

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

ROBYN RENEE ESSEX,)	
)	
Plaintiff,)	CIVIL ACTION
)	
and.)	Case No. 5:12-cv-04046-KHV-DJW
)	
BENJAMIN D. CRAIG and)	
LARRY WINN III,)	
)	
Intervenor Plaintiffs,)	
)	
v.)	
)	
KRIS KOBACH,)	
Kansas Secretary of State,)	
)	
Defendant.)	
)	

COMPLAINT OF INTERVENORS BENJAMIN CRAIG AND LARRY WINN III

Come now Intervening Plaintiffs Benjamin D. Craig and Larry Winn III (“Intervenors”) by their undersigned counsel, and for their Complaint state the following:

1. Intervenors Benjamin D. Craig (“Craig”) and Larry Winn III (“Winn”) (collectively “Intervenors”) are residents of Overland Park, Johnson County, Kansas, and registered voters. Craig resides at 12509 Knox Street, Overland Park, Kansas, and Winn resides at 8305 Outlook Lane, Overland Park, Kansas. Intervenors have been active and prominent participants in the political process in Johnson County for many years, and have exercised their right to vote in federal, state, county, and municipal elections throughout their adult lives.

2. Defendant Kris W. Kobach is the Secretary of State for the State of Kansas and under Kansas law is responsible for the administration of election in Kansas. Defendant Kobach is sued in his official capacity and no other.

3. This Court has subject matter jurisdiction in this proceeding under the provisions of 28 U.S.C. § 1331, 1343(a)(3), 2201, and 2202. Venue in this District is proper, as the events giving rise to the claims took place in this District. Intervenors seek the appointment of a three-judge panel to hear this case, pursuant to 28 U.S.C. § 2284.

4. Intervenors are deeply concerned about the failure of the Kansas State Legislature to discharge its obligation to agree on the reapportionment of congressional, state legislative, and state board of education districts during the 2012 legislative session. Intervenors followed the events in the State Legislature closely during the 2012 legislative session, and the Legislature was unable on reapportionment before the session came to an end.

5. As residents and voters in Johnson County, Intervenors believe that Johnson County should and must be fairly represented in the State Legislature, and in particular they believe that the number of State Senate districts and State House districts allocated to Johnson County is particularly important. Johnson County population growth during the decade between the 2000 and 2010 Census demonstrates the need to increase Johnson County's representation in the State Senate and State House.

6. According to the Kansas Legislative Research Department ("KLRD"), the population of Johnson County grew by 20.64% between the 2000 and 2010 Censuses, from 451,086 to 544,179. As the KLRD reports that the State's population in the 2010 Census was 2,853,118, Johnson County accounts for 19.07% of the State's population, up from 16.77% in 2000. Additionally, the continued growth of Johnson County's population will outstrip that of

the rest of Kansas, so its percentage of the State's population will continue to increase in the next ten years.

7. In his Answer to the Complaint originating this proceeding, the Secretary of State admitted in paragraph 10 that based on the results of the 2010 Census, the "ideal population" for State Senate districts is 70,986 and for State House districts is 22,716.

8. Johnson County accounts for nearly 20% of the State's population, but today has only seven of the State's forty Senate districts and twenty-three of the State's one hundred twenty-five House districts. If Johnson County does not receive an additional State Senate district and at least three additional House districts in the 2012 reapportionment, it will be materially and unlawfully underrepresented in the State Legislature.

9. According to reports from the State Legislature, a number of proposals considered in the reapportionment process would carve out pieces of Johnson County and place them in Senate districts with which the residents of Johnson County have little or no community of interest. Additionally, the Legislature considered proposed reapportionment maps that would place portions of Johnson County in Senate districts that violate the principles of compactness and contiguousness, and which unnecessarily ignore the traditional district boundaries based on county lines.

10. Intervenors have an interest in Johnson County's fair and proportional representation in the State Senate and State House. They do not believe that the existing parties to this action will protect that interest, and as such have chosen to participate in this action.

11. The U.S. Constitution guarantees to each citizen equal protection under the law. U.S. Constitution, Amendment 14, Section 1. The legislative districts presently in use in Kansas, pursuant to the 2002 reapportionment process, are malapportioned due to population changes since the 2010 Census, and they discriminate against the citizens in Johnson County, including

Intervenors herein, because the citizens of Johnson County are presently represented by a number of State Senators and Representatives that does not reflect the population of Johnson County, when compared with the rest of Kansas.

12. The inequities in the apportionment of State Senate and House of Representatives districts deprive Intervenors and all other citizens of Johnson County of due process rights and equal protection of the law, as guaranteed to them by the Fourteenth Amendment to the Constitution.

13. Any action by the Defendant to administer an election based on the legislative districts lines established in the 2002 reapportionment would continue to deprive Intervenors of their due process rights and equal protection of the law, as guaranteed to them by the Fourteenth Amendment to the Constitution.

Wherefore, Intervenors respectfully pray for the following relief:

The Court convene a three-judge panel pursuant to 22 U.S.C. § 2284 to adjudicate this matter;

Pursuant to 22 U.S.C. § 2201, the Court declare that the present state legislative districts in Johnson County, Kansas have deprived, and will continue to deprive, Intervenors of their rights under the Fourteenth Amendment to the U.S. Constitution;

The Court permanently enjoin the Defendant from administering any election, whether a primary election or general election, utilizing the legislative districts in Johnson County created by the 2002 reapportionment;

The Court determine appropriate, fair, and constitutional district lines for State Senate and State House of Representative districts in Johnson County for use in elections from and after the issuance of such determination, until the next legislative reapportionment;

