

**IN THE SUPREME COURT OF OHIO**

League of Women Voters of Ohio, *et al.*,

Petitioners,

v.

Case No. 2021-1193

Ohio Redistricting Commission, *et al.*,

Respondents.

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Bria Bennett, *et al.*,

Petitioners,

v.

Case No. 2021-1198

Ohio Redistricting Commission, *et al.*,

Respondents.

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Ohio Organizing Collaborative, *et al.*,

Petitioners,

v.

Case No. 2021-1210

Ohio Redistricting Commission, *et al.*,

Respondents.

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**RESPONDENTS MCCOLLEY AND LARE'S JOINT RESPONSE TO PETITIONERS'  
JUNE 7 AND JUNE 8, 2022 MOTIONS**

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## **INTRODUCTION**

Yet again, Petitioners seek relief that this Court cannot constitutionally provide. This Court's precedent, the structure and text of Article XI, and separation of powers principles prohibit the Court from providing the requested relief to compel the Ohio Redistricting Commission (the "Commission") and its members, including Respondents Senator Robert McColley and Representative Jeffrey LaRe ("Respondents"), to legislate in any particular manner or on any particular deadline.

No matter how many times Petitioners try to argue so, Respondents and the Commission have not unilaterally decided to ignore the Court's mandates. Petitioners' narrative ignores the clear procedural posture and facts of this case. Under the necessity of an electoral emergency facing the Secretary of State, Ohio's eighty-eight (88) county boards of election, and most importantly, Ohio voters, Respondents were given an impossible task. Use of Map 3<sup>1</sup> for the 2022 election is a necessity to ensure the people of Ohio have the right to vote while the Commission continues to try to meet the Court's standards under reasonable time constraints. For the reasons stated herein, Petitioners' motions should be denied in their entirety.

## **FACTUAL AND PROCEDURAL BACKGROUND**

On April 14, 2022, the Court invalidated the plan adopted by the Commission on March 28, 2022 (the "Fourth Plan") and ordered "the [C]ommission to be reconstituted, to convene, and to draft and adopt an entirely new General Assembly–district plan that meets the requirements of the Ohio Constitution, including Article XI, Sections 6(A) and 6(B) as we have explained those provisions in each of our four decisions in these cases." *League of Women Voters of Ohio v. Ohio*

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<sup>1</sup> "Map 3" refers to the second remedial plan adopted by the Commission on February 24, 2022 and re-submitted to the Court on May 5, 2022, using the terminology espoused by the Southern District of Ohio in *Gonidakis v. LaRose*, No. 2:22cv-0773, 2022 WL 1175617, \*30 (S.D. Ohio Apr. 20, 2022).

*Redistricting Commission*, Slip Opinion No. 2022-Ohio-1235, ¶ 68 (“*League IV*”). The Court further ordered that such plan be filed with the Secretary of State by 9:00 a.m. on Friday, May 6, 2022, and filed with the Court by noon on that same date. *Id.* at ¶ 69.

Four days later, on April 20, 2022, the United States District Court for the Southern District of Ohio entered an order providing that if the State of Ohio did not finalize a general assembly district plan by May 28, 2022, then the federal Court would order implementation of Map 3 for an August 2, 2022 primary.<sup>2</sup>

Pursuant to Ohio law, Ohio’s primary election for, among other offices, United States Senator, Governor, Secretary of State, and Auditor was held on May 3, 2022. However, general assembly districts were not included on that primary election ballot. Pursuant to this Court’s April 14, 2022 Order<sup>3</sup>, the Commission reconvened and met on May 4 and May 5. *League of Women Voters of Ohio v. Ohio Redistricting Commission*, Slip Opinion No. 2022-Ohio-1235, ¶ 68 (“*League IV*”). At the May 5 meeting, Secretary of State LaRose detailed the state and federal requirements for timely election administration in Ohio and explained why Map 3, and only Map 3, could be used in the 2022 general election. Accordingly, the Commission voted to resubmit Map 3 to the Secretary of State and the Court based on that guidance.

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<sup>2</sup> As the Court is well aware, the Southern District for Ohio found that August 2, 2022 is the last date possible for proper administration of the 2022 election in Ohio. *See Gonidakis v. LaRose*, No. 2:22cv-0773, 2022 WL 1175617, \*23 (S.D. Ohio Apr. 20, 2022) (holding that federal statutes, state laws, the Ohio Constitution, and evidence submitted by Secretary of State LaRose provided that August 2 is the last date for Ohio “to hold a primary election without disrupting the general election”).

<sup>3</sup> The April 14 Order is the fourth merits order in this general assembly litigation, which declared the fourth plan (the third remedial map) unconstitutional. *See League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-1235, ¶ 2 (“*League IV*”); *see also League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-65, ¶ 2 (“*League I*”); *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-342, ¶ 67-68 (“*League II*”); *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-789, ¶ 2 (“*League III*”).

