

BEFORE THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

Council President Holly Brown
122 E. Bittle Street
West Chester, PA 19380

and

Mayor Carolyn Comitta
155 S. Brandywine Street
West Chester, PA 19382

and

John Hellman
419 Penn Lane
West Chester, PA 19382

and

Mayor Leo Scoda
312 Virginia Avenue
Phoenixville, PA 19460

and

Council President Rich Kirkner
405 Ann Street
Phoenixville, PA 19460

and

Councilperson Jennifer Mayo
215 Walnut Street
Phoenixville, PA 19460,

PETITIONERS

Supreme Court Docket
No.

VS.

2011 Legislative Reapportionment
Commission,
RESPONDENT

PETITION FOR REVIEW
IN THE NATURE OF AN APPEAL FROM THE FINAL PLAN OF THE 2011
LEGISLATIVE REAPPORTIONMENT COMMISSION DATED JUNE 8, 2012

Pursuant to Section 17(d) of Article II of the Pennsylvania Constitution and Pennsylvania Rules of Appellate Procedure 3321, the Petitioners, Council President Holly Brown, Mayor Carolyn Comitta, John Hellman, Mayor Leo Scoda, Council President Rich Kirkner and Councilperson Jennifer Mayo, as individual voters

and as Mayors or Council Persons in their respective districts of West Chester, Pennsylvania and Phoenixville, Pennsylvania, file this Petition for Review, seeking the Court's Review of the June 8, 2012 Final Reapportionment Plan approved by the 2011 Reapportionment Commission. In support of this Petition for Review, the Petitioners state as follows:

A.) STATEMENT OF JURISDICTION

1. The basis for jurisdiction of this Court is Section 17(d) of Article II of the Pennsylvania Constitution and 42 Pa.C.S.A. 725(1), which provides that the Supreme Court shall have exclusive jurisdiction from final orders of certain constitutional and judicial agencies, including the Legislative Reapportionment Commission.

2. This appeal is addressed to this Honorable Court's appellate jurisdiction and is in the nature of a Petition for Review, pursuant to Pennsylvania Rules of Appellate Procedure 3321.

B.) IDENTITY OF PARTIES SEEKING REVIEW

3. The Petitioner, Council President Holly Brown, is a citizen and resident of the Commonwealth of Pennsylvania residing therein at 122 E. Bittle Street, West Chester, PA 19380. Further, she is the duly elected Council President of the Borough of West Chester and a registered voter in West Chester Borough in the 156th Legislative District. She brings

this Petition as both an elected official and as an individually registered democratic voter who is aggrieved by the final plan.

4. The Petitioner, Mayor Carolyn Comitta, is a citizen and resident of the Commonwealth of Pennsylvania, residing therein at 155 South Brandywine Street, West Chester, PA 19382. Further, she is the duly elected Mayor of the Borough of West Chester and a registered democratic voter in Chester County, Pennsylvania in the 156th Legislative District. She brings this Petition as an elected official and also as an individual registered democratic voter who is aggrieved by this final plan.

5. The Petitioner, John Hellman, is a citizen and resident of the Commonwealth of Pennsylvania residing therein at 419 Penn Lane, West Chester, PA 19382. He is the democratic leader for the 156th Legislative District and a registered voter.

6. The Petitioner, Mayor Leo Scoda, is a citizen and resident of the Commonwealth of Pennsylvania residing therein at 312 Virginia Avenue, Phoenixville, PA 19460. Further, he is the elected Mayor of the Borough of Phoenixville and a registered voter in Chester County, Pennsylvania in the 157th Legislative District and brings this Petition as an elected official and an individual registered democratic voter who is aggrieved by the final plan.

7. The Petitioner, Council President Rich Kirkner, is a citizen and resident of the Commonwealth of Pennsylvania

residing therein at 405 Ann Street, Phoenixville, PA 19460. Further, he is the duly elected Council President in the Borough of Phoenixville and a registered voter in Chester County in the 157th Legislative District and brings this Petition as an elected official and an individually registered democratic voter who is aggrieved by the final plan.

