

IN THE MARYLAND COURT OF APPEALS

C. JAMES OLSON *
11761A Angleberger Road *
Thurmont, Maryland 21788 *

C. PAUL SMITH *
103 Fairview Avenue *
Frederick, Maryland 21701 *

RONALD GEORGE *
364 Oak Drive *
Arnold, Maryland 21012 *

CARL F. MIDDLEDORF *
18307 Bluebell Lane *
Olney, Maryland 20832 *

ANTONIO WADE CAMPBELL *
1000 East Joppa Road, Apt. 509 *
Towson, Maryland 21286 *

PHILIP J. SMITH *
286 Tidewater Circle *
Preston, Maryland 21655 *

Plaintiffs *

vs. *

Case No. _____

MARTIN O'MALLEY, Governor *
Of the State of Maryland *
State House, 100 State Circle *
Annapolis, Maryland 21401 *

SERVE: Attorney General Douglas F. Gansler *
Office of the Attorney General *
200 St. Paul Place *
Baltimore, Maryland 21202 *

Defendant

**COMPLAINT FOR DECLARATORY JUDGMENT AND OTHER RELIEF
WITH RESPECT TO THE REDISTRICTING
OF THE MARYLAND CONGRESSIONAL DISTRICTS**

This is an action for a declaratory judgment, a writ of mandamus and other relief under the Courts and Judicial Proceedings Article of the Maryland Code. Section 3-401 et seq. (declaratory

judgments), Section 3-8B-01 (writs of mandamus), and other injunctive relief. The relief sought is to secure for plaintiffs their rights under the Maryland State Constitution and the United States Constitution to be represented in Congress as a part of election districts that are rationally geographically defined in compliance with the State and federal Constitutions, which include the right to be represented in Congress by representatives elected in districts that are compact, contiguous and defined with due regard to natural and political subdivision boundaries. The new districts established in the "Congressional Districting Plan" passed by the State Legislature on October 20, 2011 and signed into law by the Governor on October 20, 2011, violate the requirements of Maryland election laws, the Maryland Constitution and the United States Constitution. Relief is requested to correct the redistricting.

JURISDICTION

1. The Court of Appeals has original jurisdiction to review the legislative districting of the State, including congressional districting. Maryland Constitution, Article III, Section 5.¹

THE PARTIES

2. Plaintiff C. James Olson is a registered voter in Frederick County, Maryland, and he resides at 11761A Angleberger Road, Thurmont, Maryland 21788. He resides in new District 8 in the "Congressional Districting Plan."

3. Plaintiff C. Paul Smith is a registered voter in Frederick County, Maryland, and he resides at 103 Fairview Avenue, Frederick, Maryland 21701. He resides in new District 6 in the "Congressional Districting Plan."

¹ A virtually identical suit has been filed in the Circuit Court for Anne Arundel County, Maryland (Case No. 02-C-11-1656350). If the Court of Appeals accepts jurisdiction of this case, it is the intent of plaintiffs to dismiss the Anne Arundel County case.

4. Plaintiff Ronald George is a registered voter in Anne Arundel County, Maryland, and he resides at 364 Oak Drive, Arnold, Maryland 21012. He resides in new District 4 in the “Congressional Districting Plan.”

5. Plaintiff Carl F. Middledorf is a registered voter in Montgomery County, Maryland, and he resides at 18307 Bluebell Lane, Olney, Maryland 20832. He resides in new District 3 in the “Congressional Districting Plan.”

6. Plaintiff Antonio Wade Campbell is a registered voter in Baltimore County, Maryland, and he resides at 1000 East Joppa Road, Apt. 509, Towson, Maryland 21286. He resides in new District 2 in the “Congressional Districting Plan.”

7. Plaintiff Philip J. Smith is a registered voter in Caroline County, Maryland, and he resides at 286 Tidewater Circle, Preston, Maryland 21655. He resides in new District 1 in the “Congressional Districting Plan.”

FACTUAL ALLEGATIONS

8. Following the decennial census made by the United States Census Bureau in 2010, which data was reported to the State of Maryland on February 9, 2011, the number of Congressional districts in the State remained at eight, but the new population figures showed an increase in Maryland residents and a shift in demographics around the state.

9. The Maryland Code requires the Maryland General Assembly and the Governor to review and/or redraw congressional district boundaries after each decennial census, subject to the State Constitution and laws. Section 8-701(2011) of the Elections Article of the Maryland Code.

10. Maryland law imposes no deadline for when new congressional boundaries must be drawn.

11. Candidates for congressional primary elections in Maryland must file for such

candidacy by January 11, 2012. Section 5-303(a) of the Election Article of the Maryland Code.

12. The Maryland Constitution requires that congressional districts be defined and designated, for which from each a Congressional Representative will be elected to serve in the United States House of Representatives for two-year terms.

13. The term "district" implies that that area defined and designated will be an area that is cognizable geographically such that it is susceptible to be represented by an elected representative.

14. The Maryland Constitution requires that all state districts, for which representatives are elected to the Maryland Senate and House of Delegates, must be contiguous, "compact in form" and that "due regard be given to natural boundaries and the boundaries of political subdivisions." Article III, Section 4 of the Maryland Constitution.

15. Article III, Section 4 of the Maryland Constitution establishes a State policy for setting the boundaries of all state and congressional election districts in the State of Maryland.

