

**STATE OF MICHIGAN
IN THE SUPREME COURT**

ROBERT DAVIS,
Plaintiff,

Supreme Court Case No. _____

v

**MICHIGAN INDEPENDENT CITIZENS
REDISTRICTING COMMISSION,**
Defendant.

ROBERT DAVIS, *Pro Se*
Plaintiff
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**Expedited Consideration Requested Under MCR 7.311(E). Relief
requested as soon as practicable, but not later than September
3, 2021.**

EMERGENCY COMPLAINT FOR WRIT OF MANDAMUS

NOW COMES PLAINTIFF, ROBERT DAVIS (“Plaintiff”), in his own proper person and complaint, and for his Emergency Complaint for Writ of Mandamus, states and alleges the following:

I. Parties

1. Plaintiff, Robert Davis (“Plaintiff”), is a resident and registered voter of the City of Highland Park, County of Wayne, State of

Michigan. In the 2018 November General Election, Plaintiff also voted in favor of the 2018 ballot initiative that amended the State Constitution creating the Defendant Michigan Independent Citizens Redistricting Commission and shifted the duties of redistricting from the Michigan Legislature to the Defendant. Additionally, Plaintiff is also considering and exploring a run for U.S. Representative for his respective district.

2. Defendant, Michigan Independent Citizens Redistricting Commission (“Defendant Redistricting Commission” or “Commission”), is the Commission is established as a permanent commission in the legislative branch of government. Const 1963, art 4, § 6(1). The powers granted to the Commission are legislative functions not subject to the control or approval of the legislature and are exclusively reserved to the Commission. Const 1963, art 4, § 6(22). The Constitution clearly states that “[i]n no event shall any body, except the independent citizens redistricting commission acting pursuant to this section, promulgate and adopt a redistricting plan or plans for this state.” Const 1963, art 4, §

6(19). The Commission convened under the 2018 constitutional amendment.

II. Jurisdiction

3. This Court has jurisdiction over this action under article 4, § 6(19) of the Michigan Constitution, as amended. Subsection 6(19) expressly provides that this Court, **“in the exercise of original jurisdiction, shall direct the secretary of state or the commission to perform their respective duties[.]”** Const 1963, art 4, § 6(19). (emphasis supplied).
4. The Michigan Court Rules (“MCR”) further provide that this Court may “exercise other jurisdiction as provided by the Constitution or by law.” MCR 7.303(B)(6).
5. Plaintiff’s instant action seeks this court to direct the Defendant Redistricting Commission to perform their respective duties and comply with and meet the mandatory deadlines for the proposed and final redistricting plan(s) set forth under Mich.Const. 1963, art. 4, §§ 6(7) and 6(14)(b).

COUNT I

Writ of Mandamus Compelling Defendant To Adopt A Final Redistricting Plan By The November 1, 2021 Deadline As Set Forth In Michigan Const. 1963, article 4, §6(7), As Amended.

6. Plaintiff incorporates, repeats, and realleges the foregoing allegations as though they were fully set forth and stated herein.
7. For this Count, Plaintiff seeks the entry of a writ of mandamus compelling the Defendant Redistricting Commission to adopt a final redistricting plan by the November 1, 2021 deadline as required and mandated under Michigan Const. 1963, article 4, §6(7).
8. In 2017, Voters Not Politicians, a ballot proposal committee, filed an initiative petition to amend the Michigan Constitution. See *Citizens Protecting Michigan's Constitution v Secretary of State, et al*, 324 Mich App 561 (2018). The proposal principally sought to amend the apportionment provisions in the Michigan Const. 1963, article 4, § 6.
9. Identified as Proposal 18-2 on the November 6, 2018 general election ballot, the proposal passed overwhelmingly. The amendments became effective December 22, 2018. See Mich.Const. 1963, art 12, § 2. 12.

10. The amendments established the Defendant Redistricting Commission, which was charged with redrawing Michigan's state senate, state house, and congressional districts according to specific criteria. Mich.Const. 1963, art 4, § 6(1), (13).
11. Under the Michigan Constitution, as amended by Proposal 18-2, the Michigan Secretary of State, Jocelyn Benson, was required to convene the Defendant Redistricting Commission by October 15, 2020, which she did.
12. Since that time, the Defendant Redistricting Commission has met several times in accordance with Mich.Const. 1963, art 4, § 6(7).
13. In accordance with the Mich.Const. 1963, art. 4, as amended by Proposal 18-2, before voting to adopt a plan, the Defendant Redistricting Commission must "provide public notice of each plan that will be voted on and provide at least 45 days for public comment on the proposed plan or plans. Each plan that will be voted on shall include such census data as is necessary to accurately describe the plan and verify the population of each

district, and shall include the map and legal description required in part (9) of this section.” Mich.Const. 1963, art. 4, § 6(14)(b).

14. And more importantly, ***“[n]ot later than November 1 in the year immediately following the federal decennial census, the commission shall adopt a redistricting plan under this section for each of the following types of districts: state senate districts, state house of representative districts, and congressional districts.”*** Mich.Const. 1963, art. 4, § 6(7).

15. Thus, under the clear and unambiguous language of Mich.Const. 1963, art. 4, §6(7), as amended by Proposal 18-2, the Defendant Redistricting Commission is to publish proposed plan(s), with supporting data, **no later than September 17, 2021 and adopt a final plan by November 1, 2021 for this cycle.**

16. After adopting a final plan, the Defendant Redistricting Commission must “publish the plan and the material reports, reference materials, and data used in drawing it, including any

programming information used to produce and test the plan.”

