

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL GONIDAKIS, MARY
PARKER, MARGARET CONDITT, BETH
VANDERKOOI, LINDA SMITH,
DELBERT DUDUIT, THOMAS W. KIDD
JR., DUCIA HAMM,

Plaintiffs,

BRIA BENNETT, REGINA C. ADAMS,
KATHLEEN M. BRINKMAN, MARTHA
CLARK, SUSANNE L. DYKE, MERYL
NEIMAN, HOLLY OYSTER,
CONSTANCE RUBIN, EVERETT TOTTY,

Intervenor-Plaintiffs,

v.

FRANK LAROSE, in his capacity as Ohio
Secretary of State

Defendant.

Case No. 2:22-cv-00773

Judge Algenon L. Marbley

Magistrate Judge Elizabeth Preston Deavers

**REPLY IN SUPPORT OF INTERVENOR-PLAINTIFFS
BENNETT PETITIONERS' MOTION TO ABSTAIN AND STAY**

Intervenor-Plaintiffs Bria Bennett, Regina C. Adams, Kathleen M. Brinkman, Martha Clark, Susanne L. Dyke, Meryl Neiman, Holly Oyster, Constance Rubin, and Everett Totty (the "Bennett Petitioners") offer this reply in support of their motion to abstain and stay, ECF No. 59.

In the three weeks since the Gonidakis Plaintiffs filed this lawsuit and their preliminary injunction motion on February 18 contending that Ohio's constitutional process for drawing state

legislative districts had reached impasse, that process has in fact continued to move forward. The Ohio Redistricting Commission adopted new maps—its third set—on February 24, the Bennett Petitioners and others objected to those maps on February 28, and the Commission and individual Commissioners responded to those objections on March 3. The objections await a ruling from the Ohio Supreme Court, which could come any day now.

Meanwhile, Ohio’s Secretary of State has ordered counties to press forward with preparations for the May primaries under the Commission’s third plan, in the event Petitioners’ objections are overruled. *See* Ohio Secretary of State Directive 2022-26 (Feb. 26, 2022), <https://www.sos.state.oh.us/globalassets/elections/directives/2022/directive-2022-26.pdf>. And should the Bennett Petitioners’ objections be granted, the Bennett Petitioners have requested that the Ohio Supreme Court stay impending election deadlines and streamline the adoption of a lawful map, including by issuing a finding that an exemplar map drawn by the Bennett Petitioners’ expert is lawful, adopting a lawful map itself, or appointing a special master to assist the Commission in adopting a lawful map. *See* Petitioners’ Objections to General Assembly District Plan Adopted on February 24, 2022 at 31-38 & n.7, *Bennett v. Ohio Redistricting Comm.*, No. 2021-1198 (Ohio Feb. 28, 2022).

These intervening and ongoing events mean that intervention by this Court in Ohio’s redistricting process is, if anything, even less appropriate now than it was when the Gonidakis Plaintiffs filed this lawsuit. Proceedings before the Ohio Supreme Court continue, and there is no need or basis for this Court to step in at this time. *Growe v. Emison*, 507 U.S. 25, 34 (1993). Indeed, there is nothing this Court can do to address the still-hypothetical possibility that impasse will occur that the Ohio Supreme Court itself cannot do. *See id.* at 32 (describing state and federal courts’ “concurrent jurisdiction” over impasse claims); *Gulf Offshore Co. v. Mobil Oil Corp.*, 453

U.S. 473, 478 (1981) (“Federal law confers rights binding on state courts . . .”). Rather, the Court should order the Gonidakis Plaintiffs to notify the Court upon the Ohio Supreme Court issuing its pending decision and file a copy of such decision, so that the Court can, at that juncture, determine whether to set the matter for a status conference.

CONCLUSION

For the forgoing reasons, the Court should grant the Bennett Petitioners’ Motion to Stay and Abstain.

Respectfully submitted,

/s/ Donald J. McTigue

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*** Motion for admission pro hac vice

pending

Counsel for Bennett

Petitioners

CERTIFICATE OF SERVICE

This is to certify a copy of the foregoing was served upon all counsel of record by means of the Court's electronic filing system on this 11th Day of March, 2022.

/s/ Donald J. McTigue
Donald J. McTigue (OH 0022849)