# EXHIBIT XII

Unreported Opinion

Court of Special Appeals

*Parrott, et al. v. McDonough, et al.*

July 23, 0214

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1445

September Term, 2012

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NEIL C. PARROTT, ET AL.

v.

JOHN McDONOUGH, ETC. ET AL.

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Meredith,
Woodward,
Davis, Arrie W.
(Retired, Specially Assigned),

JJ.

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Opinion by Woodward, J.

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Filed: July 23, 2014

The instant case involves a civil action challenging the ballot for a referendum questions regarding Maryland's new congressional districts. The parties to the suit are Neil C. Parrott and MDPetitions.com, appellants, and Secretary of State John McDonough, State Administrator of Elections, Linda H. Lamone, and the State Board of Elections, appellees. MDPetitions.com runs an online system for organizing and submitting petitions to bring Maryland laws to referendum. Parrott, a member of the Maryland House of Delegates from Washington County, serves as chairman for MD.Petitions.com.

In July 2012, appellants succeeded in their campaign to add a referendum question to the November 2012 ballot regarding the creation of new congressional districts for Maryland based on the 2010 census. In August of 2012, Secretary McDonough drafted and certified language for "Question 5," which asked Maryland voters to vote "[f]or" or "[a]gainst" the Congressional Districting Plan proposed by the Governor and adopted by the General Assembly.

On August 29, 2012, appellants filed a complaint in the Circuit Court for Anne Arundel County asserting that Question 5 violated Maryland's constitution and election laws. In September 2012, the parties filed cross motions for summary judgment, and on September 6, 2012, the circuit court granted appellees' motion, after determining that Question 5 was legally sufficient. On September 7, 2012, the Court of Appeals denied appellants' petition for a writ of certiorari, and on November 6, 2012, a majority of Maryland voters voted "for" Question 5 in the 2012 General Election.

In this appeal, appellants present one question for our review, which we have rephrased as follows:[1]

> Did the circuit court err in granting summary judgment in favor of appellees where the court held that the ballot language certified by the Secretary of State fairly and concisely conveyed the substance of the Congressional Districting Plan?

## BACKGROUND

The United States Constitution requires each state to reapportion its congressional districts every ten years based on the dicennial census in order to achieve population equality among the districts. *See* U.S. Const. art. I, § 2. The Constitution further mandates that the districts be reapportioned based on the "one-person, one-vote" principle.

On July 4, 2011, Governor Martin O'Malley appointed five members to the Governor's Redistricting Advisory Committee ("GRAC") to develop the new congressional districts in accordance with the 2010 census. In the summer and fall of 2011, GRAC held public meetings and accepted public comments on the several proposed redistricting plans. GRAC then adopted a plan that Governor O'Malley submitted to the State legislature with little amendment. The GRAC plan divided the State's eight congressional districts into seven districts containing 721,529 people and one district containing 721,528 people.

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[1] Appellants' original questions read as follows:

1. Was the ballot language of Question 5 impermissibly vague and misleading in violation of Maryland law?

2. Should this Court find the referendum results null and void and order a re-vote on Question 5?

The GRAC plan was incorporated into Senate Bill 1. *See* 2011 Md. Laws 1st Spec. Sess. ch. 1. The act proposed in Senate Bill 1was forty-five pages in length and was entitled "Congressional Districting Plan."

If Senate Bill 1 passed, Maryland voters would choose congressional representatives from the new districts on the next election day, November 6, 2012. The bill sponsors designated Senate Bill 1 as "emergency legislation," which meant that the bill would become effective immediately upon the Governor's signature if it received a favorable three-fifths vote in both houses. Senate Bill 1 received the necessary votes in the General Assembly, and, on October 20, 2011, Governor O'Malley signed the Congressional Districting Plan into law. 2011 Md. Laws 1st Spec. Sess. ch. 1.

