

IN THE SUPREME COURT OF PENNSYLVANIA

**TODD ELLIOTT KOGER, REPUBLICAN CANDIDATE
APRIL 5, 2022, SPECIAL ELECTION PA HOUSE DISTRICT #24**

V.

**2021 PENNSYLVANIA LEGISLATIVE
REAPPORTIONMENT COMMISSION**

- 1. CHALLENGE TO PENNSYLVANIA LEGISLATIVE
REAPPORTIONMENT COMMISSION “FINAL PLAN”**

 - 2. APPLICATION FOR “EMERGENCY INJUNCTIVE RELIEF”
DIRECTED TO ANY 2022 ELECTION AS THEY RELATE TO THE
BOROUGH OF WILKINSBURG, HOUSE DISTRICT #24, AND/OR
ANY OTHER ELECTION THE COURT DEEMS APPROPRIATE**
-

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PARTIES – INTRODUCTION

1. Todd Elliott Koger, “hereinafter” Complainant as this matter is considered as a “challenge” and Petitioner as the Court considers the Application for Emergency Relief.”
2. Mr. Koger, is and has been at all relevant times a resident of 515 Kelly Avenue, Wilksburg, Pennsylvania 15221.
3. 515 Kelly Avenue is situated in PA House District #24 for the date set April 5, 2022, “Special Election” but has been removed from PA House District #24 in the Pennsylvania Legislative Reapportionment Final Plan governing the 2022 Primary Election, in clear violation of the constitution – done to knowingly benefit an aide of a Reapportionment Commission Senator.
4. The 2021 Pennsylvania Legislative Reapportionment Commission is responsible for drawing the PA House District for the Borough of Wilksburg following the 2020 U.S. decennial census and is the Respondent to both the “Challenge and Application for Emergency Relief.”
5. Jay Costa is the Democratic PA Senator assigned to the 2021 Pennsylvania Legislative Reapportionment Commission.

6. Martell Convington is an “admitted” employee of Senator Jay Costa and is also the announced Democratic candidate for both the April 5 “Special Election” and 2022 Primary.
7. The Pennsylvania Legislative Reapportionment Final Plan governing the 2022 Primary Election, appears unconstitutionally aim to benefit Martell Covington by removing Mr. Koger (Senator’s Costa’s employee’s 2022 primary opponent’s residence from District #24).
8. Reapportionment Commission Senator Costa’s employment of PA House District #24 candidate Martell Convington’s creates a “clear equal protection conflict” and the Final Plan weakens a traditionally predominately black PA House District without any available justification.
9. The 2021 Pennsylvania Legislative Reapportionment Commission with “racial gerrymandering” has weakened a traditionally predominately black PA House District without any available justification other than wanting to improve Senator Costa’s employee Convington candidacy, creating an irreparable harm.
10. The “racial gerrymandering” appears intentional and has a clear discriminatory effect (removes a large black community). See *Davis v. Bandemer*, 478 U.S. 109 (1986).

JURISDICTION AND VENUE

11. This Court has venue because both announced candidates (Republican Todd Elliott Koger and Democrat Martell Convington) were residents of PA House District #24 prior to the Pennsylvania Legislative Reapportionment Final Plan proposed to govern the 2022 PA House District #24 Primary Election.

12. This Court has original jurisdiction to hear both the Challenge and Application for Emergency Relief pursuant to Article II , Section 17(d) of the Pennsylvania Constitution – “Any aggrieved person may file an appeal from the Final Plan directly to the Supreme Court within 30-days.”

CHALLENGE

13. Under the Pennsylvania Constitution, state legislative districts are reviewed every ten (10) years following a U.S. decennial census.
14. State Legislative District(s) shall be composed of compact and contiguous territory as nearly equal in population and as practical, with each senatorial district to elect one Senator, and representative district one Representative. Pa. Const. Art. II Section 16.
15. The Legislative Reapportionment Commission gets its authority to act at Article II, Section 17 of the Pennsylvania Constitution.
16. On September 16, 2021, The Census Bureau released data from the 2020 census to state redistricting authorities and the public.
17. There is clear “gerrymandering” in the Legislative Reapportionment Commission “Final Map” violating constitutional rights of Todd Elliott Koger, the Republican candidate for the April 5, 2022, PA House District #24.
18. Democratic Senator Costa has removed Wilkinsburg weakening a large historical predominately black PA House District #24 (an excessive partisan act done by a Reapportionment Commission member having a clear unlawful conflict of interest, orchestrating a Final Plan that removes his employee’s primary opponent).

19. Removing Wilksburg effectively disenfranchises Todd Elliott Koger, an African-American Republican candidate.
20. Reapportionment Commission member Senator Costa's "conflict" effectively preventing Mr. Koger's political "free speech" is a clear "equal protection" infringement of constitutional civil liberties.

APPLICATION FOR EMERGENCY RELIEF

21. The intentional “harm” directed at Mr. Koger by Reapportionment Commission member Senator Costa prevents the Legislative Reapportionment Final Plan from lawful implementation, making it impossible for the Commonwealth to meet the statutorily mandated schedule for the 2022 primary election.
22. The irreparable harm: without correction by the Court Todd Elliott Koger will be without an available opportunity to “timely change” his address and still participate in the April 5, 2022, Special Election – The Democrats and Senator Costa want to prevent the Republican candidate access to the 2022 primary.
23. The “Legislative Final Plan” is unlawful partisan manipulation done knowingly to help Senator's Costa's employee (Democratic candidate Covington can now “unjustly use” the inability of the Republican opponent in the April 5. 2022, special election, to run in the 2022 primary, for political benefit).
24. The simplest, most lawful, path for the Court is to proceed as it did last cycle: Order the 2022 election to proceed under the current reapportionment plan (“2012 Final Plan”), to allow time due diligence of the Commission's Plan adopted on February 4, 2022.

25. Anything less will cause Mr. Koger irreparable harm
(Reapportionment Commission member Senator Costa's "conflict"
can only be resolved by proceeding in 2022 under the current
reapportionment plan – the 2012 Final Plan).

CONCLUSION

For the foregoing reasons, Todd Elliott Koger, the Republican candidate for PA House District #24 respectfully request that this Court issue an Order preventing the Legislative Reapportionment Commission “Final Map” from violating the constitutional rights of Allegheny County black voters.

And at this point, the only available option for the Court is to require the 2022 election to “take place” using existing Pennsylvania House and Senate Districts.

/s/ Todd Elliott Koger, Pro Se

Republican Candidate
PA House District #24
515 Kelly Avenue
Wilkinsburg, Pa 15221

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/ Todd Elliott Koger

PROOF OF SERVICE

I, the undersigned, do hereby certify that a true and correct copy of the within was served on the 2 day of March 2022.

1. 2021 Legislative Reapportionment Commission Attn. G. Reynolds Clark, Executive Director 209 Irvis Office Building Harrisburg, PA 17120.
2. The Honorable Josh Shapiro Office of Attorney General of Pennsylvania c/o Torts Litigation Unit 15th Floor, Strawberry Square Harrisburg, Pennsylvania 17120.
3. 2021 Legislative Reapportionment Commission Attn. Robert L. Byer, Esq., Chief Counsel c/o Duane Morris LLP 600 Grant Street, Suite 5010 Pittsburgh, PA 15219-2802 rlbyer@duanemorris.com

/s/ Todd Elliott Koger