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Court of Appeals
Suzanne C. Johnson,
Clerk of Court
2/15/2022 4:29 PM

IN THE MATTER OF 2022 LEGISLATIVE DISTRICTING OF THE STATE OF MARYLAND	*	IN THE
	*	COURT OF APPEALS
BRENDA THIAM, WAYNE HARTMAN, and PATRICIA SHOEMAKER	*	OF MARYLAND
	*	September Term, 2021
Petitioners.	*	Misc. No. 26

*   *   *   *   *   *   *   *   *   *

MOTION TO DISMISS PETITION

The Court should dismiss the petition filed by Brenda Thiam, Wayne Hartman, and Patricia Shoemaker (collectively, the "Thiam Petitioners") because its allegations, even if assumed to be true, do not state any valid basis on which the Court could conclude that Maryland's 2022 Legislative Districting Plan is not consistent with constitutional and other applicable requirements.

Ms. Thiam is a Republican who serves in the House of Delegates representing District 2B, a single-member district that includes Hagerstown in Washington County. Pet. ¶ 3.a. Mr. Hartman is a Republican Delegate representing District 38C, a single-member district that includes residents of Worcester and Wicomico Counties. Pet. ¶ 3.b. Ms. Shoemaker is a registered voter and Republican who resides in Hampstead, Carroll County, which is part of the unsubdivided legislative District 5 in the 2012 Plan, and which now lies within single-member district 42C under the 2022 Plan. Pet. ¶ 3.c.

The Thiam Petitioners' first objection "expressly incorporates" in full the petition in Misc. No. 25 filed by Mark Fisher, Nicholas Kipke, and Kathy Szeliga (collectively, the "Fisher Petitioners"). Pet. ¶ 5. Rather than repeat here the State's response to the Fisher

Petitioners, the State refers the Court to that response for arguments demonstrating why the Court should dismiss "the claims therein." Pet. ¶ 5.

What differentiates the Fisher Petitioners from the Thiam Petitioners is the latter's claim that the 2022 Plan's inclusion of "non-uniform, multimember districts for the House of Delegates, rather than a uniform scheme of single member districts"— though expressly authorized by Article III, § 3 of the Maryland Constitution—somehow violates various other provisions of the State and federal Constitutions. Pet. ¶ 6. Specifically, the Thiam Petitioners contend that this longstanding and constitutionally sanctioned approach to districting violates Articles 7, 24, and 40 of the Declaration of Rights, Article I, Section 7 of Maryland's Constitution, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the U.S. Constitution. Pet. ¶ 6. They say Maryland's practice of having both multimember and single-member legislative districts "is a unique anomaly in the composition of state legislatures throughout America," Pet. ¶ 13, that "violates the one person, one vote" principle, Pet. ¶ 12.

The petitioners further allege that, in certain parts of the State, the districting practice grants a "disproportionate voting and representational advantage" to voters in multimember districts as compared to residents of single-member districts, Pet. ¶ 16, but in other parts of the State the same method of districting has the "reverse" effect of privileging certain voters in single-member districts over those in multimember districts, Pet. ¶ 22. The ultimate effect, according to the petition, is to "create[s] *de facto* partisan gerrymandering" in violation of petitioners' rights under Article 7 of the Declaration of Rights. Pet. ¶ 20. Yet, the specific situations the petition targets for criticism, including

the petitioners' own respective home districts, all involve instances of single-member districts.

For relief, the Thiam Petitioners seek to have the 2022 Plan declared invalid and have the Court direct the General Assembly to enact a new plan that "specifically incorporates uniform single member House of Delegates districts." Pet. at 9. If the General Assembly fails to adopt such a plan "in a timely fashion," the petition seeks to have the Court order a new legislative districting map. *Id.*

ARGUMENT

I. STANDARD OF REVIEW

The 2022 Legislative Districting Plan is a statute enacted by the General Assembly. Md. Code Ann., State Gov't §§ 2-201, 2-202. Therefore, '"[t]he basic rule is that there is a presumption' that the statute is valid." *Whittington v. State*, 474 Md. 1, 19 (2021) (citation omitted). That is, '"enactments of the [General Assembly] are presumed to be constitutionally valid and [ ] this presumption prevails until it appears that the [statute] is invalid or obnoxious to the expressed terms of the Constitution or to the necessary implication afforded by, or flowing from, such expressed provisions.'" *In re Adoption/Guardianship of Dustin R.*, 445 Md. 536, 579 (2015) (citation omitted; brackets in original).