8. The Petitioner, Councilperson Jennifer Mayo, is a citizen and resident of the Commonwealth of Pennsylvania residing therein at 215 Walnut Street, Phoenixville, PA 19460. Further, she is a duly elected Councilperson in the Borough of Phoenixville and a registered voter in Chester County in the 157th Legislative District and brings this Petition as an elected official and an individually registered democratic voter who is aggrieved by the final plan.

C.) IDENTITY OF RESPONDENT

9. The Respondent is the 2011 Legislative Reapportionment Commission.

10. Pursuant to 17(b) of Article II of the Pennsylvania Constitution, the Commission is comprised of Senator Dominic Pileggi, the Majority Leader of the Pennsylvania Senate; Senator Jay Costa, the Minority Leader of the Pennsylvania Senate; Representative Michael Turza, the Majority Leader of the Pennsylvania House of Representatives; Representative Frank Dermody, the Minority Leader of the Pennsylvania House of

Representatives; and the Honorable Stephen McEwen, the fifth Member selected by this Honorable Court after the four Commission Members were unable to agree on a fifth Member. Judge McEwen serves as the Chairman of the Commission and is also a Senior Judge on the Superior Court and former President Judge of the Superior Court. Charles A. O'Connor, Jr. is the Executive Director of the 2011 Legislative Reapportionment Commission with an address of 104 North Office Building, Harrisburg, PA 17120-3079. The 2011 Legislative Reapportionment Commission is represented by the Honorable Joseph A. Del Sole of Del Sole, Cavanaugh, Strode, LLC, 200 First Avenue, Suite 300, Pittsburgh, PA 15222-1512.

D.) DETERMINATION TO BE REVIEWED

11. The determination to be reviewed by all parties is the entire 2012 Legislative Reapportionment Plan voted on June 8, 2012. Attached and marked as Exhibit "A" is a copy of the final plan. Further, the Petitioners are also seeking review of the final Reapportionment Plans contained in Exhibit "A" for the 156th Legislative District in West Chester and the 155th and 157th Legislative Districts, which are in Phoenixville, as set forth in the new plan, which is attached and marked as Exhibit "A" and incorporated by reference.

E.) CONTROLLING CONSTITUTIONAL PROVISION

12. The controlling constitutional provision is Article II, Section 16 of the Pennsylvania Constitution, which states as follows:

"The Commonwealth shall be divided into 50 Senatorial and 203 Representative Districts, which shall be composed of compact and contiguous territory, as nearly equal in population as practicable. Each Senatorial District shall elect one Senator, and each Representative District, one Representative. Unless absolutely necessary, no county, city, incorporated town, borough, township or ward shall be divided in forming either a Senatorial or Representative District." (Article II, Section 16 of the Pennsylvania Constitution).

F.) RELEVANT PROCEDURAL BACKGROUND

13. Pursuant to Section 17(a) of Article II of the Pennsylvania Constitution, in 2011, the year following the Federal Decennial Census, the 2011 Legislative Reapportionment Commission was constituted for the purpose of reapportioning in the Commonwealth of Pennsylvania the State Representative Districts and the State Senate Districts.

14. The first plan, which was adopted by the 2011 Legislative Commission, was struck down after a challenge before the Pennsylvania Supreme Court in the decision of Holt v. The 2011 Legislative Reapportionment Commission, 38 A.3d 711 (Pa., 2012).

15. As a result, the 2011 Reapportionment Commission drafted a new plan, which is attached and marked as Exhibit "A". The said plan was approved by the 2011 Legislative

Reapportionment Commission on June 8, 2012. The plan was approved 4 to 1 with Commission Member Jay Costa being the dissenting vote. The plan has been objected to during public hearings held in May of 2012.

