
THE STATE OF NEW HAMPSHIRE
SUPREME COURT

Case No. 2022-0184

Theresa Norelli & a.,

Plaintiffs,

v.

Secretary of State & a.,

Defendants.

**PLAINTIFFS' SUPPLEMENTAL MEMORANDUM IN
ADVANCE OF MAY 31 ORAL ARGUMENTS**

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On May 12, 2022, this Court held that New Hampshire’s current congressional districts are unconstitutionally malapportioned in violation of Article I, Section 2 of the U.S. Constitution. Opinion 11 (May 12, 2022). That same day, the Court appointed Professor Nathaniel Persily to serve as special master and instructed him to prepare a report and recommended congressional redistricting plan consistent with the Court’s enumerated criteria, and to submit that report no earlier than May 27. Order 1–2 (May 12, 2022). The Court chose that date because May 26 was “the date identified to us as the last date for legislative action in this session on a congressional redistricting plan.” *Id.* at 1. On May 26, the General Court passed Senate Bill (“SB”) 200, which contained a new proposed congressional plan, but Governor Chris Sununu immediately vowed to veto it. *See Sununu Rejects Latest Congressional Map From GOP Lawmakers, Leaving N.H.’s Districts up to the Courts*, NHPR (May 26, 2022), <https://www.nhpr.org/nh-news/2022-05-26/nh-sununu-promises-to-veto-congressional-redistricting-map>.

On the morning of May 27, pursuant to the Court’s instructions, the special master submitted a report and recommended congressional plan that equalizes the state’s congressional districts by moving five towns from District 1 to District 2: Albany, Campton, Jackson, New Hampton, and Sandwich. Report & Plan of Special Master 17 (May 27, 2022). Soon thereafter, this Court denied a motion by the Speaker of the House and the President of the Senate to dismiss or stay these proceedings. Order 1 (May 27, 2022). The Court also scheduled oral argument “on the special master’s report and proposed congressional district plan” for the morning of May 31 and instructed the parties to “be prepared to address at oral argument the status of SB 200 and the related need for this court to adopt a congressional districting plan by June 1, 2022, if the filing period has not been changed or extended by the Secretary of State.” *Id.* The Court stated that the parties “may, but need not, file supplemental memoranda on these issues.” *Id.*

Plaintiffs submit this supplemental memorandum to notify the Court of two issues. First, Governor Sununu has vetoed SB 200. *See Governor's Veto Message Regarding House Bill 52 and Senate Bill 200*, Office of Governor (May 27, 2022), <https://www.governor.nh.gov/sites/g/files/ehbemt336/files/documents/20220527-hb52-sb200-veto.pdf>. There is no indication that SB 200 has sufficient support in the General Court to override the Governor's veto by the required two-thirds vote in each chamber—it received just 50.7% of votes in the House and 58.3% of votes in the Senate. *See SB 200: Bill Details*, N.H. Gen. Ct., https://www.gencourt.state.nh.us/bill_status/billinfo.aspx?id=2096&inflect=2 (last visited May 27, 2022). As a result, the political branches have left this Court with “no assurance that a redistricting plan w[ill] be validly enacted in time for the upcoming election.” *Below v. Gardner*, 148 N.H. 1, 4 (2002) (per curiam). Given that the candidate filing period is set to open on Wednesday, *see* RSA 655:14, it is now necessary for this Court to adopt a new congressional plan.

Second, Plaintiffs endorse, and have no objection to, the special master's recommended congressional plan. The recommended plan satisfies all of the Court's criteria: Its districts are contiguous and do not divide towns, city wards, or unincorporated places; political considerations were not taken into account in its drawing; it complies with federal law, including the Voting Rights Act; and it achieves as close to population equality as possible while moving the least number of residents from one district to another. *See* Report & Plan of Special Master 19–24.

Dated: May 27, 2022

Respectfully submitted,

THERESA NORELLI, CHRISTINE
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By Their Attorneys,

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CERTIFICATE OF SERVICE

I certify that on May 27, 2022, I served the foregoing pleading on all parties or counsel of record in accordance with the rules of the Supreme Court, as follows: I am serving all registered e-filers through the court's electronic filing system; I am serving all other parties by mailing a copy to them.

/s/ Steven J. Dutton

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