

IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*, :
: Case No. 2021-1193
Relators, :
v. : Original Action Filed Pursuant to Ohio
: Constitution, Article XI, Section 9(A)
Ohio Redistricting :
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.
: Prac. R. 14.03]
Respondents. :
:
:

Bria Bennett, *et al.*, :
: Case No. 2021-1198
Relators, :
v. : Original Action Filed Pursuant to Ohio
: Constitution, Article XI, Section 9(A)
Ohio Redistricting :
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.
: Prac. R. 14.03]
Respondents. :
:
:

The Ohio Organizing Collaborative, *et al.*, :
: Case No. 2021-1210
Relators, :
v. : Original Action Filed Pursuant to Ohio
: Constitution, Article XI, Section 9(A)
Ohio Redistricting :
Commission, *et al.*, : [Apportionment Case Pursuant to S. Ct.
: Prac. R. 14.03]
Respondents. :
:
:

OPPOSITION OF RESPONDENTS SENATOR VERNON SYKES AND HOUSE
MINORITY LEADER ALLISON RUSSO TO ATTORNEY GENERAL'S MOTION TO
CONVERT RESPONSE BY NAMED RESPONDENTS TO AMICI BRIEF

FILED

FEB 02 2022

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SUPREME COURT OF OHIO

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**OPPOSITION OF RESPONDENTS SENATOR VERNON SYKES AND HOUSE
MINORITY LEADER ALLISON RUSSO TO ATTORNEY GENERAL’S MOTION TO
CONVERT RESPONSE BY NAMED RESPONDENTS TO AMICI BRIEF**

Continuing pro se, we submit this opposition to the Attorney General’s motion to convert our response to petitioners’ objections to an amicus brief. We are Respondents Senator Vernon Sykes, Co-Chair of the Ohio Redistricting Commission, and House Minority Leader Allison Russo, Commissioner of the Ohio Redistricting Commission. In response to the Attorney General’s motion, we would like to bring two brief points to the Court’s attention:

First, we are named respondents in the above captioned lawsuits. By entry dated January 26, 2022, Chief Justice Maureen O’Connor ordered “that **respondents** shall file a response, if any, to petitioners’ objections no later than 12:00 p.m. on Friday, January 28, 2022.” (Emphasis added.) This order—to file a timely response if any—applies to us because we are individually named “respondents” in the lawsuits. While the Attorney General may have wanted only the Commission to respond, the Commission is not the only respondent in these lawsuits. As this Court held in its decision, the individual commissioners are also “proper parties,” Opinion 2022-Ohio-65, ¶¶ 10, 62, 63, and this Court also recognized in its opinion, ¶ 66, and through allotting separate argument time, that not all the interests of the individual respondents align. We are respondents in this case with personal knowledge of relevant facts that should be part of the record, and we should not be relegated to amici status.

Second, despite the fact that we are named respondents in this case, the Attorney General attempted to deny us the ability to file a response to the petitioners’ objections. As the Attorney General’s motion makes clear on the first page, he decided that: “No individual member was authorized to file in [his or her] official capacity.” Ice Miller, whom the Attorney General appointed as our counsel, informed us that, on instructions from the Attorney General’s office,

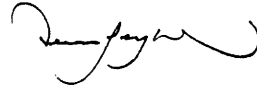
the firm could not file a response brief for us and could not even counsel us. The Attorney General thus attempted to silence us by disabling our appointed counsel. Therefore, we had no choice but to ask Ice Miller to withdraw so that we could file pro se and be heard as respondents.

The Attorney General also states on page two that there is a “walled-off” Assistant Attorney General who is still representing us. But that attorney never contacted us about a response and doubtless was just as powerless to help us file one as Ice Miller had been, given the Attorney General’s dictates. Tellingly, Leader Russo told the Attorney General and the First Assistant Attorney General we wanted to respond to petitioners’ objections; neither of them ever mentioned the continued representation of the walled-off counsel or that attorney’s ability to file a response for us. Rather, the First Assistant Attorney General doubled down, stating to Leader Russo that the Attorney General would even oppose pro bono counsel filing a response for us. The Attorney General’s motion notably does not refute that.