On November 10, 2011, nine Maryland residents filed a civil action in federal court alleging that the Congressional Districting Plan (1) discriminated against minorities in violation of the Fourteenth and Fifteenth Amendments, (2) unlawfully diluted the African-American voting strength in violation of the Voting Rights Act of 1965, 42 U.S.C. § 1973, (3) unconstitutionally apportioned the districts, and (4) constituted partisan gerrymandering in violation of the Fourteenth Amendment. *Fletcher v. Lamone*, 831 F. Supp. 2d 887, 892 (D. Md. 2011).

On December 23, 2011, the United States District Court for Maryland rejected each claim and upheld the constitutionality of the Congressional Districting Plan. *Id.* at 892, 904. The federal court, however, found that the Congressional Districting Plan constituted "political gerrymandering," and even compared the Third Congressional District to "a

broken-winged pterodactyl, lying prostrate across the center of the State." *Id.* at 902 n. 5, 903-04. Ultimately, however, the court held that there were "no judicially discernible and manageable standards for adjudicating political gerrymandering claims." *Id.* at 903-04.

Assaults on the Congressional Districting Plan continued at the state level. After the federal court's decision in *Fletcher*, appellants in the matter *sub judice* initiated a petition drive to put the Congressional Districting Plan to a referendum vote. Appellants collected over 55,000 signatures from registered Maryland voters, and, on July 20, 2012, the State Board of Elections certified a statewide referendum on the Congressional Districting Plan.[2]

Secretary of State John McDonough prepared and certified ballot language for the referendum on the Congressional Districting Plan on August 20, 2012. Referendum "Question 5," as prepared by Secretary McDonough, read as follows:

**QUESTION 5**
**Referendum Petition**
**(Ch. 1 of the 2011 Special Session)**
**Congressional Districting Plan**

Establishes the Boundaries for the State's eight United States Congressional Districts based on recent census figures, as required by the United States Constitution.

_____ **For the referred law**

_____**Against the referred law**

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[2] In July 2012, the Maryland Democrat Party filed suit to block the referendum, but lost in circuit court.

Seven days later, the State Board of Elections forwarded to the voters a specimen ballot, including Question 5, and a summary of the Congressional Districting Plan prepared by the Department of Legislative Services (the "Notice Summary").

On August 29, 2012, appellants initiated the current action in circuit court, challenging the legality of Question 5's language in a complaint for declaratory judgment and injunctive relief. The complaint sought to enjoin the State Board of Elections from "certifying, displaying, or printing any ballot containing" the language of Question 5. On September 4, 2012, appellants filed a motion for summary judgment, and on September 5, 2012, appellees filed a Cross Motion for Summary Judgment and Declaratory Judgement.

On September 6, 2012, the circuit court held a hearing on the matter and then filed a memorandum opinion on the same day, in which it held that Question 5 "fairly and concisely conveys the substance of the referred enactment, Senate Bill 1." Accordingly, the circuit court granted summary judgment in favor of appellees.

On September 7, 2012, prior to any action by this Court, the Court of Appeals denied appellants' petition for a writ of certiorari to that Court. On November 6, 2012, a majority of Maryland voters voted "For" Question 5. Appellants are now before this Court on appeal from the circuit court's grant of summary judgment to appellees.

## STANDARD OF REVIEW

We review the circuit court's order of summary judgment *de novo*. *Ross v. State Bd. of Elections*, 387 Md. 649, 658 (2005). All inferences drawn from the facts must be reviewed in the light most favorable to the non-moving party. *See Doe v. Montgomery Cnty.*

*Bd. of Elections*, 406 Md. 697, 711 (2008) (citing *Lovelace v. Anderson*, 366 Md. 690, 695 (2001)). If neither party disputes any material fact, however, we must determine whether the circuit court ruled correctly as a matter of law. *Id.* The question of the legality of Question 5 presents a question of law.

## DISCUSSION

The question before us is whether Question 5 met the requirements of (1) the Maryland Constitution, (2) the Election Law, and (3) Maryland's judicial precedent. The Maryland Constitution provides:

> All laws referred under the provisions of this Article shall be submitted separately on the ballots to the voters of the people, but if containing more than two hundred words, the full text shall not be printed on the official ballots, **but the Secretary of State shall prepare and submit a ballot title of each such measure in such form as to present the purpose of said measure concisely and intelligently**. The ballot title may be distinct from the legislative title, but in any case the legislative title shall be sufficient.