Mich.Const. 1963, art. 4, § 6(15).

17. The Defendant Redistricting Commission must also issue a report for each adopted plan “explain[ing] the basis on which the commission made its decisions in achieving compliance with plan requirements and shall include the map and legal description required in part (9) of this section.” Mich.Const. 1963, art. 4, § 6(16).

18. An adopted plan “become[s] law 60 days after its publication.” Id., § 6(17). Under subsection § 6(19), this Court “may review a challenge to any plan adopted by the commission, and shall remand a plan to the commission for further action if the plan fails to comply with the requirements” of state or federal Constitution or superseding federal law. Mich.Const. 1963, art. 4, § 6(19).

19. However, at their meeting held on August 19, 2021, the Defendant Redistricting Commission approved a timeline that directly conflicts with and violates Mich.Const. 1963, art. 4, §6(7).

20. Specifically, at their August 19, 2021 meeting, the Defendant Redistricting Commission, by a 10-2 vote, **approved a timeline to allow the 45-day public comment period to commence November 14, 2021**, with the Defendant Redistricting Commission adopting a final redistricting plan as early as **December 30, 2021**.¹
21. **The Defendant’s December 30th target deadline is two months after the November 1, 2021 deadline set forth in Mich.Const. 1963, art. 4, §6(7).**
22. Despite having the required 2020 Census data, the Defendant has chosen to deliberately ignore the clear mandate set forth under Mich.Const. 1963, art. 4, §6(7).
23. Defendant’s refusal to comply with the deadline set forth under Mich.Const. 1963, art. 4, §6(7) requires this Court to exercise its original jurisdiction **to direct the Defendant Redistricting Commission to perform their respective**

¹ See Associated Press’ August 20, 2021 article: <https://apnews.com/article/michigan-redistricting-d9c9545f385e8937dfc898f8c5791eb0>

duties as required under Mich.Const.1963, art. 4, §6(7). See Mich.Const 1963, art 4, § 6(19).

24. Defendant is charged with the important constitutional duty of drawing the district lines for Plaintiff's state representative, state senator, U.S. Representative, and U.S. Senator by November 1, 2021.
25. Defendant's blatant refusal to comply with the deadline set forth in Mich.Const. 1963, art. 4, §6(7) potentially jeopardizes Plaintiff's ability to have adequate representation in these respective offices.
26. Also, Defendant's untimely plan may be subject to endless litigation that could result in Plaintiff's respective representative districts from being properly drawn.
27. As a registered voter who voted in favor of Proposal 18-2 in the November 2018 general election, Plaintiff has standing to commence this action.
28. Additionally, as a registered voter who is exploring a possible run for U.S. Representative, Plaintiff has standing to commence this action, considering Defendant's unlawful conduct

has impaired Plaintiff ability to timely challenge Defendant's final redistricting plan.

29. Moreover, as a registered voter who voted in favor of Proposal 18-2 in the November 2018 general election, Plaintiff has a clear right to compel the Defendant to comply with the November 1, 2021 deadline set forth under Mich.Const. 1963, art. 4, §6(7).

30. Defendant Redistricting Commission has a clear legal duty to comply with the November 1, 2021 deadline set forth under Mich.Const. 1963, art. 4, §6(7) because it uses the mandatory word "shall".

31. Defendant Redistricting Commission's duty under Mich.Const. 1963, art. 4, §6(7) is ministerial because it does not allow the Defendant to exercise any discretion with respect to meeting the November 1, 2021 deadline to adopt a final redistricting plan.

32. Additionally, this Court's most recent decision in *In re Independent Citizens Redistricting Commission*, ___ Mich.____; ___ NW2d___ (2021) further illustrates that the Defendant's

duty under Mich.Const. 1963, art. 4, §6(7) is ministerial and not discretionary.

33. Lastly, because Defendant has taken the position to totally ignore the language of Mich.Const. 1963, art. 4, §6(7) and adopt a timeline that exceeds the November 1, 2021 constitutional deadline, Plaintiff has no other adequate remedy at law, other than the instant action to compel the Defendant to comply with the November 1, 2021 deadline.

34. Additionally, because the Defendant Redistricting Commission is to publish proposed plan(s), with supporting data, **no later than September 17, 2021, which is just 18 days away, and adopt a final plan by November 1, 2021 for this cycle**, Plaintiff has no other adequate remedy at law to compel the Defendant's compliance to comply with the **mandatory** constitutional deadlines.

WHEREFORE, Plaintiff requests this Honorable Court enters judgment and grants the following relief against the Defendant Redistricting Commission, as follows:

- a. Enter a writ of mandamus compelling the Defendant Redistricting Commission to publish proposed plan(s), with supporting data, **no later than September 17, 2021, and to adopt a final plan by November 1, 2021 as required by Mich.Const. 1963, art. 4, §§ 6(7) and 6(14)(b).**
- b. Award Plaintiff court costs.
- c. An order awarding whatever other equitable relief the Court deems appropriate and necessary at the time of final judgment.

Dated: August 30, 2021

Respectfully submitted,

/s/ROBERT DAVIS, Pro Se

ROBERT DAVIS, Pro Se

Plaintiff

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PROOF OF SERVICE

Robert Davis certifies that on August 30, 2021, he served the foregoing document(s) via the Court's MiFile Electronic Case Filing System, which will electronically serve the registered attorneys of record.

Dated: August 30, 2021

Respectfully submitted,

/s/ROBERT DAVIS, Pro Se

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Plaintiff

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