

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

ROBYN RENEE ESSEX)
)
Plaintiff,)
)
MAREARL DENNING,)
Intervenor Plaintiff,)
)
v.)
)
KRIS W. KOBACH,)
Kansas Secretary of State)
)
Defendant.)
)

CIVIL ACTION

Case No. 12-CV-04046-KHV-DJW

**AMENDED INTERVENOR COMPLAINT OF MAREARL DENNING
FOR DECLARATORY AND INJUNCTIVE RELIEF**

Intervenor Plaintiff, Marearl Denning, hereby files this amended cause of action against Defendant Kris W. Kobach, Kansas Secretary of State. In support of this Complaint, Intervenor Plaintiff states and alleges as follows:

1. Intervenor Denning is a resident of the City of Overland Park in Johnson County, Kansas. Intervenor Denning is a registered and qualified voter and votes in the Kansas Third Congressional District.
2. The Third District currently includes all of Johnson County, Wyandotte County, and a portion of Douglas County, Kansas.
3. Defendant Kris W. Kobach is the Secretary of State for the State of Kansas. Defendant Kobach is responsible for conducting elections under the laws of Kansas. Defendant is sued solely in his official capacity.
4. Jurisdiction is proper according to 28 U.S.C. §§ 1331, 1343(a)(3), and 2201.

5. The Kansas Legislature has failed to pass appropriate legislation to re-apportion Kansas congressional districts based on the 2010 Federal Census. Because of the Legislature's failure to act, congressional districts within Kansas are unconstitutionally imbalanced and Intervenor Denning and similarly situated voters are being denied Equal Protection of the Law and Due Process of Laws under the United States and Kansas Constitutions.

COUNT I - CONGRESSIONAL REDISTRICTING

6. Intervenor Denning incorporates the statements and allegation of paragraph 6 herein.

7. This case arises under Article I, Section 2 of the United States Constitution. Article I, Section 2 requires the apportionment of congressional seats. This case further arises under the Fourteenth Amendment, Section 1 of the United States Constitution, which guarantees the equal rights and privileges of all voters.

8. The current Kansas congressional districts are unbalanced, improperly apportioned, and do not provide voters across all Kansas congressional districts with an equal vote. As such, the constitutional rights of Intervenor Denning and similarly situated voters have been violated.

9. Unless this Court acts, the Kansas Legislature's failure to reapportion its congressional districts will lead to the conduct of 2012 elections based on the existing, unconstitutional congressional districts. Such elections would violate the constitutional rights of Intervenor Denning and similarly situated voters in Kansas.

WHEREFORE, Intervenor Plaintiff Marearl Denning respectfully prays for the Order of this Court as follows:

1. Pursuant to 28 U.S.C. § 2284, the Court convene a three-judge panel to adjudicate this matter;
2. Declare that the current congressional apportionment of the State of Kansas violates both the United States and Kansas Constitutional rights of Intervenor Plaintiff Denning and similarly situated voters; and
3. Issue a permanent injunction and decree that the existing congressional districts may not be utilized for purposes of any 2012 primary or general election and permanently restrain defendant from accepting nominations, issuing certificates of nominations and elections and from any other acts necessary to the holding of election for members of the Kansas delegation to the United States House of Representatives until such time as the Legislature and the Governor adopt a constitutionally-sufficient reapportionment plan or a Court of final jurisdiction has ordered such a plan, all in accordance with the United States Constitution; and
4. Award Intervenor Plaintiff all costs, expenses, and attorneys' fees incurred in this matter, pursuant to 42 U.S.C. § 1988.

Respectfully submitted,

SMITHYMAN & ZAKOURA, CHARTERED

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ATTORNEYS FOR MAREARL DENNING

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served on counsel via the Court's Electronic Filing System, this 25th day of May, 2012.

s/ James P. Zakoura
James P. Zakoura, KS Bar #7644
Carson M. Hinderks, KS Bar #25079

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