

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

Carol Ann Carter; Monica Parrilla;  
Rebecca Poyourow; William Tung;  
Roseanne Milazzo; Burt Siegel;  
Susan Cassanelli; Lee Cassanelli;  
Lynn Wachman; Michael Guttman;  
Maya Fonkeu; Brady Hill; Mary  
Ellen Balchunis; Tom DeWall,  
Stephanie McNulty and Janet  
Temin,

Petitioners,

v.

Leigh Chapman, in her official  
capacity as the Acting Secretary of  
the Commonwealth of  
Pennsylvania; Jessica Mathis, in  
her official capacity as Director for  
the Pennsylvania Bureau of  
Election Services and Notaries,

Respondents,

Phillip T. Gressman; Ron Y.  
Donagi; Kristopher R. Tapp;  
Pamela Gorkin; David P. Marsh;  
James L. Rosenberger; Amy  
Myers; Eugene Boman; Gary  
Gordon; Liz McMahon; Timothy G.  
Freeman; and Garth Isaak,

Petitioners,

v.

CASES CONSOLIDATED

No. 464 M.D. 2021

No. 465 M.D. 2021

**PROPOSED INTERVENORS-  
PETITIONERS' ("CITIZEN-VOTER  
INTERVENORS") JURISDICTIONAL  
STATEMENT**

Counsel of Record for Proposed  
Intervenors-Petitioners ("Citizen  
Voters"):

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Leigh Chapman, in her official  
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the Commonwealth of  
Pennsylvania; Jessica Mathis, in  
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the Pennsylvania Bureau of  
Election Services and Notaries,

Respondents,

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Leslie Osche, Kim Geyer, Michael  
T. Slupe, Candee Barnes, Thomas  
Reep, Brandy Reep, Kenneth  
Lunsford, Tammy Lunsford, James  
Thompson, Pamela Thompson,  
Joseph Renwick, Stephanie  
Renwick, Louis Capozzi, David  
Ball, Mary E. Owlett, Kristine Eng,  
Justin Behrens, James P.  
Foreman, Matthew J. Stuckey,  
Anthony J. Luther, Linda C.  
Daniels, Jeffrey Piccola, James  
Vasilko, Jay Hagerman, and Evan  
P. Smith,

Proposed Intervenors,

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## **JURISDICTIONAL STATEMENT**

Proposed Intervenors – Petitioners (“Citizen Voter Intervenors”), by and through their undersigned counsel, submit the within Jurisdictional Statement in support of their Notice of Appeal filed concurrently herewith.

### **I. OPINION OF THE COURT BELOW**

The Citizen Voter Intervenors appeal from the Commonwealth Court’s Order dated January 14, 2022 (the “Order”). A true and correct copy of the Court’s January 14, 2022, Order is attached hereto as, “Exhibit A.”

### **II. BASIS FOR JURISDICTION OF PENNSYLVANIA SUPREME COURT**

This matter was commenced in the Commonwealth Court pursuant to the Court’s Original Jurisdiction. See 42 Pa. C.S. § 761(a)(1). Pennsylvania Rule of Appellate Procedure 1101(a)(1) provides for an appeal to the Pennsylvania Supreme Court, “from an order of the Commonwealth Court entered in . . . [a]ny matter which was originally commenced in the Commonwealth Court and which does not constitute an appeal to the Commonwealth Court from another court, a district justice or another government unit.”

The Commonwealth Court’s January 14, 2022, Order is an appealable Collateral Order pursuant to Pa. R.A.P. 313. Rule 313 permits an appeal as of right from a collateral order. The Rule defines a collateral order as,

an order separable from and collateral to the main cause of action where the right involved is too important to be denied review and the question presented is such that if review is postponed until final judgment in the case, the claim will be irreparably lost.

Pa. R.A.P. 313.