Md. Const. art. 16, § 5(b) (emphasis added).

The Election Law requires each ballot to contain: "(1) a question number or letter as determined under subsection (d) of this section; (2) a brief designation of the type or source of the question; (3) a brief descriptive title in boldface type; (4) *a condensed statement of the purpose of the question*; and (5) the voting choices that the voter has." Md. Code (2003, 2010 Repl. Vol.) § 7-103(b) of the Election Law Article ("EL") (emphasis added).

The case law has articulated the standard for evaluating the sufficiency of ballot language as follows:

> "Where . . . the ballot question used is not the legislative title but a brief summary of the contents or purpose of the proposed act, **the standard** by which the question's validity will be judged, as with a legislative title, **is whether the question posed, accurately and in a non-misleading manner, apprises the voters of the true nature of the legislation upon which they are voting.**"

*Kelly v. Vote Know Coal. of Maryland, Inc.*, 331 Md. 164, 172 (1993) (quoting *Anne Arundel County v. McDonough*, 277 Md. 271, 296 (1976)) (emphasis added).

The Court of Appeals further explained that "the ballot wording must convey with reasonable clarity the actual scope and effect of the measure, if adopted." *Surratt v. Prince George's Cnty., Md.*, 320 Md. 439, 447 (1990). Finally, we observe that in judicial review of ballot language this Court is not "concerned with the question of whether this Court, the trial court, or any of the numerous advocates on either side of this issue, are capable of drafting better ballot language." *Kelly*, 331 Md. at 174.

With that precedent in mind, we determine that the language of Question 5 is legally sufficient under the Maryland Constitution, the Election Law, and the case law interpreting the same. We shall explain.

As previously stated, Question 5 states that the "Congressional Districting Plan" "Establishes the Boundaries for the State's eight United States Congressional Districts based on recent census figures, as required by the United States Constitution."

## I. Question 5's Construction

### A. *Changes to Pre-Existing Boundaries*

We first address appellants' claim that the language of Question 5 failed to communicate critical information. Specifically, appellants assert that Question 5 "omitted any reference to the fact that the redistricting made material changes to the existing congressional districts." We disagree.

Question 5 stated that Senate Bill 1, as enacted, presented a "Congressional Districting Plan" that "*[e]stablishes* the boundaries for the State's eight United States Congressional Districts based on *recent* census figures . . . ." (Emphasis added). We determine that the words "establish" and "recent census figures" conveyed with reasonable clarity that Senate Bill 1 would change the boundaries created by earlier versions of the law.

The primary definitions of "establish" are "to set up; found" and "to bring about; generate." *See e.g.* THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE 609 (4th ed. 2000). These definitions impart an element of initiation, and thus "establish" as used in Question 5 conveyed to voters the idea that Senate Bill 1 did something new with regard to the boundaries. This conclusion is further confirmed by the use of the phrase, the boundaries were "based on *recent* census figures," which indicated that the new boundaries were different from the existing boundaries. (Emphasis added). We thus conclude that Question 5 adequately informed voters that Senate Bill 1 would result in changes to the congressional districts.

B. *"Misleading" References to the Constitution & Census*

Appellants next claim that Question 5 was not just uninformative, but also actively deceptive. Appellants argue that Question 5 suggested that the 2010 census data and/or U.S. Constitution mandated the precise boundary lines laid out in the Districting Plan. According to appellants, "neither the 2010 Census nor the U.S. Constitution required the legislature to draw the Third Congressional District in the shape of a 'broken-winged pterodactyl' [and] . . . [a]ny language that even suggests that the boundaries . . . were required by the U.S Constitution and [the] Census is deceptive on its face."

Appellees respond:

> [N]o reasonable voter could have understood that from the ballot language issued. Had the boundaries been dictated by the United States Constitution, the State's voters would obviously not be entitled to any say whatsoever in approving or disapproving them. Moreover, the reference to the United States Constitution clearly modifies the requirement to establish boundaries "based on recent census figures," and cannot reasonably be read otherwise.