For this reason, the Court has held that "all challengers to a legislative reapportionment plan[] carry the burden of demonstrating the law's invalidity." *In re 2012 Legislative Districting*, 436 Md. 121, 137 (2013) (citation omitted). The State need make no showing unless "a proper challenge under Article III, § 4 is made and is supported by

'compelling evidence.'" *Id.* Only then will the State have "the burden of producing sufficient evidence to show that the districts are contiguous and compact, and that due regard was given to natural and political subdivision boundaries." *Id.* at 137-38. The petition is subject to dismissal if its allegations, assumed to be true, do not state "a proper challenge under Article III, § 4," *id.* at 137, and fail to show that the 2002 Legislative Districting Plan "is not consistent with requirements of either the Constitution of the United States of America, or the Constitution of Maryland," Md. Const. art. III, § 5.

II. MARYLAND'S CONSTITUTIONALLY ENSHRINED PRACTICE OF HAVING BOTH MULTIMEMBER AND SINGLE-MEMBER DISTRICTS DOES NOT GIVE RISE TO ANY CONSTITUTIONAL VIOLATION.

The Court should dismiss the petition's challenge to Maryland's established method of having predominantly unsubdivided legislative districts while preserving the alternative to subdivide a district when the political branches deem it appropriate to do so. Given the petition's requested relief, which is nothing less than the creation of a "uniform" map made up of all single-member districts, Pet. at 9, the Thiam Petitioners are seeking to secure by judicial fiat a fundamental change in the Maryland Constitution that the voters chose not to adopt when they were given the chance to consider it. What would have been Article 3, § 3.03 of the proposed Constitution of 1967-1968 read, in part, "Only one delegate shall represent a delegate district and only one senator shall represent a senate district. Each senate district shall consist of three whole delegate districts."[1] That provision, and the rest of the proposed Constitution, failed to achieve ratification when put before the voters in

[1] Maryland Archives Online, Vol. 605, p. 8, available at http://aomol.msa.maryland.gov/000001/000605/html/am605--8.html (last visited Feb. 15, 2022).

the 1968 general election. Unlike other proposals of the Convention that later found their way into the Constitution through referendum, the provision mandating single-member districts did not. The petition essentially asks the Court to take what would be—to say the least—an unusual step: to invalidate a provision of the Maryland Constitution that the people of Maryland have chosen to have, and replace its scheme with one the people have rejected. The Court should decline that invitation and dismiss the petition.

A. The Maryland Constitution Authorizes and Does Not Prohibit the Use of Multimember Districts in Combination With Single-Member Districts.

First, the Maryland Constitution expressly recognizes and preserves the General Assembly's authority to decide whether a legislative district will remain whole, with three Delegates elected at-large (by far the most common form of legislative district, numbering 30 districts in the 2012 Plan and 27 in the 2022 Plan), *or* subdivided either (a) into one single-member district and one multimember district or (b) into three single-member districts.

Article III, § 3 provides,

> The State shall be divided by law into legislative districts for the election of members of the Senate and the House of Delegates. Each legislative district shall contain one (1) Senator and three (3) Delegates. *Nothing herein shall prohibit the subdivision of any one or more of the legislative districts for the purpose of electing members of the House of Delegates into three (3) single-member delegate districts or one (1) single-member delegate district and one (1) multi-member delegate district.*

(Emphasis added.) This provision specifically rejects any prohibition on "subdivi[ding] any one or more of the legislative districts . . . into three (3) single-member delegate districts or one (1) single-member delegate district and one (1) multi-member delegate

district." Thus, § 3 expressly preserves the General Assembly's power to choose whether to subdivide a legislative district and to select from two constitutionally permissible methods of subdivision. By contrast, no mention of legislative district subdivision appears in either the districting criteria set forth in Article III, § 4, or the procedural requirements for enactment and judicial review of a legislative districting plan found in Article III, § 5, or elsewhere in the Maryland Constitution or Declaration of Rights. By expressly addressing subdivision of legislative districts, § 3 necessarily overrides any implied prohibition that might arguably be found in Article III, § 4 or other portions of the Maryland Constitution and Declaration of Rights, including those cited by the Thiam Petitioners.

As explained in *State v. Smith*, 305 Md. 489, 511 (1986), the "basic rule of construction that ordinarily the specific prevails over the general" applies to constitutional interpretation such that a "specific power" recognized by a constitutional provision "would prevail over the general principle or a general power relating thereto," and would do so "whether the general principle was in the Declaration of Rights and the specific power was in the Constitution or whether both were in the Constitution." This rule of construction has special force with respect with to Article III, § 4, given that the modern version of § 4 was adopted at the same time, in the same enactments, as Article III, § 3. *See* 1969 Md. Laws, ch. 785; 1972 Md. Laws, ch. 363. The same legislators who adopted Article III, § 3's provision expressly safeguarding the General Assembly's district subdivision prerogatives could not have intended, without saying so, for Article III, § 4 to eliminate or impose obstacles to the creation of multimember districts.