Citizen Voters' rights to fully participate in the present matter are too important to be denied review as the Citizen Voters have the right to have their votes counted in accordance with the Pennsylvania Constitution. See Pa. R.A.P. 313(b). Moreover, Citizen Voters' rights to fully participate herein will be irreparably lost if review is postponed until final judgment in the case. See *In re Barnes Foundation*, 871 A.2d 792, 794 (Pa. 2005); see also *Markham v. Wolf*, 136 A.2d 134, n. 4 (Pa. 2016).

### **III. TEXT OF THE ORDER IN QUESTION**

The text of the Order of the Commonwealth Court dated January 14, 2022, is:

The Applications for Leave to Intervene as parties filed by (i) Voters of the Commonwealth of Pennsylvania; (ii) Citizen-Voters; (iii) Draw the Lines-PA; and (iv) Khalif Ali, et al. are DENIED.

Voters of the Commonwealth of Pennsylvania, Citizen-Voters, Draw the Lines-PA, and Khalif Ali, et al., are permitted to participate in these matters as Amicus Participants, which means that their participation shall be limited to submissions to the Court in writing as set forth in Paragraph 6 of this Order.

### **IV. CONCISE STATEMENT OF THE PROCEDURAL HISTORY OF THE CASE**

On December 17, 2021, Petitioners Carol Ann Carter, et al. (Docket No. 464 M.D. 2021) and Petitioners Phillip T. Gressman, et al. (Docket No. 465 M.D. 2021), filed a Petition for Review against Respondents seeking intervention of the Court regarding the selection of Pennsylvania's 17-District Congressional Map.

On December 20, 2021, the Commonwealth Court entered an Order consolidating the two above-referenced actions at lead docket number 464 M.D. 2021. On December 20, 2021, the Commonwealth Court issued an additional Order stating that Applications to Intervene in the present matter must be filed on or before December 31, 2021.

On December 27, 2021, Proposed Intervenors – Petitioners (“Citizen-Voter Intervenors”) filed their Application to Intervene and attached proposed Petition for Review. Thereafter, on January 6, 2022, the Court held a hearing on the applications to intervene filed in the present matter.

Lastly, by Order dated January 14, 2022, the Commonwealth Court denied the Citizen Voter Intervenors' Application to Intervene as well as denying the applications to intervene filed by the other individual voter intervenors (Voters of the Commonwealth of Pennsylvania; Citizen-Voters; Draw the Lines-PA; and Khalif Ali, et al.)

**V. QUESTION PRESENTED FOR REVIEW**

Did the Commonwealth Court err in denying the Proposed Intervenors  
– Petitioners (“Citizen Voter Intervenors”) Application to Intervene?

**Suggested Answer: Yes.**

Respectfully submitted,

**DILLON, McCANDLESS, KING,  
COULTER & GRAHAM, L.L.P.**

By: /s/ Thomas W. King, III  
Thomas W. King, III  
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## ORDER

AND NOW, this 14<sup>th</sup> day of January, 2022, in consideration of the petitions to intervene and the applications for expedited review and the responses thereto filed in the above-consolidated actions, it is hereby ORDERED:

1. This Order supersedes this Court's December 20, 2021 Order.
2. The Applications for Leave to Intervene of: (i) the Speaker and Majority Leader of the Pennsylvania House of Representative and the President Pro Tempore and Majority Leader of the Pennsylvania Senate, (ii) Pennsylvania State Senators Maria Collett, Katie J. Muth, Sharif Street, and Anthony H. Williams; (iii) Tom Wolf, Governor of the Commonwealth of Pennsylvania; (iv) Senator Jay Costa and members of the Democratic Caucus of the Senate of Pennsylvania; (v) Representative Joanna E. McClinton, Leader of the Democratic Caucus of the Pennsylvania House of Representatives; and (vi) Congressman Guy Reschenthaler, Swatara Township Commissioner Jeffrey Varner, Tom Marino, Ryan Costello, and Bud Shuster are **GRANTED**.

