

FILED
SUPREME COURT
STATE OF WASHINGTON
12/20/2021 8:00 AM
BY ERIN L. LENNON
CLERK

IN THE SUPREME COURT OF
THE STATE OF WASHINGTON

ARTHUR WEST, petitioner,)	No. 100469-9
)	
Vs.)	MOTION TO MODIFY, CONSOLIDATE AND TO
)	SET HEARINGS IN ACCORD
WASHINGTON STATE REDISTRICTING COMMISSION, et al)	WITH RCW 44.05.130 AND
respondents.)	ARTICLE 2, SECTION 43(10)
)	

I. INTRODUCTION – MOVING PARTY AND RELIEF SOUGHT

1.1. Comes now the petitioner, Arthur West, and respectfully moves the Court to modify the rulings of December 15 and 17, 2021, to consolidate this action with that of WASHCOG under a new caption, and to set expedited hearings¹ for fact finding and the ultimate resolution of the issue of the validity of the 2021 redistricting plan, while also protecting the interests of both the electorate and candidates in an elections process free from confusion and delay.

II. FACTS

2.1. This is an action by a registered voter under the original jurisdiction of this Court as set forth in Article II, Section 43 (10) of the Constitution of the State

¹ Pursuant to RCW 44.05.130

1 of Washington to determine if the November 15-16, 2021 Washington State
2 redistricting plan was validly adopted under the Constitution and Laws of the State
3 of Washington.

4 **2.2.** In Section 5.1 of the Petition, West seeks the following relief:

5 That the Court exercise its original jurisdiction to render an
6 “opinion on the (redistricting) plan’s compliance with any
7 statutory and constitutional requirements other than the
8 November 15 deadline” and that the Court determine the sole
9 issue of whether the actions taken by the Commission approving
10 and adopting redistricting maps and plans on November 15 and
11 November 16, 2021 should be invalidated for the failure of the
12 Commission to follow statutory and constitutional requirements.

13 **2.3.** On December 15 the Clerk of this Court apparently determined that this
14 was an Original Action against a State officer under Article 4 for a Writ of
15 Mandamus, and on December 17 it further set a schedule that does not appear to be
16 in conformity with the prompt resolution of this matter as required under RCW
17 44.05.130 for an action brought under Article II, Section 43(10) of the Washington
18 State Constitution.

19 **2.4.** Attached to this Motion is an Order issued by this Court on March 14,
20 2012 in an action on a Petition filed by John Milem, a registered voter, in regard to
21 the 2012 redistricting plan. Although the full record of the case is not available
22 online, it appears that within 30 days of filing that Petition, the Milem Supreme
23 Court ruled, en bank, as to the interim use of the challenged redistricting plan for
24 the 2012 election.

25 **2.5.** This determination was made, in part, in response to the State’s
26 arguments in their Opening Brief as to: *The Commission's Open And Extensive*

1 *Public Hearing Process*², where it was noted that “The Commission conducted 27
2 business meetings, *all open to the public*“ (Emphasis added) and a citation on page
3 10 of the State’s Opening Brief citing to *Vandermost v. Bowen*, a 2012 California
4 case where the court explained that, among other reasons, it selected the
5 commission's plan for interim use in part because the districts it devised were:

6 "a product of what generally appears to have been *an open,*
7 *transparent and nonpartisan redistricting process* as called for
8 by the current provisions of the state constitution.”

9 *Vandermost v. Bowen*, 53 Cal. 4th 421, __ P.3d __ , 2012 WL
10 246627, *33 (Jan. 27, 2012). (Emphasis added)

11 **2.6.** In this present case these particular concerns are not so weighty in that,
12 arguably, a prima facie showing has been made that the 2021 redistricting plan was
13 not the result of “*an open transparent process*” as called for by the laws and
14 Constitution of the State of Washington.

15 **III. GROUNDS**

16 **3.1.** Article II, Section 43(10) of the Washington State Constitution provides
17 that: “The supreme court has original jurisdiction to hear and decide all cases
18 involving congressional and legislative redistricting.”

19 **3.2.** RCW 44.05.130 provides. in pertinent part:

20 ... (A)ny registered voter may file a petition with the supreme
21 court challenging the plan.... *The court* may consolidate any or
22 all petitions and *shall give all such petitions precedence over all*
other matters. (Emphasis added)

23 **3.3** In the present case, as implicitly recognized in this Court’s Order of
24 November 18, 2021, there is a complication in providing a factual record in this
25

26 ² See page 4 -7 of Respondent State’s Opening Brief, available online at
<https://www.courts.wa.gov/content/Briefs/A08/869766%20respondent%20State's%20opening%20brief.pdf>

1 matter in that, since the final actions of the Commission were largely secret, there
2 is some uncertainty as to what their exact actions were.