B. Absent Invidious Racial Discrimination, Which Is Not Alleged Here, a State's Use of Multimember Legislative Districts With or Without Single-member Districts Does Not Implicate the Fourteenth Amendment.

As for the petition's Fourteenth Amendment challenge to the use of multimember districts, both the Supreme Court and this Court have "made clear that such a district is not *per se* unlawful under the Equal Protection Clause." *In re 2012 Legislative Districting of the State*, 436 Md. 121, 141 (2013) ("*2012 Legislative Districting*") (citing *Whitcomb v. Chavis,* 403 U.S. 124 (1971), and *Lucas v. Colorado General Assembly*, 377 U.S. 713 (1964)). The Supreme Court has further recognized that multimember districts are not "necessarily unconstitutional when used in combination with single-member districts in other parts of the State." *White v. Regester*, 412 U.S. 755, 765 (1973).

Indeed, in the seminal legislative redistricting case of *Reynolds v. Sims*, the Supreme Court sought to reassure States that, notwithstanding its holding that the Constitution required district population equality in both houses of a State's bicameral legislature, the two houses of a legislature could still differ by, for example, having one composed of single-member districts while the other "could have at least some multimember districts," 377 U.S. 533, 576-77 (1964), and the Court further recognized that a State "might desire to achieve some flexibility by creating multimember or floterial districts," *id.* at 579.

In the decades since, aside from cases involving the assertion of a valid claim of racial discrimination under the Equal Protection Clause or the Voting Rights Act[2]—a type

[2] *See, e.g.*, *Rogers v. Lodge*, 458 U.S. 613, 622 (1982) (affirming finding that county's at-large system "was being maintained for the invidious purpose of diluting the voting strength of the black population"); *Regester*, 412 U.S. at 769 (affirming finding that

of claim raised in none of the pending petitions—the Supreme Court has rejected challenges to multimember legislative districts, including challenges that objected to the use of different types of districts. *Burns v. Richardson*, 384 U.S. 73 (1966) (rejecting challenge to State's mix of multimember and single member districts similar to Maryland's); *Fortson v. Dorsey*, 379 U.S. 433 (1965) (rejecting challenge to the use of a combination of single member districts and countywide voting from residence districts).

This Court has similarly upheld the combination of single and multimember districts permitted by Article III, § 3. *Matter of Legislative Districting of State*, 299 Md. 658, 673, 674 (1984) ((“A multimember legislative district is not per se unconstitutional under the equal protection clause,” and “[c]onsistent with these principles from *Reynolds*, § 3 of Article III of the Maryland Constitution . . . permits both single-member and multi-member delegate districts.”); *2012 Legislative Districting*, 436 Md. at 143 (holding that petitioner “failed to show that any multi-member district provided for in the Enacted Plan would have the effect of diluting or canceling the voting strength of any racial or political element, he has failed to make a case for declaring any such district unlawful”); *In re Legislative Districting of State*, 370 Md. 312, 347, 409, 439 (2002) (applying the factors set out in *Gingles v. Thornburg*, 478 U.S. 30 (1986), in rejecting claims that multimember districts were unconstitutional and that they had been used to discriminate on the basis of race); *State Administrative Board of Election Laws v. Calvert*, 272 Md. 659, 675 (1974)

0multimember district “invidiously excluded Mexican-Americans from effective participation in political life, specifically in the election of representatives to the Texas House of Representatives”).

(upholding residence districts on the Eastern Shore). Notably, this Court itself used a mix of single and multimember districts in the remedial plan it drew in 2002. *In re Legislative Districting of State*, 369 Md. 601, 603 (2002) (per curiam order) (reciting as part of the Court plan's "General Provisions" that "(c) Each legislative district may be subdivided into 3 single member delegate districts or into 1 single member delegate district and 1 multimember delegate district").

In *2012 Legislative Districting*, this Court quoted Supreme Court language suggesting that multimember districts "may be subject to challenge where the circumstances of a particular case may 'operate to minimize or cancel out the voting strength of racial or political elements of the voting population.'" 436 Md. at 142 (quoting *Whitcomb,* 403 U.S. at 143). The Court hastened to add that the challenger must '"carry the burden of proving that multi-member districts unconstitutionally operate to dilute or cancel the voting strength of racial or political elements.'" *2012 Legislative Districting*, 436 Md. at 142 (citation omitted). Nevertheless, in no case has the Supreme Court or this Court ever applied this principle to invalidate a multimember district on the ground that it "operate[d] to minimize or cancel out the voting strength of . . . *political elements*," *id.* (emphasis added).

