

**[J- 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 31 -2012][M.O. – Castille, C.J.]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

AMANDA E. HOLT, ELAINE TOMLIN, LOUIS : No. 7 MM 2012
NUDI, DIANE EDBRIL, DARIEL I. :
JAMIESON, LORA LAVIN, JAMES YOEST, :
JEFFREY MEYER, CHRISTOPHER H. : Appeal from the Legislative
FROMME, TIMOTHY F. BURNETT, CHRIS : Reapportionment Plan of the 2011
HERTZOG, GLEN ECKHART, and MARY : Legislative Reapportionment
FRANCES BALLARD, : Commission, dated December 12, 2011

Appellants

ARGUED: January 23, 2012

v.

2011 LEGISLATIVE REAPPORTIONMENT :
COMMISSION, :

Appellee

SENATOR JAY COSTA, SENATOR : No. 1 WM 2012
LAWRENCE M. FARNESE, JR., SENATOR :
CHRISTINE M. TARTAGLIONE, SENATOR :
SHIRLEY M. KITCHEN, SENATOR LEANNA : Appeal from the Legislative
M. WASHINGTON, SENATOR MICHAEL J. : Reapportionment Plan of the 2011
STACK, SENATOR VINCENT J. HUGHES, : Legislative Reapportionment
SENATOR ANTHONY H. WILLIAMS, : Commission, dated December 12, 2011
SENATOR JUDITH L. SCHWANK, :

ARGUED: January 23, 2012

SENATOR JOHN T. YUDICHAK, SENATOR :
DAYLIN LEACH, SENATOR LISA M. :
BOSCOLA, SENATOR ANDREW E. :
DINNIMAN, SENATOR JOHN P. BLAKE, :
SENATOR RICHARD A. KASUNIC, :
SENATOR JOHN N. WOZNIAK, SENATOR :
JIM FERLO, SENATOR WAYNE D. :
FONTANA, SENATOR JAMES R. :
BREWSTER, and SENATOR TIMOTHY J. :
SOLOBAY, :

Appellants

v. :

2011 LEGISLATIVE REAPPORTIONMENT :
 COMMISSION, :

Appellee :

MAYOR CAROLYN COMITTA, COUNCIL : No. 2 MM 2012
 PRESIDENT HOLLY BROWN, WILLIAM J. :
 SCOTT, JR., HERBERT A. SCHWABE, II, :
 JANE HEALD CLOSE, FLOYD ROBERT : Appeal from the Legislative
 BIELSKI, DAVID LALEIKE, E. BRIAN : Reapportionment Plan of the 2011
 ABBOTT, NATHANIEL SMITH, and W. : Legislative Reapportionment
 DONALD BRACELAND, : Commission, dated December 12, 2011

Appellants :

ARGUED: January 23, 2012

v. :

2011 LEGISLATIVE REAPPORTIONMENT :
 COMMISSION, :

Appellee :

MAYOR LEO SCODA and COUNCIL : No. 3 MM 2012
 PERSON JENNIFER MAYO, :

Appellants : Appeal from the Legislative
 : Reapportionment Plan of the 2011
 : Legislative Reapportionment
 : Commission, dated December 12, 2011

2011 LEGISLATIVE REAPPORTIONMENT : ARGUED: January 23, 2012
 COMMISSION, :

Appellee :

THOMAS SCHIFFER, ALISON BAUSMAN, : No. 4 MM 2012
 RACHEL J. AMDUR, JOAN TARKA, :
 LAWRENCE W. ABEL, MARGARET G. :
 MORSCHECK, LAWRENCE J. CHRZAN, : Appeal from the Legislative
 JULIA SCHULTZ and SHIRLEY RESNICK, : Reapportionment Plan of the 2011