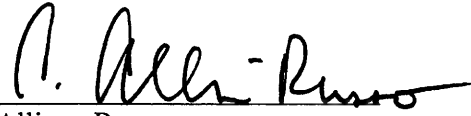
There is no doubt that the Attorney General has denied us counsel to file in these lawsuits. Indeed, we asked the “walled off” attorney to file an opposition to the instant motion. At the Attorney General’s direction, he rejected our request. Specifically, that attorney told me: “The Attorney General has concluded that you have had your opportunity to express your concerns . . . whether the filing is considered a response from a party or a filing from amici” and, therefore, “he [the Attorney General] has decided” that the purportedly walled-off counsel will not file the response to the Attorney General’s motion. *See* Affidavit of Leader Allison Russo, attached as Exhibit A. The Attorney General asserts that we have appointed counsel, but the Attorney General knows he has rendered that counsel unable to file anything for us in this Court.

We ask that the Court deny the Attorney General’s motion to relegate us to amici status.

Respectfully submitted,



Vernon Sykes



Allison Russo

*Respondents Senator Vernon Sykes and
House Minority Leader Allison Russo,
pro se*

CERTIFICATE OF SERVICE

I hereby certify that on February 2, 2022, a copy of the foregoing Opposition

was filed by hand and sent via email to the following:

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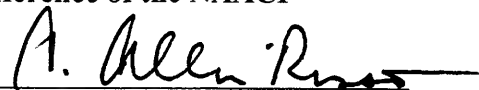
/s/ 

EXHIBIT A

IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, <i>et al.</i> ,	:	
	:	Case No. 2021-1193
Relators,	:	
v.	:	Original Action Filed Pursuant to Ohio
	:	Constitution, Article XI, Section 9(A)
Ohio Redistricting	:	
Commission, <i>et al.</i> ,	:	[Apportionment Case Pursuant to S. Ct.
	:	Prac. R. 14.03]
Respondents.	:	
	:	
	:	

Bria Bennett, <i>et al.</i> ,	:	
	:	Case No. 2021-1198
Relators,	:	
v.	:	Original Action Filed Pursuant to Ohio
	:	Constitution, Article XI, Section 9(A)
Ohio Redistricting	:	
Commission, <i>et al.</i> ,	:	[Apportionment Case Pursuant to S. Ct.
	:	Prac. R. 14.03]
Respondents.	:	
	:	
	:	

The Ohio Organizing Collaborative, <i>et al.</i> ,:	:	
	:	Case No. 2021-1210
Relators,	:	
v.	:	Original Action Filed Pursuant to Ohio
	:	Constitution, Article XI, Section 9(A)
Ohio Redistricting	:	
Commission, <i>et al.</i> ,	:	[Apportionment Case Pursuant to S. Ct.
	:	Prac. R. 14.03]
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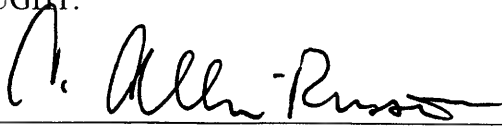
AFFIDAVIT OF RESPONDENT ALLISON RUSSO

AFFIDAVIT OF C. ALLISON RUSSO

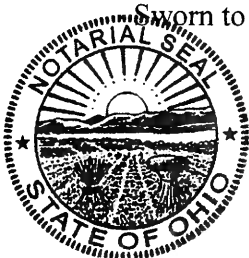
State of Ohio
County of Franklin, SS:

1. I have personal knowledge of all the information below.
2. I am a member of the Ohio House of Representatives, representing District 24. I am the House Minority Leader. I also serve as a Commissioner on the Ohio Redistricting Commission. I am named as a Respondent in the above-captioned lawsuits.
3. In my communications with the Attorney General and the First Assistant Attorney General about the ability of myself and Co-Chair Vernon Sykes to file a response to the petitioners' objections, they continuously told me that no individual respondents were allowed to file and that only the Commission could file. They never mentioned that Co-Chair Sykes and I were being represented by a walled-off Assistant Attorney General, Henry Appel, or that Mr. Appel could file anything on our behalf.
4. Mr. Appel never reached out to me about filing a response to the petitioners' objections, nor did he provide me any counsel on the petitioners' objections or my right to respond.
5. Attached to this affidavit are true and accurate communications that I had via email with Mr. Appel on February 1, 2022.

FURTHER AFFIANT SAYETH NAUGHT.



C. Allison Russo



Sworn to before me and subscribed in my presence this 2nd day of February, 2022.

Charles Benjamin Cooper, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.



Notary Public

RE: Response to motion [ATTORNEY-CLIENT PRIVILEGED]

Henry Appel <Henry.Appel@OhioAGO.gov>

Tue 2/1/2022 4:03 PM

To: Russo, Allison <Allison.Russo@ohiohouse.gov>;

Cc: Sykes, Vernon <Vernon.Sykes@ohiosenate.gov>; Jonathan Fulkerson <Jonathan.Fulkerson@OhioAGO.gov>;

House Minority Leader Russo and Senator Sykes,

On January 31, 2022, the Ohio Attorney General filed a Motion for Limited Intervention and a Motion to Convert 'Response' To Amici Brief.

Earlier today, I received an e-mail from you asking whether I would be able to file a response to these motions on your behalf.

The Attorney General has concluded that you have had your opportunity to express your concerns and legal arguments about the redistricting process whether your filing is considered a response from a party or a filing from amici. As a result, he has decided that the Ohio Attorney General's office will not file the response you requested.

If you have any questions or concerns, please let me know.



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From: Allison.Russo@ohiohouse.gov <Allison.Russo@ohiohouse.gov>
Sent: Tuesday, February 1, 2022 2:50 PM
To: Henry Appel <Henry.Appel@OhioAGO.gov>
Cc: Vernon.Sykes@ohiosenate.gov
Subject: Re: Response to motion [ATTORNEY-CLIENT PRIVILEGED]

Dear Mr. Appel,

Thank you for seeking additional clarification. We would like you to make clear that we had the right to file our brief from Friday in our official capacities as named respondents, not as amici. We would like you to oppose any attempt to have our brief from Friday "converted" to an amicus filing.

Please let us know if you will act as our counsel to do these things. We would appreciate a reply from you in writing by the close of business today.

Kind regards,

C. Allison Russo
Ohio House Minority Leader

On Feb 1, 2022, at 1:20 PM, Henry Appel <Henry.Appel@ohioago.gov> wrote:

Ms. Russo & Mr. Sykes,

I have received your e-mail and I do have one question about a proposed response to the Attorney General's Motion to Intervene. In light of the fact that the Attorney General is not opposing having your filing being treated as an amicus brief, what would you want for me to say if I did file a response on your behalf?



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Sent: Tuesday, February 1, 2022 11:11 AM
To: Henry Appel <Henry.Appel@OhioAGO.gov>
Cc: Vernon.Sykes@ohiosenate.gov
Subject: Response to motion

Dear Mr. Appel,

I am hoping you can help me with something today.

First, would you have filed a response to petitioners' objections last week for Sen. Sykes and me?

Second, will you file a brief with the Court for Sen. Sykes and me (as respondents, not amici) responding to the motion filed yesterday by the Attorney General in the three state redistricting lawsuits and asserting our right to file as respondents?

I request a response from you in writing by the close of business today.

Thank you very much for your time and attention to this.

Sincerely,

C. Allison Russo
Ohio House Minority Leader