3 **3.4.** In addition, recent correspondence from legislative caucus staff³ who
4 actually helped prepared the redistricting maps strongly indicates that the factual
5 background presented to the Court by Chairperson Augustine in her Declaration of
6 November 22, 2021 may have been somewhat less than entirely complete or
7 candid in several critical respects.

8 **3.5.** Although petitioner recognizes the difficulties presented in establishing
9 an efficient schedule for considering the two petitions on the merits while also
10 protecting the interests of both the electorate and candidates in an election process
11 free of confusion and delay, it would be ironic if the lack of a clear factual record
12 due to agency secrecy were to obstruct prompt review of the validity of the
13 agency's action as potentially invalid as a result of that same secrecy in time for
14 the result to apply to the 2022 elections process.

15 **IV. CONCLUSION**

16
17 **4.1.** Therefore, petitioner West seeks the following relief:

18 **4.1.1.** That this matter be consolidated with the Petition filed by WASHCOG
19 under a new caption, "IN RE THE 2021 REDISTRICTING PLAN".

20 **4.1.2.** That the rulings of December 15 and 17 be modified and an expedited
21 hearing and fact finding/discovery schedule be set for the consolidated cases to
22 allow for a prompt ultimate determination of the validity of the 2021 plan in time
23 for the result to be applied in regard to the 2022 elections process, or, in the
24 alternate, a prompt preliminary hearing be set on the propriety of a determination
25 as to the reliance upon the existing plan on an interim basis for the 2022 elections

26

³ See *Timeline of Redistricting Commission Events*, Ali O'Neil, November 21, 2021, appended to WASHCOG
Petition

1 while the issues in the consolidated cases are resolved on a less expedited schedule
2 as to 2023-2031 elections.

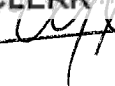
3 Done December 20, 2021, in Olympia, Washington.

4 S/ Arthur West
5 Arthur West
6

7
8
9 **DECLARATION OF SERVICE**

10 I, Arthur West, certify under penalty of perjury of the Laws of the State of
11 Washington that this Motion has been electronically served upon counsel for the
12 State, the Redistricting Commission, and WASHCOG at their addresses of record
13 on December 20, 2021.
14

15
16 S/ Arthur West
17 Arthur West
18

FILED
SUPREME COURT
STATE OF WASHINGTON
12/20/2021 8:00 AM
BY ERIN L. LENNON COURT
CLERK


IN THE SUPREME COURT OF THE STATE OF WASHINGTON

IN RE 2012 WASHINGTON STATE
REDISTRICTING PLAN

JOHN MILEM,

Petitioner.

NO. 86976-6

ORDER

John Milem filed an original petition in this court on February 8, 2012, challenging the 2012 Washington State Redistricting Plan adopted by the Washington State Redistricting Commission and approved by the legislature on February 7, 2012. This matter came before the en banc court on March 13, 2012, on the question of whether the court should allow the approved plan to govern the 2012 Washington State elections pending consideration of the merits of Mr. Milem's petition. At the court's direction, the parties submitted briefs on this issue on March 1 and March 8, 2012. Declarations of candidacy for the 2012 elections must be filed during the week of May 14 through 18, 2012, requiring legislative and congressional district boundaries to be set by then. And by April 30, 2012, county legislative authorities must establish voting precincts in conformance with new district boundaries. The court has considered the briefs of the parties on this issue, and in view of the approaching deadlines for the 2012 elections and the need for adequate time to perfect

the case and consider briefs and arguments of the parties on the merits of Mr. Milem's petition, the court unanimously agreed that the following order should be entered:

IT IS HEREBY ORDERED:

(1) The 2012 Washington State Redistricting Plan adopted by the Washington State Redistricting Commission and approved by the legislature shall govern the Washington State 2012 primary and general elections.

(2) The parties are directed to file by April 13, 2012, an agreed statement of facts or a statement that the parties cannot agree on the facts.

(3) If the parties submit a statement that they cannot agree on the facts, the matter shall be referred to Thurston County Superior Court for a factual hearing, which shall be completed and findings of facts submitted to this court by May 29, 2012.

(4) The briefing schedule and date for oral argument will be determined in due course.

For the Court


CHIEF JUSTICE

March 14, 2012

ARTHUR WEST - FILING PRO SE

December 20, 2021 - 3:34 AM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 100,469-9
Appellate Court Case Title: Arthur West v. Washington State Redistricting Commission

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- 1004699_Exhibit_20211220032957SC019489_0941.pdf
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Exhibit
The Original File Name was SUPREM MILEM ORDER.pdf
- 1004699_Other_20211220032957SC019489_4090.pdf
This File Contains:
Other - Motion to Modify and Consolidate
The Original File Name was REDIST SUPREME MOTION FINAL.pdf

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- Brady.Walkinshaw@redistricting.wa.gov
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- christina.jaccard14@gmail.com
- greg.wong@pacificlawgroup.com
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Comments:

Motion to Modify and Consolidate, with Exhibit

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120 State Ave NE # 1497

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