<p style="text-align: center;">Appellants</p> <p style="text-align: center;">v.</p> <p>2011 LEGISLATIVE REAPPORTIONMENT COMMISSION,</p> <p style="text-align: center;">Appellee</p> <p>SEKELA COLES, CYNTHIA JACKSON and LEE TALIAFERRO,</p> <p style="text-align: center;">Appellants</p> <p style="text-align: center;">v.</p> <p>2011 LEGISLATIVE REAPPORTIONMENT COMMISSION,</p> <p style="text-align: center;">Appellee</p> <p>PATTY KIM,</p> <p style="text-align: center;">Appellant</p> <p style="text-align: center;">v.</p> <p>2011 LEGISLATIVE REAPPORTIONMENT COMMISSION,</p> <p style="text-align: center;">Appellee</p> <p>EDWARD J. BRADLEY, JR., PATRICK MCKENNA, JR., DOROTHY GALLAGHER, RICHARD H. LOWE, and JOHN F. "JACK" BYRNE,</p> <p style="text-align: center;">Appellants</p>	<p>: Legislative Reapportionment : Commission, dated December 12, 2011</p> <p>: ARGUED: January 23, 2012</p> <p>: No. 5 MM 2012</p> <p>: Appeal from the Legislative : Reapportionment Plan of the 2011 : Legislative Reapportionment : Commission, dated December 12, 2011</p> <p>: SUBMITTED: January 23, 2012</p> <p>: No. 6 MM 2012</p> <p>: Appeal from the Legislative : Reapportionment Plan of the 2011 : Legislative Reapportionment : Commission, dated December 12, 2011</p> <p>: ARGUED: January 23, 2012</p> <p>: No. 8 MM 2012</p> <p>: Appeal from the Legislative : Reapportionment Plan of the 2011 : Legislative Reapportionment : Commission, dated December 12, 2011</p>
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<p>v.</p> <p>2011 LEGISLATIVE REAPPORTIONMENT COMMISSION,</p> <p style="padding-left: 100px;">Appellee</p> <p>DENNIS J. BAYLOR,</p> <p style="padding-left: 100px;">Appellant</p>	<p>:</p> <p>:</p> <p>ARGUED: January 23, 2012</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>No. 9 MM 2012</p> <p>:</p> <p>:</p> <p>Appeal from the Legislative Reapportionment Plan of the 2011 Legislative Reapportionment Commission, dated December 12, 2011</p>
<p>v.</p> <p>2011 LEGISLATIVE REAPPORTIONMENT COMMISSION,</p> <p style="padding-left: 100px;">Appellee</p> <p>ANDREW DOMINICK ALOSI,</p> <p style="padding-left: 100px;">Appellant</p>	<p>:</p> <p>:</p> <p>ARGUED: January 23, 2012</p> <p>:</p> <p>:</p> <p>No. 10 MM 2012</p> <p>:</p> <p>:</p> <p>Appeal from the Legislative Reapportionment Plan of the 2011 Legislative Reapportionment Commission, dated December 12, 2011</p>
<p>v.</p> <p>2011 LEGISLATIVE REAPPORTIONMENT COMMISSION,</p> <p style="padding-left: 100px;">Appellee</p> <p>CARLOS A. ZAYAS,</p> <p style="padding-left: 100px;">Appellant</p>	<p>:</p> <p>:</p> <p>SUBMITTED: January 23, 2012</p> <p>:</p> <p>:</p> <p>No. 17 MM 2012</p> <p>:</p> <p>:</p> <p>Appeal from the Legislative Reapportionment Plan of the 2011 Legislative Reapportionment Commission, dated December 12, 2011</p>
<p>v.</p> <p>2011 LEGISLATIVE REAPPORTIONMENT COMMISSION,</p>	<p>:</p> <p>:</p> <p>SUBMITTED: January 24, 2012</p> <p>:</p>

Appellee	:	
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WILLIAM C. KORTZ, MICHELLE L.	:	No. 4 WM 2012
VEZZANI, MICHAEL E. CHEREPKO,	:	
GREGORY EROSENKO, JOYCE	:	
POPOVICH, JOHN BEVEC, LISA	:	Appeal from the Legislative
BASHIOUM, and RICHARD CHRISTOPHER,	:	Reapportionment Plan of the 2011
	:	Legislative Reapportionment
Appellants	:	Commission, dated December 12, 2011
	:	
	:	ARGUED: January 23, 2012
v.	:	
	:	
	:	
2011 LEGISLATIVE REAPPORTIONMENT	:	
COMMISSION,	:	
	:	
Appellee	:	

CONCURRING AND DISSENTING OPINION

MR. JUSTICE SAYLOR

DECIDED: January 25, 2012
OPINION FILED: February 3, 2012

The majority opinion is remarkable in many aspects, including its timeliness, its scope, and the passages of salutary guidance which it provides. For the most part, I support the clarification of the appellate review for redistricting challenges, particularly in terms of: the acceptance that alternate plans may be employed by challengers to address their heavy burden of proof; the movement toward a more circumspect position regarding the role of population equality; and the recognition of the interplay among the several requirements of the Pennsylvania Constitution pertaining to redistricting. My thoughts, however, do not align with the majority’s criticisms of the Legislative Reapportionment Commission, inasmuch as I have limited perspective concerning the difficulties encountered by the Commission in crafting a redistricting plan.

In light of the inevitability of dividing some political subdivisions in the redistricting exercise, the appellate review of plan challenges preeminently represents an exercise in line drawing. I use this term figuratively, of course, since the Court is not generally in a position to draw the boundaries on a map, but it does determine the degree of latitude to be accorded to a legislative reapportionment commission in arranging voting district boundaries. The allocation of the burdens and the affordance of deference in the judicial review reflect the complex nature of a commission's task and the constraints inherent in its oversight. Indeed, I had no illusions in 2002 that, had the then-existing legislative reapportionment commission narrowed or otherwise altered the range of considerations taken into account in fashioning voting-district boundaries, there could not have been fewer divisions. Moreover, with regard to the 2011 Final Plan, I agree with the majority that it is an improvement over the 2001 plan, see Majority Opinion, slip op. at 76, which surmounted the challenges raised in the appeals before this Court.

While the majority correctly observes that those challenges were narrower in scope than the lead ones presented here, consideration of the overall plan was encompassed in my own review. The concerns which I set forth in the Albert decision were premised on such consideration, and I adjudged the 2001 plan to be entitled to deference. See Albert v. 2001 Legislative Reapportionment Comm'n, 567 Pa. 670, 688, 790 A.2d 989, 1000 (2002) (Saylor, J., concurring). Ultimately, then, on the merits, and respecting the substantial deference which is to be accorded to such a plan, I believe the 2011 Legislative Reapportionment Plan is also constitutionally permissible. It therefore follows that I remain unable to join the mandate of the Court.