.gov

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phil.strach@nelsonmullins.com
tom.farr@nelsonmullins.com
john.branch@nelsonmullins.com
alyssa.riggins@nelsonmullins.com
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Senate President Matt Huffman and

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Erik J. Clark (Ohio Bar No. 0078732)
Ashley Merino (Ohio Bar No. 0096853)
ORGAN LAW LLP
1330 Dublin Road
Columbus, Ohio 43215
T: (614) 481-0900
F: (614) 481-0904
ejclark@organlegal.com
amerino@organlegal.com

*Counsel for Respondent
Ohio Redistricting Commission*

Vernon Sykes
Vernon.sykes@ohiosenate.gov
Respondent, Pro Se

Allison Russo
Allison.Russo@ohiohouse.gov
Respondent, Pro Se

/s/ Derek S. Clinger
Derek S. Clinger (0092075)