Petitioners filed objections to the resubmission of Map 3 and another motion to show cause shortly thereafter, to which Respondents McColley and LaRe timely responded. On May 25, 2022, the Court invalidated the Commission's resubmission of Map 3 and ordered "the commission be reconstituted, to convene, and to draft and adopt an entirely new General Assembly-district plan that meets the requirements of the Ohio Constitution" by June 3, 2022, but declined Petitioners' requests for additional relief. *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-172, ¶¶ 5–6 ("*League V*"). The Court also issued a separate order that same date denying Petitioners' show cause motions, declining to hold the Commission or its members in contempt. *Id.* at ¶ 9; 05/25/2022 Case Announcements #4, 2022-Ohio-1750.

Two days later, on May 27, 2022, the federal court in the *Gonidakis* case issued its order directing the Secretary of State to implement Map 3 for the August 2, 2022 primary election for general assembly districts in Ohio. *See Gonidakis*, No. 2:22cv-0773, D.E. 205 (S.D. Ohio May 27, 2022). Because of that order in *Gonidakis*, Map 3 will be effective for this year's general assembly elections only, securing the right of Ohioans to vote for their state senators and representatives in the 2022 elections, while simultaneously giving the Commission time to develop a new constitutionally compliant map.

Notwithstanding the order to implement Map 3 by the Southern District of Ohio, Bennett Petitioners filed a Motion to Enforce the Court's May 25, 2022 Order and Require Respondents to Explain Their Failure to Comply with Such Order on June 7, 2022 ("Bennett Petitioners' Motion"). Ohio Organizing Collaborative ("OOC") Petitioners joined Bennett Petitioners' Motion, and also requested an in-person hearing on the issue ("OOC Petitioners' Motion"). On June 8, 2022, League of Women Voters of Ohio ("LWVO") Petitioners filed their Motion for An Order Requiring

Respondents to Explain Their Failure to Comply with the Court’s May 25, 2022 Order (“LWVO Petitioners’ Motion”). Respondents McColley and LaRe jointly respond to all three Motions.

### **ARGUMENT**

The text of Article XI, Section 9 of the Ohio Constitution and separation of powers principles prohibit the Court from ordering the Commission to legislate by a date certain. Furthermore, an order directing the Commission and/or Respondents McColley and LaRe to explain their failure to comply with the Court’s May 25, 2022 Order, either in writing or in person, is unwarranted. Map 3 must be used in the 2022 election. That said, Respondents fully intend to comply with the Court’s orders to adopt a constitutionally compliant general assembly district plan in time for use in the 2024 election.

#### **I. The relief Petitioners seek is beyond the Court’s power to grant.**

Petitioners seek a court-ordered apology from the Commission and its individual members for not achieving the impossible. The relief sought is akin to Petitioners’ prior motions to compel—all of which were denied by the Court. Petitioners claim that the Court has the power to “set a deadline pursuant to its inherent power to manage its own docket and the progress of proceedings in front of it.” Bennett Petitioners’ Motion, p. 1. However, the Court’s authority under the limited grant of jurisdiction in Article XI and separation of powers principles does not provide the Court with the authority to order the Commission, a legislative body, to enact legislation by a date certain.

##### **A. The text of Article XI, Section 9 limits the Court’s jurisdiction and remedies.**

Article XI of the Ohio Constitution provides a limited grant of exclusive, original jurisdiction to this Court to determine the validity of general assembly district plans. *See* Ohio Constitution, Article XI, Section 9. If the Court finds that a general assembly district plan is invalid, Section 9(B) clearly states that the Commission “shall be reconstituted as provided in

Section 1 of this article, convene, and ascertain and determine a general assembly district plan in conformity with such provisions of this constitution as are then valid . . . to be used until the next time for redistricting under this article in conformity with such provisions of this constitution as are then valid.” Not only does the clear language of Section 9(B) not provide the Court with the authority to impose a deadline upon the Commission, but that lack of authority is supported by the two express limitations in Section 9(D), which reflect the intent of the people of Ohio that this Court have a limited role in what has always been a legislative process. *See* Article XI, Section 9(D)(1) (“No court shall order, in any circumstance, the implementation or enforcement of any general assembly district plan that has not been approved by the commission in the manner prescribed by this article.”); Section 9(D)(2) (“No court shall order the commission to adopt a particular general assembly district plan or to draw a particular district.”); *see also League II*, Slip Opinion No. 2022-Ohio-342, at ¶ 76 (Kennedy and DeWine, JJ., dissenting) (“Therefore, the work of the commission is controlled by the Ohio Constitution, not by judicial fiat. The arbitrary timeline set by the majority usurps the right of the people to have a voice in the redistricting process that is guaranteed by Article XI, Section 1(C).”). Petitioners cannot circumvent these express constitutional provisions through ill-disguised contempt motions, regardless of how many times they demand the Court do so.