F.) GENERAL STATEMENT OF OBJECTIONS TO THE FINAL REAPPORTIONMENT PLAN, GENERALLY AND SPECIFICALLY AS TO THE PLAN FOR THE ENTIRE STATE LEGISLATIVE DISTRICTS AND SPECIFICALLY FOR THE 156TH LEGISLATIVE DISTRICT AND THE 155TH AND 157TH LEGISLATIVE DISTRICTS

16. All the Petitioners, Council President Holly Brown, Mayor Carolyn Comitta, John Hellman, Mayor Leo Scoda, Council President Rich Kirkner and Councilperson Jennifer Mayo, object to the final 2012 Reapportionment Plan dated June 8, 2012 of the State Reapportionment Commission for the Legislative Districts, which is attached and marked as Exhibit "A". The Petitioners contend the new plan violates Article II, Section 16 of the Pennsylvania Constitution, particularly since there are numerous splits of wards, boroughs and townships forming the various State Representative Districts. Further, the Districts are not as compact or contiguous as required by the Pennsylvania Constitution. All Petitioners note that this is in direct violation of the constitutional language. There are numerous splits of wards in many of the Legislative Districts. There are approximately 225 ward splits within the various State Legislative Districts. Further, there are approximately 68 municipality splits in the various State Legislative Districts.

There are also 32 municipalities that are not only split, but also have split wards as well as split municipalities (see Exhibit "A"). In Philadelphia County, all Districts except for the 200th Legislative District, have split wards. The said plan violates not only the aforementioned constitutional provisions of Article II, Section 16 of the Pennsylvania Constitution, but also violates the standards set forth in the aforementioned Holt v. The 2011 Legislative Reapportionment Commission, 38 A.3d 711 (Pa., 2012).

17. The Petitioners further complain that they were not given adequate opportunity to respond since the final Legislative Plan was not adopted until after the public hearings without any further opportunity to appear before the Reapportionment Committee. There was no public comment allowed at the June 8, 2012 meeting where the vote was taken.

18. The Petitioner, Mayor Carolyn Comitta, testified before the Legislative Commission in May of 2012. Her attorney, Samuel C. Stretton, Esquire, sent on behalf of the Petitioners, a letter to the Legislative Reapportionment Commission on April 23, 2012. That letter is attached and marked as Exhibit "B".

19. As to the Petitioners, Council President Holly Brown, and Mayor Carolyn Comitta and John Hellman of West Chester in the 156th Legislative District, in addition to the general objection, the Petitioners object to the division of the 156th

Legislative District as set forth in Exhibit "A" to this Petition. The 156th Legislative District includes the entire Borough of West Chester but splits West Goshen Township, which is a major township and significant portion of the 156th Legislative District. Further, this new District was created not for compactness, but for political reasons since it removes the current democratic candidate for the 156th House of Representatives from the 156th Legislative District so he will not be able to run in the Legislative races in 2014. This is one of the reasons why there was such a major split West Goshen. Further, the split removes from the 156th Legislative District a fairly substantial democratic voting population. Although political considerations are at times allowed, they should not be allowed to override the compactness requirement and the prohibition of splitting wards and municipalities. West Goshen is now split with a significant portion placed into the new 158th Legislative District.

20. The Phoenixville Petitioners, Mayor Leo Scoda, Council President Rich Kirkner and Councilperson Jennifer Mayo, in addition to objecting generally, also object to the new 155th and 157th Legislative Districts. Their objection is because the Borough of Phoenixville, which is an old, established Borough with a unified interest and neighborhoods is split between the 155th and 157th new Legislative Districts (see Exhibit "A"). The

new 157th Legislative District also splits a ward and township. The new 155th and 157th Legislative Districts split existing neighborhoods. This is not a compact plan. Phoenixville is now split between 155th Legislative District and the 157th Legislative District.

