

IN THE SUPREME COURT OF PENNSYLVANIA

CAROL ANN CARTER; MONICA PARRILLA;
REBECCA POYOUROW; WILLIAM TUNG;
ROSEANNE MILAZZO; BURT SIEGEL; SUSAN
CASSANELLI; LEE CASSANELLI; LYNN WACHMAN;
MICHAEL GUTTMAN; MAYA FONKEU; BRADY
HILL; MARY ELLEN BACHUNIS; TOM DEWALL;
STEPHANIE MCNULTY; and JANET TEMIN,

Petitioners,

v.

LEIGH CHAPMAN, in her capacity as Acting Secretary of
the Commonwealth of Pennsylvania; and JESSICA
MATHIS, in her capacity as Director for the Pennsylvania
Bureau of Election Services and Notaries,

Respondents.

No. 7 MM 2022

**RESPONSE OF GRESSMAN PETITIONERS TO
CARTER PETITIONERS'
EMERGENCY APPLICATION FOR EXTRAORDINARY RELIEF**

Pursuant to this Court’s January 31, 2022 Order, Petitioners in Case No. 142 MM 2021, Philip T. Gressman, Ron Y. Donagi, Kristopher R. Tapp, Pamela Gorkin, David P. Marsh, James L. Rosenberger, Amy Myers, Eugene Boman, Gary Gordon, Liz McMahon, Timothy G. Feeman, and Garth Isaak (collectively, “the Gressman Petitioners”), hereby respond to the Emergency Application for Extraordinary Relief filed by the Petitioners in Case No. 7 MM 2022 (collectively, “the Carter Petitioners”).

As the Carter Petitioners correctly explain, the political branches’ efforts to draw a lawfully apportioned congressional plan have reached an impasse, which means that the judicial branch must act to ensure that Pennsylvania has lawful congressional districts in place before the 2022 elections. Carter Pets.’ App. at 1. The Commonwealth Court held an evidentiary hearing on January 27 and 28 to evaluate the thirteen congressional redistricting proposals submitted by eight parties and four *amici*. *Id.* at 6.

The Gressman Petitioners agree that, regardless of which plan the Commonwealth Court chooses, an appeal to this Court seems inevitable. *See id.* at 2. Because a lawful congressional redistricting plan must be in place by the start of the fast-approaching 2022 primary season, the Gressman Petitioners also agree that any appeal must be resolved far more quickly than the ordinary appellate timeline otherwise would allow. *Id.* The Gressman Petitioners thus agree that this Court

should take extraordinary jurisdiction over this matter, as there simply will not be enough time for the ordinary appeal process to play out.

The Gressman Petitioners respectfully submit that the Court should follow the course it charted in *Mellow v. Mitchell*, 530 Pa. 44 (1992), which was the last time this Court was called upon to assume plenary jurisdiction after an impasse in the congressional redistricting process. There, the Court assumed jurisdiction and then requested that the Commonwealth Court expeditiously provide the Court with a report of its “Findings, Recommended Decision and Form of Order” selecting one of the parties’ plans based on an evidentiary hearing. *Id.* at 48. Parties quickly filed briefs with this Court noting any exceptions they took to the Commonwealth Court’s report, and the Court then held oral argument. *See id.*

If this Court followed the same course as in *Mellow*, it could request that the Commonwealth Court provide its findings, recommended decision, and form of order selecting a plan this week, with exceptions to be filed and oral argument to be held next week.

Dated: February 1, 2022

Respectfully submitted,

By: /s/ Kim M. Watterson

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CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Kim M. Watterson

Signature: /s/ Kim M. Watterson

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Attorney No. PA 63552

PROOF OF SERVICE

On February 1, 2022, I caused a copy of the foregoing to be served via the electronic filing system, PACFile, upon all counsel of record.

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