We do not read Question 5 as suggesting that the U.S. Constitution or the 2010 census directed the establishment of the eight specific boundaries referenced in the referendum question. We conclude that under a plain reading of Question 5, the clause regarding the Constitution did not modify phrase "Establishes the Boundaries" for eight districts. We agree with appellees that the clause, "as required by the United States Constitution," instead modified the previous clause, "based on recent census figures,"given that a comma separated the former clause from the rest of the sentence. Because such clause did *not* modify the

beginning of the sentence about the establishment of the boundaries, Question 5 did not indicate to the voters that the U.S. Constitution controlled the specific boundaries created by Senate Bill 1.

Nor would the voters have reasonably believed that the General Assembly derived these boundaries unchanged from the 2010 census. Question 5 clearly stated that the establishment of the boundaries was "based on" the census figures – not "required by," "taken from," or other language that would have suggested that the census figures were the source of the exact boundary lines.

Further, we agree with appellees that no reasonable voter could have understood the ballot language to have suggested that the U. S. Constitution required the precise boundaries in the Congressional Districting Plan, because "[h]ad the boundaries been dictated by the United States Constitution, the State's voters would obviously not be entitled to any say whatsoever in approving or disapproving them." By their interpretation of Question 5, appellants essentially ask this Court to believe that the State's voters would have thought that their vote on Question 5 amounted to a meaningless gesture. Therefore, we conclude that the language of Question 5 was not deceptive by suggesting that boundaries of the Districting Plan were required by the U.S. Constitution and/or by the 2010 census.

## Question 5's Omissions

*Lack of Description of New Boundaries*

Appellants further contend that, even if Question 5 indicated to voters that the districts had changed, the ballot question completely "failed to inform voters that the preexisting boundaries . . . had been *substantially* altered," because the ballot question did not make any reference to the specific boundary changes. (Emphasis added). Appellants argue that the omission of any reference to the specific boundaries created by the Districting Plan obfuscated the law's true purpose, which was to form gerrymandered districts, and not simply constitutional ones.

Appellants further claim that Question 5's lack of detail closely resembles the ballot language rejected by the Court of Appeals in *McDonough* and *Surratt*. Appellants assert that "[b]oth cases dealt with language that was misleading by virtue of omitting from the ballot language critical facts and information necessary for voters to understand the nature and purpose of the law." The case *sub judice*, however, can be distinguished from both *McDonough* and *Surratt*.

*McDonough* involved a re-zoning plan that originally intended to "down-zone[]" certain areas located along a highway from commercial to residential. *McDonough*, 277 Md. at 272-273. Members of the Anne Arundel County Council then proposed various amendments to the re-zoning plan, many of which became part of the final re-zoning ordinance passed by the County Council and signed by the County Executive. *Id.* at 275. A

number of these amendments, however, made exceptions to the down-zoning effort central to the re-zoning plan, thus allowing certain properties to retain their commercial zoning. *Id.* at 276-77.

Certain citizen groups and civic associations collected signatures and brought to referendum forty-one of the amendments, most of which allowed the properties at issue to avoid down-zoning. *Id.* at 275-76. The referendum question read as follows:

**QUESTION NO. D**

**REFERENDUM**

> To rezone certain parcels of land in the median strip, the west side of the southbound lane and the east side of the northbound lane of Route 3; and to rezone one parcel of land on the west side of Brockridge Road near Ellen Street; all parcels of which are in the Fourth Assessment District and which were rezoned by virtue of amendments to Bill No. 59-73.
>
> FOR THE AMENDMENTS TO THE BILL
> AGAINST THE AMENDMENTS TO THE BILL

*Id.* at 278.

Regarding the above ballot language, the Court of Appeals noted:

> As 'Question D' however was actually placed on the voting machines, as a ballot label, the question, as worded, is followed by only the two words 'FOR' and 'AGAINST,' rather than giving the electorate the option to vote 'FOR THE AMENDMENTS TO THE BILL' or 'AGAINST THE AMENDMENTS TO THE BILL.'