In the only Supreme Court case directly addressing the merits of a claim that the use of multimember districts benefited one political party over another, the Court deemed the claim to be justiciable, but rejected it nonetheless upon finding that the challengers had not made the necessary showing, for reasons that would apply equally to the Thiam Petitioners' claim. *See Davis v. Bandemer*, 478 U.S. 109, 128-30 (1986) (affirming finding of

legislature's partisan intent— something "not . . . very difficult to prove," *id.* at 129—but holding that challengers failed to show "a sufficiently adverse effect on [their] constitutionally protected rights to make out a violation of the Equal Protection Clause," *id.* at 130). Thus, under *Bandemer*'s analysis, "the mere fact that a particular apportionment scheme makes it more difficult for a particular group in a particular district to elect the representatives of its choice does not render that scheme constitutionally infirm." *Id.* at 131; *see also id.* at 130 (refusing '"to hold that district-based elections decided by plurality vote are unconstitutional in either single- or multi-member districts simply because the supporters of losing candidates have no legislative seats assigned to them.'") (quoting *Whitcomb*, 403 U.S. at 160).

In any case, whatever statements in *Davis v. Bandemer* might have suggested the availability of a politically-based challenge to multimember districts upon a showing of partisan vote dilution, *id.* 131, that language can no longer provide support for the Thiam Petitioners' partisan gerrymandering claim, since the Supreme Court in *Rucho v. Common Cause*, 139 S. Ct. 2484 (2019), overruled *Bandemer*'s holding that such claims are justiciable. Even if the principles articulated in *Bandemer* retained their vitality, however, it would not aid the Thiam Petitioners, because their petition at most makes the kind of showing *Bandemer* deemed insufficient. That is, the petitioners at most allege that the practice of mixing unsubdivided and subdivided districts "makes it more difficult for [their] particular group"—Republicans—to "elect the representatives of its choice." 478 U.S. at 131.

C. The Petition's Statements About Multimember and Single-Member Districts Are Inconsistent and Do Not Jibe With Maryland's Years of Practical Experience With Such Districts.

The Thiam Petitioners essentially take the view that the mixing of single and multimember districts is fundamentally unfair and obviously nefarious. Yet, contrary to their view, the flexibility allowed by this practice is important to redistricting in this State. Maryland has had some form of it since the statutory response to the State's loss in *Maryland Committee v. Tawes*, 377 U.S. 656 (1964), which provided for an apportionment of two delegates per county and additional delegates based on population and required that any county with more than eight Delegates be divided into districts with no fewer than four and no more than eight districts in a county. Chapter 3 of the Special Session of 1965, Article 40, § 42B(a) and (c).

The pros and cons of single and multimember districts were discussed at length in the Constitutional Convention Commission in 1966 and the Constitutional Convention itself in 1967. The debates of these bodies reflect the advantages and disadvantages of each type of district, a discussion that eventually led the Constitutional Convention Commission to recommend a new section providing:

> At least one senator, but not more than two senators, shall represent each senatorial district. At least one delegate, but not more than six delegates, shall represent each house district.

Report of the Constitutional Convention Commission 1967 at p. 75. The Commission explained:

> Under this draft section the General Assembly is given the power to determine whether there will be single member districts or multiple member districts for the election of the members of each chamber. This draft section

> sets a limitation of six delegates from any one house district and of two senators from any one senatorial district. *It might be desirable to establish a separated district for each delegate, but this has not proven to be feasible.* However, it might be practicable for the General Assembly to provide for single member districts in the future and this possibility should not be precluded.

Id. at 129 (emphasis added).

This lack of feasibility continues today. The Maryland Citizens Redistricting Commission ("MCRC") report states that this issue was one on which it heard the most testimony and the subject on which the testimony was most polarized. MCRC Final Report (Jan. 2022) at 8, available at https://redistricting.maryland.gov/Pages/default.aspx (last visited Feb. 15, 2022). The Governor's Order setting up the MCRC, EO 01.01.2021.02(B)(4), required the use of single member districts, but upon consideration of the input it received, the MCRC found that there were circumstances when multimember districts were appropriate, as in areas of high-density population. Report at 29. In their view, a single-member district was more appropriate in situations where a district crossed a county boundary and areas where a single member district "may better enable recognition of certain minority communities." *Id*.

The Thiam Petitioners have made no allegations that would justify a finding that the plan as a whole is the product of invidious discrimination. They have made no claims of discrimination on the basis of race. Their claims of partisan discrimination do not reach the entire plan and their more specific claims are easily rebutted. Moreover, the examples of problems cited in the petition all relate to the creation of single member districts, which is hard to reconcile with the relief sought, namely, a plea for 100% single-member districts.