16. That the Due Process Clause of the Fourteenth Amendment of the United States Constitution requires the State of Maryland to adhere to applicable Maryland election laws in the establishment of congressional districts.

17. Exhibit 1 is a map of Maryland (dated May 6, 2002) showing the boundaries of the State's eight congressional districts prior to October 20, 2011.

18. On October 20, 2011, the Maryland Senate and the Maryland House of Delegates passed SB 1, entitled "Congressional Districting Plan," which proposed a redistricting plan for the eight congressional districts in the State. (See Exhibit 2, attached.) Later on October 20, 2011, the Governor signed the bill into law. The last page of this exhibit is a map showing the boundaries of all eight congressional districts that are a part of this Plan.

19. Exhibit 3 is a redistricting map proposed by the Republican Party dated July 21, 2011,

which demonstrates a redistricting plan for Maryland that would yield compact districts that give due regard for county boundaries and at the same time comply with federal equal population requirements.

20. Exhibit 5 is comprised of eight enlarged maps of each of the eight, new congressional districts in Maryland as defined in the "Congressional Districting Plan."

21. The new congressional district boundaries set forth in this law for District 1 in the new "Congressional Districting Plan" are not sufficiently "compact" and do not give "due regard [to] the boundaries of political subdivisions." This district encompasses all of the eastern shore, and extends west through the northern parts of Harford, Baltimore and Carroll Counties. Specifically, this district should not have been drawn to extend into Carroll County, but it should have been confined within Harford County, and only a portion of this district should have been extended into Baltimore County, if necessary to comply with federal requirements for equal population districts.

22. The new congressional district boundaries set forth in this law for District 2 in the new "Congressional Districting Plan" are not sufficiently compact, but rather the district is strewn out over Baltimore City and four counties (Anne Arundel, Baltimore, Harford and Howard), connecting neighborhoods in each of these five jurisdictions by narrow strips of land. The new boundaries for this district totally disregard the county subdivisions. This district should have been drawn to be compact and to take in as few counties as possible.

23. The new congressional district boundaries set forth in this law for District 3 in the new "Congressional Districting Plan" are not sufficiently compact, but rather the district is strewn out over Baltimore City and four counties (Anne Arundel, Baltimore, Howard and Montgomery), connecting neighborhoods in each of these five jurisdictions by narrow strips of land. The new boundaries for this district totally disregard the county subdivisions. This district should have

been drawn to be compact and to take in as few counties as possible. The boundaries for this district were drawn for political partisan purposes, and the principles of compactness and giving due regard to county subdivision boundaries were sacrificed to accomplish partisan purposes.

24. The new congressional district boundaries set forth in this law for District 4 in the new “Congressional Districting Plan” are not sufficiently compact, but rather the district is comprised of one major area in Prince George’s County and another major area in Anne Arundel County—which areas are not adjacent to one another, and the two areas are connected by a narrow strip of land. The district should have been drawn to be compact and confined as much as possible to one county, instead of causing excessive and unnecessary divisions to be made in both Anne Arundel and Prince George’s Counties.

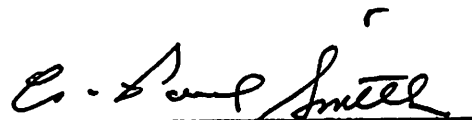
25. The new congressional district boundaries set forth in this law for District 6 in the new “Congressional Districting Plan” are not sufficiently compact and do not give due regard to the boundaries of political subdivisions. This district encompasses all of western Maryland, and extends east to part of Frederick County, and terminates in Montgomery County. Specifically, this district should have kept the entirety of Frederick County within the district, and should have only extended into Montgomery County or into Carroll County as may have been necessary to comply with the federal requirements for equal population districts, but even then it should have only taken in such areas that were adjacent to Frederick County and which would have resulted in a compact district. The boundaries for this district were drawn for political partisan purposes, and the principles of compactness and giving due regard to county subdivision boundaries were sacrificed to accomplish partisan purposes.

26. The new congressional district boundaries set forth in this law for District 8 in the new “Congressional Districting Plan” are not sufficiently compact, but rather the district is

comprised of a large rural area in Carroll County and northern Frederick County, and this is connected with a populous suburban area in southern Montgomery County. These areas are not adjacent to one another, and the two areas are connected by a long, narrow strip of land. The district should have been drawn to be compact and confined as much as possible to one county, instead of causing excessive and unnecessary divisions to be made in all three of these Counties.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court:

- A. Enter a declaratory judgment that the congressional district boundaries set forth in SB 1, "Congressional Districting Plan," violate the Maryland Constitution and Election laws and the United States Constitution;
- B. Enter an injunction to prevent the State of Maryland from using the "Congressional Districting Plan" in any primary or general election;
- C. Reinstate the immediately previous congressional districting plan until such time as a new and constitutionally valid districting plan is enacted;
- D. Pursuant to Section 3-409(e) of the Courts & Judicial Proceedings Article of the Maryland Code, order a speedy hearing in connection with this complaint, including advancing the scheduling of such a hearing; and
- E. Grant such other and further relief as may be just and proper.



C. Paul Smith
Attorney for Plaintiffs
308 West Patrick Street
Frederick, Maryland 21701
(301) 762-0033