*Id.*

The Court criticized the referendum question on several grounds, beginning with the fact that "[t]he County Council in this case patently made no attempt to certify, as the ballot question, the title of the basic zoning ordinance, or the titles of any of the separate 41 amendments." *Id.* at 297-98. The Court also objected to the question asking voters to "vote 'FOR' or 'AGAINST' 'rezoning,'" as opposed to voting on the amendments, especially given that the amendments in question largely had negated the rezoning efforts. *Id.* at 298-99. The Court further observed that the referendum question failed to (1) identify the locations of the affected "parcels of land," (2) inform voters that only certain amendments had been challenged by the referendum, and (3) note that some of the unchallenged amendments achieved the same result as the challenged ones. *Id.* at 299.

The Court concluded:

> We are convinced that the failure of the ballot question to present a clear, unambiguous and understandable statement of the full and complete nature of the issues included in Question D . . . constituted a deviation from the prescribed forms of the law (and) had so vital an influence as probably to have prevented a free and full expression of the popular will.

*Id.* at 307 (citation and internal quotation marks omitted). As a result, the Court nullified the referendum.

Appellants argue in the instant case that Question 5 should have provided more detailed information about the scope of the changes made to the congressional districts and their ultimate gerrymandered shape, just like Question D in *McDonough* should have provided more information about specific amendments and the parcels of land in question.

*Id.* at 297-99. Appellants, however, fail to appreciate that the language of Question D obscured what was truly at stake in the referendum: Question D asked voters to approve a re-zoning, when in fact, the approval of the amendments at issue would allow certain parcels to avoid re-zoning. The missing or unclear information cited by the *McDonough* Court–such as the titles of amendments, the relationship of amendments to each other, the location of the affected areas–could have provided the voters with some clue as to the ultimate issue. Question D, however, provided none of this information. *Id.*

Question 5, on the other hand, did provide information about the ultimate purpose of the Congressional Districting Plan. Although Question 5 was not particularly detailed, its language was precise enough to inform voters that eight new congressional districts would result from the approval of the referendum on the Congressional Districting Plan. Unlike in *McDonough*, therefore, the ballot language in the matter *sub judice* provided voters with an accurate understanding of the law's purpose.

Appellants, nevertheless, assert that the "'full and complete nature' of the Congressional Districting Plan was the creation of a *politically gerrymandered map*," a fact not revealed by the language of Question 5. (Emphasis added). Although the District Court found in the *Fletcher* case that the map was the product of "polical gerrymandering", that was not the bill's purpose under the *McDonough* analysis. *McDonough* did not suggest that Question D must explain to voters why some officials and citizens groups supported down-zoning and why others did not. Instead, *McDonough* required the ballot language to describe

what would immediately result from the passage of the law, not what were the political motivations or policy considerations behind the adoption of the referred law.

The Court of Appeals holding in *Surratt* has even less relevance to the matter *sub judice* than *McDonough* does. In *Surratt*, the ballot question consisted of the title of a charter amendment adopted by Prince George's County Council. *Surratt*, 320 Md. at 447. The proposed amendment involved the County's sovereign immunity, and read as follows:

**PROPOSED CHARTER AMENDMENT**

> To provide that in all pending and future claims the County will only waive its immunity in those instances where its officers and employees are liable.

*Id.* at 448.

The Court determined, however, that the amendment "intended to effect a total repeal of the waiver of governmental immunity[.]" *Id.* The Court concluded that the ballot was misleading:

> The ballot contained not the slightest hint of that possible outcome. A voter who read the ballot language would have no inkling that a vote in favor of the charter amendment could be a vote in favor of repealing absolutely the waiver of governmental immunity that had existed in Prince George's County, in one form or another, since the original charter of 1970. Like the "inaccurate, ambiguous and obtuse" language before us in *McDonough*, 277 Md. at 307-308, the verbiage here did not and could not convey to a voter an understanding of "the full and complete nature" of what the charter amendment involved. *Id.* at 300, In point of fact, it told the voter *nothing* about what really was involved.