While two of those single-member districts are paired with two-member districts, the petitioners' supposed grievance pertains to the single-member district. This inconsistency on the simple question whether a single-member district is a desirable or undesirable configuration suggests that their only real criterion is whether, in a given instance, a single-member district does or does not work to the electoral advantage of the Thiam Petitioners and their fellow Republicans. In this respect, there seems to be little difference separating the Thiam Petitioners' claims from the partisan gerrymandering claims of the Fisher petition, the legal deficiencies of which are explained in the State's response to the Fisher petition.

For example, the Thiam petition states that District 2B is configured to elect a Democrat. Pet. ¶ 24. District 2 as a whole has moved east due to underpopulation and now contains part of northern Frederick. District 2B is about the same as it was, except that it now contains all of Hagerstown, thus giving "due regard" to the boundaries of that municipality. No part of the district can be described as Democratic, though Hagerstown may have more registered Democrats than are found in the rest of the district. In other words, the new district lines are caused by population loss and a desire to respect municipal boundaries and are unlikely to result in the election of an additional Democrat.

Similarly, the petition complains that District 33 was divided into three single member districts, two of which were allegedly drawn to protect Democrats. Pet. ¶ 24. District 33 picked up population from Districts 32 and 21. As reconstituted, it now has three distinct subdistricts representing the three contiguous, but very different areas in the district: Broadneck, Odenton, and middle/rural Anne Arundel. The differences in these

areas gave rise to the decision to make three single member districts. If District 33 can actually elect two Democrats as the district is now divided, however, it is entirely possible it could elect three Democrats in a multimember district if these three single-member districts were eliminated. In any event, the requested relief would not permit making it into a three-member district.

Finally, the petition claims that the single member District 42 was created to enhance the prospects of electing a Democrat. Pet. ¶ 33. On the contrary, District 42B was created because it is a new delegate district for Carroll County required by the increased population in the County. Creating a delegate district for Senate districts that cross county lines is an important policy in redistricting because it protects the ability of the people in that area to elect a delegate from their county. The district now runs through the Cockeysville area and into the more rural/ex-urban portions of northern Baltimore and Carroll Counties. It is not all that likely to turn Democratic.

D. Comparison to Other States Confirms That Maryland's Use of Multimember and Single-Member Districts Does Not Yield a Pro-Democrat Effect.

The Thiam Petitioners "specifically allege that the [LRAC] Plan's adoption of mixed multimember and single member districts, rather than uniform single member districts," has the effect of "infringing on the rights of Republican voters by systematically configuring their House of Delegate districts to minimize their representation in the General Assembly." Pet. ¶¶ 8, 9. If this allegation were correct, then Maryland should be well ahead of other states that do not have Maryland's unique mix of at-large multimember and single-member districts, in the relationship between the political strength of the lead

party in the state and that party's representation in the House of Delegates. Yet, the opposite is true. Maryland lags behind—not ahead of—other states in the percentage of seats held by Democrats in the State House based on the political strength of Democrats in the state.

Chart 1 graphs the relationship between party strength in the state as measured by the Cook Partisan Voting Index ("PVI") and the percentage of state house seats held by the lead party in the state.[3] The Cook PVI is a standard metric in the field of political analysis that provides cross-state comparison through examination of presidential election results, thus achieving a common metric for all states. According to the Cook Political Report, "First introduced in 1997, the Cook PVI measures how each district performs at the presidential level compared to the nation as a whole. We have released new PVI scores following every election since 1996 and every round of redistricting since 2001, each time taking into account the prior two presidential elections."[4]

Chart 1 shows a tight relationship between the PVI score for the leading party in the state and that party's percentage of State House seats. Rather than falling well above the trend line as plotted on the graph, Maryland falls below the line, indicating that the percentage of Democrats in the House of Delegates is below—not above—what would be expected from Maryland's PVI, which is +14% Democratic.

