

FILED  
U.S. DISTRICT COURT  
IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

2011 MAY 13 PM 2:25

GUY F. MARTIN JR. ET AL,

CLERK'S OFFICE  
AT BALTIMORE

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Plaintiff,

v.

Civ. No. RDB 11CV904

STATE OF MARYLAND,

Defendant

MEMORANDUM OF LAW IN SUPPORT OF PLEADING

28 USC 2284(a) " when an action is filed challenging the constitutionality  
Of the apportionment of congressional districts"

Plaintiff Guy F. Martin et al, claims Article 1 Section 2 Clause 3

"The actual enumeration shall be made within three Years after the first Meeting  
Of the Congress of the United States, and within every subsequent Term of ten Years, "  
"The Number of Representatives shall not exceed one for every thirty Thousand,  
But each State shall have at Least one, and until such enumeration shall be made,  
The State of Maryland shall have 6."

" until such enumeration shall be made " The Statistical Abstract of the United States  
Published by the US Census Bureau printed the 1<sup>st</sup> Census starting in the year 1790,  
a nation of 3,929,214 persons. The Clerk of the US House of Representatives recorded  
106 persons sent to Congress from the several States for the 3<sup>rd</sup> Congress.

United States Code Title 2 section 2 (currently omitted/ repealed)

Act of August 8, 1911, ch.5 subsection 1,2, 37 Stat. 13,14, fixed composition of  
House of Representatives at 435 Members.

(The Clerk of the House of Representatives recorded 394 Members at the conclusion  
Of the 13<sup>th</sup> Census in the year 1910.)

USC Title 2 section 2a. " The President shall transmit to the Congress a statement  
Showing the whole number of persons in each State, ..and the number of Representatives  
In which each State would be entitled under an apportionment"

Article 1 Section 2 Clause 3 does not give the President the power to entitle the States  
To representation. Marbury v. Madison 1803

" Courts power to declare Acts of Congress unconstitutional" and "Establishes the

Constitution is the Supreme law of the land.”

Page 4 of Motion to Dismiss states “President “ as required for the apportionment Of Representatives in the Congress among the several States,” belongs to The federal Secretary of Commerce. Citing 13 USC sec. 141(a),(b) (2011 LEXIS)

2 U.S.C. section 2a. Does not grant the federal Secretary of Commerce the power to Apportion.

“The Secretary is permitted to delegate authority for establishing census procedures To the Bureau of the Census”

I Agree.

2 U.S.C. section 2a. Does state “the President shall transmit to the Congress The number of Representatives to which each State would be entitled”

It does not state executive branch officials in the federal Department of Commerce Or the Bureau of the Census are responsible for determining the number of Representatives. Nor does it state that apportionment is “ virtually self-executing, Without any action of Congress,” as the State of Maryland suggests.

The districting for the election of officers of Public Trust, U.S. Senators, U.S. House of Representatives, State Senators, and State Delegates all in the State of Maryland Are governed by the Governor, the General Assembly, and the State Board of Elections.

The State of Maryland claims “the apportionment determination does not belong to the Governor of Maryland, or the legislative branch, Instead they state “the Secretary Of Commerce and the President ascertain each State’s number of Representatives According to the results of the U.S. Census Bureau’s most recent “decennial census Of the population,” by applying “ the method of equal proportions” .

Article 1 Section 2 Clause 3 does not give the Secretary of Commerce, or the President the authority to ascertain each State’s number of Representatives.  
Marbury v. Madison 1803

The method of the most equal proportion for all the States is 1 for every 30,001 Citizens, the most Representation possible allowed by the Constitution.

The State of Maryland relies on 2 U.S.C. sec. 2a., stating in “prior practice and Precedent”, The Clerk of the U.S. House of Representatives has recorded

The following: 65 seats for the start of our nation  
106 seats after completion of the 1<sup>st</sup> Census  
142 seats 2<sup>nd</sup> Census the recorded ratio of 1 : 30,000  
182 seats 3<sup>rd</sup> Census the ratio of 1 : 34,000

The precedent established is to increase the number of seats when the population increases, for fourteen decennial changes, with a delegate or assigned seat for each new territory and State, until such enumeration shall be made, when each State was apportioned more seats.

The Supreme Court has recently rejected hearing a case, stating the Department of Commerce is not the jurisdiction to address the number of seats, the Department of Commerce is the authority to address the formation of the Census, the collection of information on our population.

I do not allege the State has violated the law, I am praying for a decision determining 2 U.S.C. section 2, 2a. 2b. And 2c. Are not constitutional, Marbury v. Madison 1803

My demand for one Representative for every 30,001 citizens is to have the maximum number of Representatives allowed based on the Supreme Law of the U.S. Constitution.

The relief I seek would allow all States to use this formula to have the most equal representation among the several States.

The States contention that Maryland would be the only State to use this formula should be dismissed.

The most "equal representation for equal numbers of people" would be the maximum number allowed, and enumerated in Article 1 Section 2 Clause 3 of the Constitution of the United States.

The relief I seek would also be in compliance with Section 2 of the Fourteenth Amendment.

" the relief Mr. Martin requests would not comply with the Constitutional requirement of equitable apportionment based on the population"

I disagree.

The facts I submit are enough to raise a right to relief above the speculative level, I am providing enough facts to state a claim to relief is plausible on its face.

#### CONCLUSION

This court should dismiss the Defendants Motion with prejudice.

Respectfully submitted,  
Guy F. Martin Jr. et al