*Id.* at 448 (emphasis in original).

Thus, where Question D in *McDonough* was vague, the ballot language in *Surratt* was deceptive. The ballot question suggested that the proposed amendment established a general practice for the waiver of sovereign immunity, when the amendment in fact disposed of sovereign immunity entirely. *Id.* at 448. Question 5, on the other hand, did not misrepresent the ultimate purpose of Senate Bill 1, which was to create congressional districts. Although Question 5 did not describe the congressional districts in detail, the problem addressed in *Surratt* was not lack of detail, but rather a lack of veracity. *Surratt*, therefore, does not apply.

Question 5, in our view, bears a closer resemblance to the ballot language presented in *Kelly*, in which the Court of Appeals upheld the sufficiency of language. *See Kelly*, 331 Md. 164. The *Kelly* case involved several changes to Maryland's abortion law, which were summarized on the ballot as follows:

**Abortion Law Revision**

> Revises Maryland's abortion law to prohibit state interference with woman's abortion decision before fetus is viable, or, under certain conditions, at any time and to provide certain exceptions to the requirement that a physician notify an unmarried minor's parent or guardian prior to minor's abortion; repeals pre-abortion information requirements about abortion alternatives; repeals some, and clarifies other, provisions related to abortion referrals; requires that abortions be performed by licensed physicians; provides good faith immunity under certain conditions to physicians performing abortions; authorizes state to adopt abortion regulations; repeals certain penalty and disciplinary provisions related to the performance of abortions.

*Id.* at 168-69.

The petitioners in *Kelly* complained that the ballot summary consisted of "vague and ambiguous generalities," and "specifically pointed to the summary of the parental notification provision and objected to the fact that the specific exceptions to that provision were not articulated in the ballot title." *Id.* at 170. The Court of Appeals responded that the level of detail requested by the plaintiffs was unrealistic:

> The Secretary of State was constrained by a maximum 100 words and, therefore, **was not able to enumerate every detail of every portion of the legislation. The language used by the Secretary of State accurately informed the voters of the proposed change in the law because it stated that the referred measure creates certain exceptions to the general requirement of parental notification.** The enumeration of these exceptions may have required the Secretary to eliminate or shorten a summary of another item also being changed by the referred measure.

*Id.* at 177 (emphasis added).

In the instant case, appellants, like the petitioners in *Kelly*, claim that the ballot language should have provided more detail about the specific changes brought about by the law, *i.e.*, they assert that reference to "congressional districts" without references to the new boundaries is insufficient. *Kelly*, however, makes clear that ballot language need not "enumerate every detail of every portion of the legislation." *Id.* The *Kelly* Court concluded that the ballot summary "adequately advise[d] voters that changes were being made by the referred measure to the law governing abortion referral services." *Id.* We likewise conclude that Question 5 sufficiently informed voters that changes had been made to the congressional districts, and did not need to explain the exact nature of those changes.

The *Kelly* Court also noted that the legislative title provided no greater specificity than the ballot title with regards to the changes to abortion referral rules. *Id.* The similarity between the ballot title and the legislative title is important, because under Article 16 of the Maryland Constitution, the legislative title is presumed to sufficiently describe the legislation. *See id.* at 164 (" Secretary of State shall prepare and submit a ballot title of each such measure in such form as to present the purpose of said measure concisely and intelligently. The ballot title may be distinct from the legislative title, *but in any case the legislative title shall be sufficient.*") (quoting Md. Const. art. 16, § 5(b)) (emphasis added)).

At the hearing before trial court in the instant case, appellants conceded that the "legislative title is presumptively sufficient for a ballot question." The legislative title associated with Senate Bill 1, however, did not provide the additional details that appellants claim are required to be included in the ballot language. Specifically, the legislative title read as follows:

> AN ACT concerning
>
> **Congressional Districting Plan**
>
> FOR the purpose of establishing the composition of the eight districts in the State of Maryland for the election of members to the United States House of Representatives; specifying certain ward, election districts, and precinct boundaries; making this Act an emergency measure; and generally relating to the reconfiguration of congressional districts in the State.

