

**IN THE SUPREME COURT OF PENNSYLVANIA**

Ryan Covert, Darlene J. Covert, and	:	
Erik Hulick,	:	
	:	
Petitioners,	:	
	:	
v.	:	No. 4 WM 2022
	:	
2021 Legislative Reapportionment	:	
Commission,	:	
	:	
Respondent.	:	

**ANSWER OPPOSING PETITIONERS' APPLICATION FOR ORAL ARGUMENT AND OTHER RELIEF**

The Court should deny Petitioners' Application, because:

1. The applicants' petition for review facially is meritless. The petition challenges solely the manner in which the Legislative Reapportionment Commission's Final Plan redraws districts in Butler County. That is a localized dispute. This Court, in exercising its review under Pa. Const. Art. II, § 17(d), considers only challenges to the plan as a whole, *see Holt v. 2011 Legislative Reapportionment Comm'n*, 38 A.3d 711, 733 (Pa. 2012) ("*Holt I*"), and will not consider localized disputes, *see Holt v.*

*2011 Legislative Reapportionment Comm'n*, 67 A.3d 1211, 1217 n2. (Pa. 2013)

(“*Holt II*”). Petitioners implicitly acknowledge this fatal defect in their Application at ¶ 2.

2. The Application is a transparent delay tactic to keep in place the current, unconstitutionally malapportioned House and Senate districts for yet another election cycle. The only circumstance that would justify such an action, under this Court’s precedent in *Holt I* would be in the unlikely event that the Court determines that the 2022 Final Plan is contrary to law. The Court last week correctly rejected a direct request for that result. See *Benninghoff v. 2021 Legislative Reapportionment Comm’n*, 11 MM 2022 (Order of February 25, 2022).

3. The Court is in the best position to decide whether oral argument would be helpful, and that is precisely what the Court has done in its scheduling orders. There is no right to oral argument, and the Court has dispensed with oral argument in other exigent circumstances. The circumstances are exigent here because of the delays caused by the pandemic-related late delivery of 2020 census data suitable for redistricting

and the impending primary election. Those circumstances fully justify the Court's requiring more streamlined and expedited review procedures than in the past.

4. There is no basis for the claim that due process somehow requires a reply brief. If that were true, the next assertion will be that due process requires rebuttal during oral argument. There is no authority for such a proposition.

5. There also is no basis for the implied assertion (Application, ¶ 20) that this Court's streamlined, expedited scheduling procedure sends a message that the redistricting process is "partisan or predetermined." This Court has engaged in a Herculean effort to deal with the Congressional and Legislative redistricting processes in the face of the exigent circumstances created by the global pandemic, without delaying the primary election. If the Court determines, after reviewing the briefs, that one or more of the challenges to the Final Plan requires more in depth consideration, this Court has allowed room for expanded consideration. There simply is no justification for the expanded procedures that the

proponents of a facially meritless petition for review are advancing as an excuse for postponing the implementation of the 2022 Final Plan until after the current election cycle.

Respectfully submitted,

March 4, 2022

/s/ Robert L. Byer

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## CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that require filing confidential information and documents differently from non-confidential information and documents.

*/s/ Robert L. Byer* \_\_\_\_\_