Pursuant to the Notice of Amendment and Joinder from Senate Democratic Caucus Intervenors and Democratic Senator Intervenors, the Applications for Leave to Intervene of: (i) Pennsylvania State Senators Maria Collett, Katie J. Muth, Sharif Street, and Anthony H. Williams; and (ii) Senator Jay Costa and members of the Democratic Caucus of the Senate of Pennsylvania are hereby joined, and these individuals shall constitute a single party. The Application for Intervention filed by Democratic Senator Intervenors shall be withdrawn. Democratic Senator Intervenors are added to the Senate Democratic Caucus Intervenors' Application for Intervention.

These intervenors which are hereinafter referred to as Parties shall be allowed to participate in these consolidated actions as parties. Any answers to the Petitions for Review attached to applications to intervene as exhibits are deemed filed.

3. All Parties shall submit for the Court's consideration at least one (1) but no more than two (2) proposed 17-district congressional redistricting plan(s) that are consistent with the results of the 2020 Census and, if the party chooses to

do so, a supporting brief and/or a supporting expert report, by 5:00 p.m. on **Monday, January 24, 2022.**

4. Parties must file a responsive brief and/or a responsive expert report (from the same expert who prepared the **January 24** report or any other expert), addressing other parties' **January 24** submissions, by 5:00 p.m. on **Wednesday, January 26, 2022.**
5. The Applications for Leave to Intervene as parties filed by (i) Voters of the Commonwealth of Pennsylvania; (ii) Citizen-Voters; (iii) Draw the Lines-PA; and (iv) Khalif Ali et al. are **DENIED.**

Voters of the Commonwealth of Pennsylvania, Citizen-Voters, Draw the Lines-PA, and Khalif Ali et al., are permitted to participate in these matters as Amicus Participants, which means that their participation shall be limited to submissions to the Court **in writing** as set forth in Paragraph 6 of this Order.

6. Amicus Participants who wish to submit for the Court's consideration one (1) proposed 17-district congressional redistricting map/plan that is consistent with the results of the 2020 Census shall file the proposed map/plan and, if the Amicus Participant chooses to do so, a supporting brief and/or a supporting expert report, by 5:00 p.m. on **Monday, January 24, 2022.**
7. All proposed 17-district congressional redistricting maps/plans shall comply with constitutional standards and any other standards required by law.
8. After submission, no proposed plan/map may be later modified or amended.
9. No Party or Amicus Participant may take discovery in this matter.
10. The Parties shall submit to the Court a Joint Stipulation of Facts by 2:00 p.m. on **Wednesday, January 26, 2022.**
11. The Court shall conduct an evidentiary hearing on **Thursday, January 27, 2022, and Friday, January 28, 2022,** participation in which is limited to the Parties as identified herein. The hearing will begin at 9:30 a.m. in Courtroom 3001 of the Pennsylvania Judicial Center, Harrisburg, PA. It shall be the responsibility of Petitioners to secure the services of a court reporter(s)

throughout the duration of the hearing. Each Party is limited to presenting one witness at the hearing, who shall be subject to cross examination by the other Parties. Opening and closing statements and argument by Parties shall be permitted. The Court will also consider revisions to the 2022 election schedule/calendar as part of the hearing.

- 12.If the General Assembly has not produced a new congressional map by January 30, 2022, the Court shall proceed to issue an opinion based on the hearing and evidence presented by the Parties.

*s/ Patricia A. McCullough*  
PATRICIA A. McCULLOUGH, Judge

Order Exit  
01/14/2022

## **CERTIFICATE OF COMPLIANCE**

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

/s/ Thomas W. King, III  
Thomas W. King, III

**CERTIFICATE OF SERVICE**

I certify that this filing was served via PACFile upon all counsel of record this 26<sup>th</sup> day of January 2022.

/s/ Thomas W. King, III  
Thomas W. King, III