The legislative title did not contain any specific geographic references, and thus, like Question 5, would not have provided any detailed information on boundary changes.

Consequently, the "presumptively sufficient" legislative title under the Maryland Constitution would have had same impact on voters as Question 5 had, thereby indicating that the ballot language was in fact sufficient.

Finally, in the case *sub judice* the voters received, prior to the election, the Notice Summary, which set forth in detail the contents of the proposed legislation. The Notice Summary explained (1) that Senate Bill 1 would "redraw" the boundary lines, (2) the factors that governed the redrawing of the lines, and (3) the geographic location of the boundaries.[3]

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[3] Such notice is mandated by § 7-105 of the Election Law Article, which provides in relevant part:

> (a) *Notice of submitted questions.* — A local board shall provide notice of each question to be submitted statewide and each question to be submitted to the voters of the county, by:
>
> (1) specimen ballot mailed at least 1 week before any early voting period before the general election; or
>
> (2) publication or dissemination by mass communication during the 3 weeks immediately preceding the general election at which a question will appear on the ballot.
>
> (b) *Questions submitted under Article XIV or XVI, Maryland Constitution.* — (1) For any question submitted under Article XIV or Article XVI of the Maryland Constitution, the notice required by subsection (a) of this section shall contain the information specified in § 7-103(b) of this title and a brief statement, prepared in clear and concise language, devoid of technical and legal terms to the extent practicable, summarizing the question.

Md. Code. (2003, 2010 Repl. Vol., 2013 Cum. Supp.), § 7-105 of the Election Law Article.

In other words, the Notice Summary provided the detail that appellants wanted to insert into Question 5.

In *Stop Slots MD 2008 v. State Bd. of Elections, et al.*, 424 Md. 163, 192-93 (2012), the Court of Appeals looked favorably upon a similar notice. The *Stop Slots* case involved a challenge to ballot language describing a constitutional amendment to legalize video slot machine gambling in Maryland. *Id.* 168-69. With regard to a summary provided to voters in advance of the election, the Court observed:

> Where, as here, the ballot question sufficiently apprises the voters of the purpose of the amendment upon which they are voting, it is unnecessary to reach the issue of whether prior notice was enough to cure any deficiencies, since a properly composed ballot question achieves the notice mandated by Maryland Election Law.

*Id.* at 212.

Regardless, the Court "[took] this occasion to indicate that the prior notice furnished in the case *sub judice* far exceeded what was required of the State." *Id.* The Court noted that the law requires the State to provide voters with notice of the ballot question during the three week period before the election, which contains "a brief statement, prepared in clear and concise language, devoid of technical and legal terms to the extent practicable, summarizing the question." *Id.* (quoting EL § 7-105(b)). The Court determined that the notice explained the effect of the amendment and its implementation, and concluded that "the summary of the ballot question required to be given to the electorate prior to the election provided meaningful notice of what it was called upon to decide." *Id.* at 209. Like the *Stop Slots*

Court, we conclude that Question 5 was sufficiently informative without reference to the Notice Summary, but also note that the Notice Summary provided voters with a clear and concise summary of the ballot question as required by EL § 7-105(b). More specifically, the Notice Summary addressed appellants' concerns regarding whether Question 5 adequately described the scope of the changes arising from Senate Bill 1. In particular, the Notice Summary informed voters which counties made up which congressional districts, and thus provided the electorate with an additional explanation of the nature of Senate Bill 1.

For the foregoing reasons, we hold that the ballot language presented in Question 5 did not obfuscate the purpose and nature of the Congressional Districting Plan, but instead adequately conveyed the actual scope and effect of that plan. We therefore conclude that Question 5 was legally sufficient under the Maryland Constitution, Election Law, and case law precedent.

**JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY AFFIRMED; APPELLANTS TO PAY COSTS.**

CIVIL LITIGATION DIVISION
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