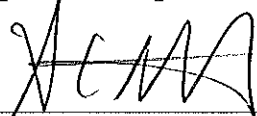
21. All Petitioners contend that the splits of the 155th, 156th and 157th Legislative Districts and all the Legislative Districts violate the Pennsylvania Constitution under Article II, Section 16. The Phoenixville division separates and divides significant voting Hispanic and black minority voters. Their voting power is diluted by the new plan.

22. The Petitioners prepared an alternative plan for the 155th, 156th and 157th Legislative Districts. Attached and marked as Exhibit "C" is the proposed plan. The Petitioners are asking that the 156th Legislative District as it is presently constituted, remain and the total population is within the proper population deviation. The West Chester Borough and East Goshen and West Goshen are all part of the 156th Legislative District without the division (see Exhibit "C"). The Phoenixville Petitioners in Exhibit "C" set forth their alternative Legislative District plan for the 155th and 157th Legislative Districts. Those plans would not split the Borough of Phoenixville. The specifics are set forth in Exhibit "C" under the 155th and 157th Legislative Districts.

G.) RELIEF REQUESTED BY THE PETITIONERS

23. The Petitioners, Council President Holly Brown, Mayor Carolyn Comitta, John Hellman, Mayor Leo Scoda, Council President Rich Kirkner and Councilperson Jennifer Mayo, by their counsel, Samuel C. Stretton, Esquire, respectfully requests this Honorable Court, pursuant to Article II, Section 17(d) of the Pennsylvania Constitution remand the 2011 Legislative Reapportionment Plan and direct the 2011 Legislative Reapportionment Commission to review the plan of the Pennsylvania Legislative Districts to comply with Article II, Section 16 of the Pennsylvania Constitution and this Honorable Court's decision in Holt v. The 2011 Legislative Reapportionment Commission, 38 A.3d 711 (Pa., 2012) and for all the reasons set forth in this Petition for Review. The Petitioners respectfully request oral argument.

Respectfully submitted,



Samuel C. Stretton, Esquire
Attorney for Petitioners
301 S. High Street
P.O. Box 3231
West Chester, PA 19381
610-696-4243
Attorney I.D. No

VERIFICATION

I, Council President Holly Brown, hereby verify that the facts set forth in the attached Petition for Review are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

Date:

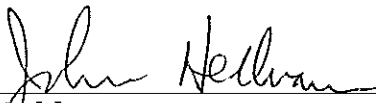
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Council President Holly Brown

VERIFICATION

I, John Hellman, hereby verify that the facts set forth in the attached Petition for Review are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

Date: 07-09-2012



John Hellman

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CERTIFICATE OF SERVICE

I hereby certify I am this date serving a copy of the
Petitioners' Petition for Review in the captioned matter upon
the following persons in the manner indicated below, which
service complies with the Pennsylvania Rules of Appellate
Procedure.

Service by First Class Mail addressed as follows:

1. Charles O'Connor, Jr., Executive Director
2011 Legislative Reapportionment Commission
104 North Office Building
Harrisburg, PA 17120-3079
2. Honorable Linda Kelly
Attorney General of Pennsylvania
16th Floor, Strawberry Square
Harrisburg, PA 17120
3. Judge Joseph A. Del Sole
Del Sole, Cavanaugh, Stroyd, LLC
200 1st Avenue, Suite 300
Pittsburgh, PA 15222-1512
Attorney for the Legislative
Reapportionment Commission
4. Shauna Christine Clemmer, Esquire
Pennsylvania Department of State
301 N. Office Building
Harrisburg, PA 17120
5. Council President Holly Brown
122 E. Bittle St.
West Chester, PA 19380
6. Mayor Carolyn Comitta
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7. Mayor Leo Scoda
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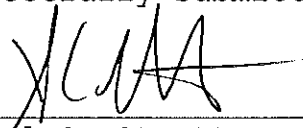
Service by electronic mail to the following addresses:

12. coconnor@redistricting.state.pa.us
13. ccraykane@redistricting.state.pa.us
14. jdelsole@dscslaw.com
15. wstickman@dscslaw.com

Respectfully submitted,

7/9/12

Date



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