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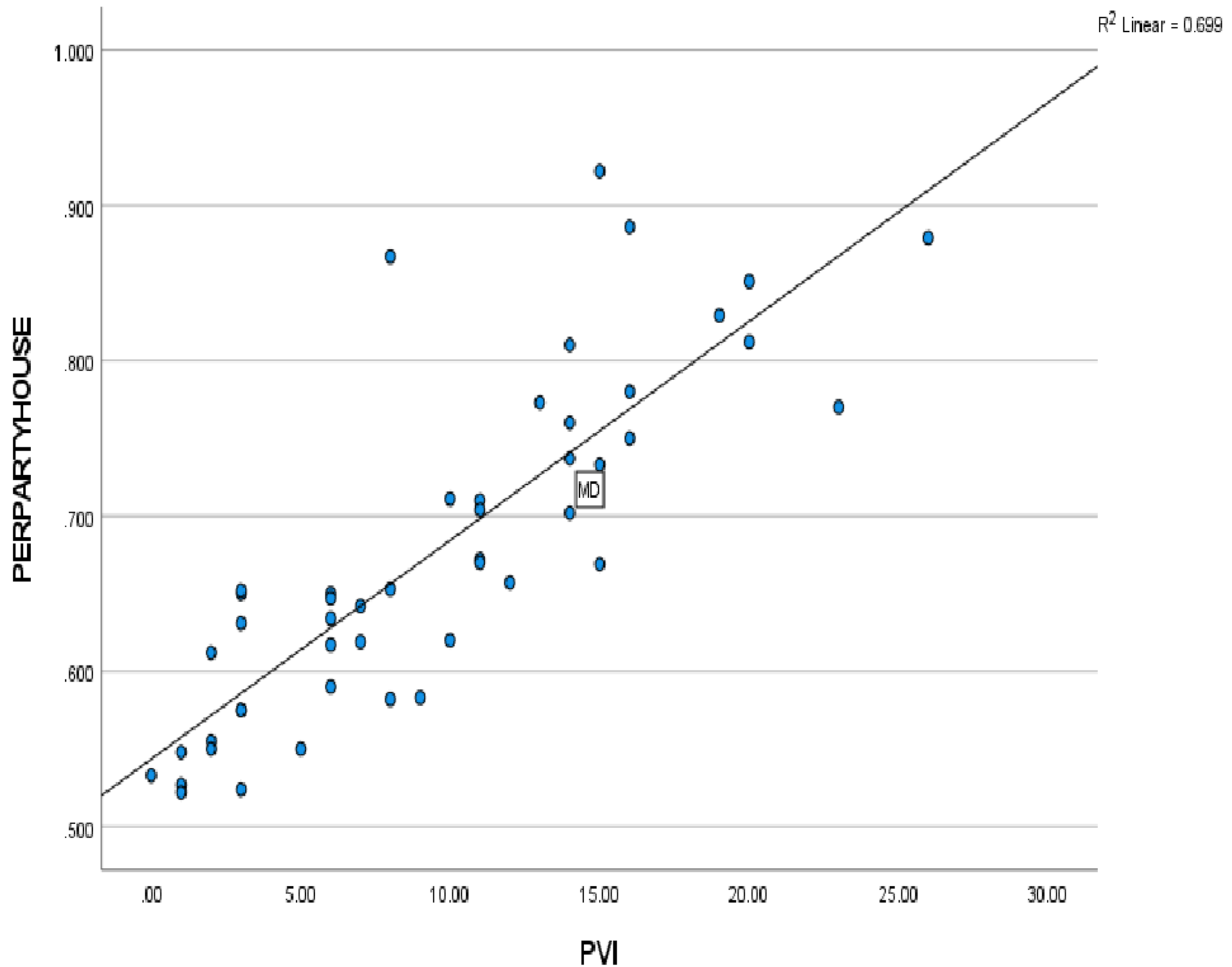
[3] Sources: Source: State PVI, Cook Political Report, 2021 PVI Full Downloadable State and District List, https://www.cookpolitical.com/analysis/national/pvi/2021-pvi-full-downloadable-state-and-district-list; National Conference of State Legislatures, "2021 State & Legislative Partisan Composition," https://www.ncsl.org/documents/elections/Legis_Control_2-2021.pdf.

[4] PVI, https://www.cookpolitical.com/pvi-0.

CHART 1
RELATIONSHIP BETWEEN THE STATE COOK PVI SCORE AND THE PERCENTAGE OF STATE SENATE SEATS HELD BY THE LEAD PARTY



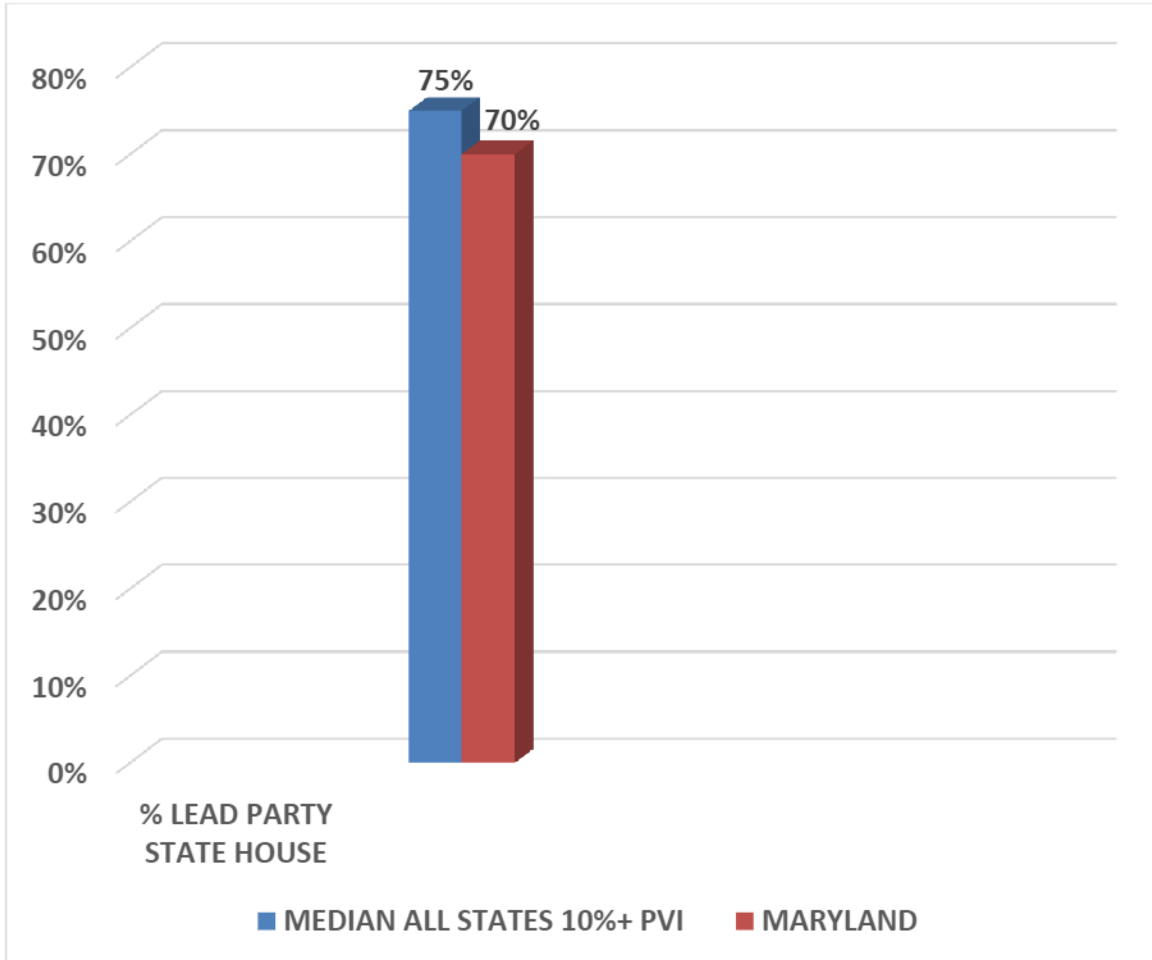
Additional analysis, presented in Table 1 and Chart 2, confirms that in Maryland the Democratic percentage of State House seats lags behind expectations, when compared to other states. The Table and Chart examine all states with a substantive Democratic or Republican advantage of 10%+ or more on the Cook PVI score. The results reported in the Table and Chart demonstrate that although the Maryland PVI of 14% equals the median PVI for all 23 states, it ranks 6th from the bottom in its percentage of leading party seats in

the State House. The Maryland percentage of 70% is 5 percentage points lower than the median percentage of 75% for all 23 states.

TABLE 1
RELATIONSHIP BETWEEN COOK PVI AND THE PERCENTAGE OF STATE HOUSE SEATS FOR THE LEAD PARTY, STATES WITH PVI OF 10% OR MORE, REPUBLICAN OR DEMOCRATIC

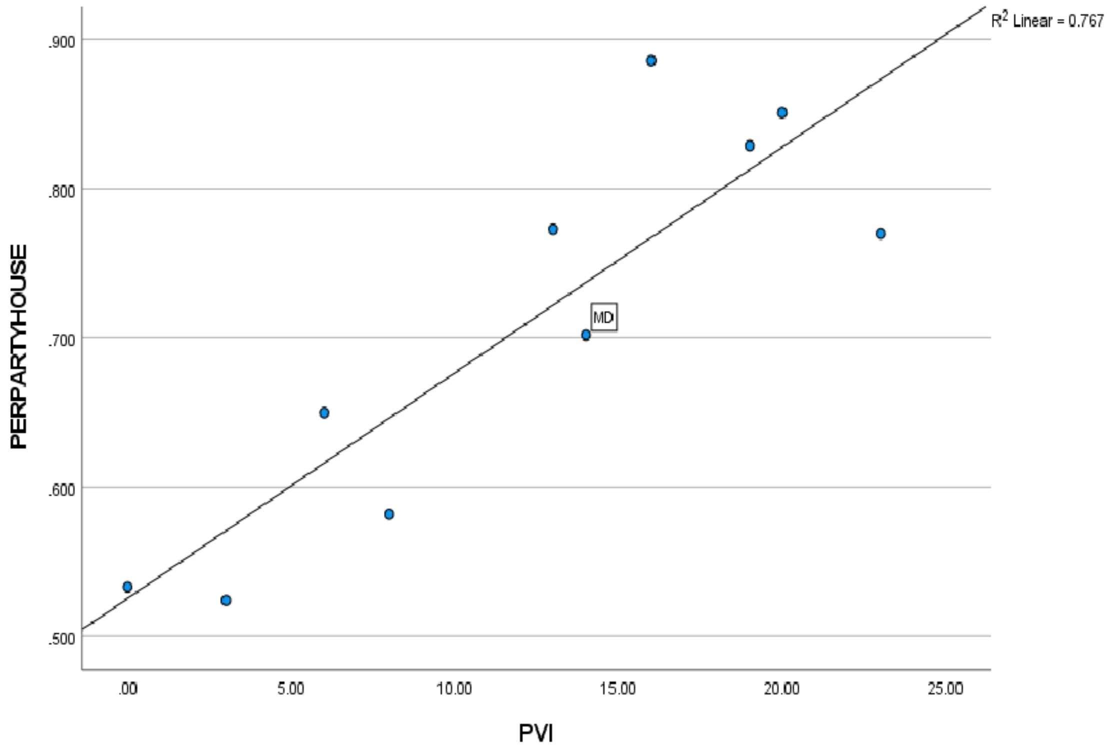
COUNT	STATE	PVI %	LEAD PARTY	% HOUSE SEATS FOR LEAD PARTY
1	HI	15	DEMOCRAT	92.20%
2	SD	16	REPUBLICAN	88.60%
3	WY	26	REPUBLICAN	87.90%
4	ND	20	REPUBLICAN	85.10%
5	ID	19	REPUBLICAN	82.90%
6	OK	20	REPUBLICAN	81.20%
7	MA	14	DEMOCRAT	81.00%
8	AR	16	REPUBLICAN	78.00%
9	WV	23	REPUBLICAN	77.70%
10	UT	13	REPUBLICAN	77.30%
11	CA	14	DEMOCRAT	76.00%
12	KY	16	REPUBLICAN	75.00%
13	TN	14	REPUBLICAN	73.40%
14	AL	15	REPUBLICAN	73.30%
15	NY	10	DEMOCRAT	71.10%
16	IN	11	REPUBLICAN	71.00%
17	MO	11	REPUBLICAN	70.40%
18	MD	14	DEMOCRAT	70.20%
19	KS	11	REPUBLICAN	67.20%
20	MT	11	REPUBLICAN	67.00%
21	VT	15	DEMOCRAT	66.90%
22	LA	12	REPUBLICAN	65.70%
23	MS	10	REPUBLICAN	62.00%
	MEDIAN	14.0		75.0%

CHART 2
RELATIONSHIP BETWEEN COOK PVI AND THE PERCENTAGE OF STATE HOUSE SEATS FOR THE LEAD PARTY, STATES WITH PVI OF 10% OR MORE, REPUBLICAN OR DEMOCRATIC



Nine other states also use multi-member state house election districts, although none match Maryland's mixed system of combining at-large and single-member districts. Chart 2 compares the partisan composition of these states and Maryland to the PVI scores. Once again, the percentage of House seats held by Democrats Maryland falls below the trend line. This again demonstrates that Maryland's unique system of districting for the House of Delegates generally tends to disadvantage Democrats and advantage Republicans.

CHART 2
RELATIONSHIP BETWEEN THE STATE COOK PVI SCORE AND THE PERCENTAGE OF STATE SENATE SEATS HELD BY THE LEAD PARTY. MULTI-MEMBER STATES ONLY



As these analyses show, the Thiam Petitioners' challenge is not only devoid of legal support, but their objections contradict the realities of who benefits from Maryland's blend of undivided and subdivided legislative districts

CONCLUSION

For the foregoing reasons, the motion to dismiss should be granted.

Respectfully submitted,

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February 15, 2022

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CERTIFICATE OF SERVICE

I certify that, on this 15th day of February, 2022, the foregoing was filed and served electronically by the MDEC system on all persons entitled to service:

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