Furthermore, the Court has recently recognized its own limitations in original jurisdiction actions in this case’s prior opinions and beyond. *League I*, Slip Opinion No. 2022-Ohio-65, at ¶¶ 65-75; *League II*, Slip Opinion No. 2022-Ohio-342, at ¶¶ 66-68; *League III*, Slip Opinion No. 2022-Ohio-789, at ¶¶ 44-46; *03/24/2022 Case Announcements #2*, 2022-Ohio-957 (denying Respondents Sykes and Russo’s Motion to Move the Primary Election); *03/24/2022 Case Announcements #2*, 2022-Ohio-957 (Fischer, J. concurring) (noting the Motion to Move the

Primary Election was borderline unethical); *League IV*, Slip Opinion No. 2022-Ohio-65, at ¶ 64 (determining it “lack[ed] the constitutional authority to grant the relief.”). Collectively, Petitioners’ have filed thirteen (13) show cause motions in this consolidated general assembly challenge.<sup>4</sup> The Court has repeatedly summarily denied the requested relief. *See* 04/14/2022 Case Announcements #4, 2022-Ohio-1244; 5/25/2022 Case Announcements #4, 2022-Ohio-1750 (Kennedy, J., concurring) (“This court does not have the power to hold the commission or its members in contempt.”). Although the Court has not expressly opined about why it has denied Petitioners’ prior contempt motions and other requested relief, the recent opinion in *State ex rel. Johnson v. Ohio State Senate*, Slip Opinion No. 2022-Ohio-1912, sheds light on the issue.<sup>5</sup>

In *State ex rel. Johnson v. Ohio State Senate*, five individuals filed an original action against the Ohio State Senate, including all thirty-three (33) members of the Senate, seeking an order compelling the Ohio Senate and all Senators to “defend Article I, Section 21 ‘against any passage of legislation which may possibly conflate, obfuscate or otherwise subvert the clarity of rights conveyed by’ Article I, Section 21” of the Ohio Constitution.<sup>6</sup> *Id.* at ¶ 3 (internal quotation omitted). A majority of the Court held that it did not have jurisdiction to either “order the General Assembly to enact a specific piece of legislation” or “preemptively order the General Assembly not to enact legislation.” *Id.* at ¶¶ 8-9. Why? According to this Court, because “the courts cannot tell the legislature what the law should be or dictate how the General Assembly should carry out

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<sup>4</sup> Including their June 7 and June 8 Motions, LWVO Petitioners have filed 5 contempt motions, Bennett Petitioners have filed 4 contempt motions, and OOC Petitioners have filed 4 contempt motions.

<sup>5</sup> Similar litigation was also filed against the Ohio State House of Representatives, see *State ex rel. Jones v. Ohio State House of Representatives*, Slip Opinion No. 2022-Ohio-1909.

<sup>6</sup> Other relief sought included “a writ compelling the Senate respondents to order the Ohio Attorney General to halt the operation of any public or private entity that is participating in the alleged constitutional violations within the state of Ohio.” *State ex rel. Johnson*, Slip Opinion No. 2022-Ohio-1912, at ¶ 3. The relators claimed that the Senate’s power to do so derived “from their oaths of office to support and defend the Ohio Constitution.” *Id.* The Court rejected that rationale. *Id.*

its constitutional responsibilities.” *Id.* at ¶ 10. Under the limited grant of jurisdiction in Article XI, the Court does not have jurisdiction to order the Commission – a legislative body – to enact a general assembly plan by a date certain.

**B. Separation of powers principles prevent the Court from ordering Petitioners to legislate by a particular date.**

Over the course of five opinions in this consolidated matter, the Court did not explain its authority for ordering the Commission to pass a new general assembly plan by a particular date or time. But the Commission complied with the Court’s requested deadlines in good faith until the Commission was told that only one map – Map 3 – was possible to implement for this year’s elections. However, as previously discussed, the text of Article XI limits the remedies available to the Court in reviewing general assembly district plans. And separation of powers principles buttress the plain text of Article XI to further limit the remedies available under Article XI, Section 9, and prevent the Court from forcing the Commission to legislate by a date certain.

Ohio’s separation-of-powers doctrine “is implicitly embedded in the entire framework of those sections of the Ohio Constitution that define the substance and scope of powers granted to the three branches of state government.” *State ex rel. Johnson*, Slip Opinion No. 2022-Ohio-1912, at ¶ 7 (quoting *S. Euclid v. Jemison*, 28 Ohio St.3d 157, 158-59, 503 N.E.2d 136 (1986)); see *State ex rel. Bray v. Russell*, 89 Ohio St.3d 132, 135, 729 N.E.2d 359, 361 (2000); *State ex rel. Dann v. Taft*, 109 Ohio St. 3d 364, 2006-Ohio-1825, 848 N.E.2d 472, ¶ 56 (“The separation-of-powers doctrine requires that each branch of government be permitted to exercise its constitutional duties without interference from the other two branches of government”); see also *State v. Thompson*, 92 Ohio St.3d 584, 2001-Ohio-1288, 752 N.E.2d 276, 278–79 (“The purpose of the separation-of-powers doctrine is to create a system of checks and balances[.]”). As such, the doctrine “precludes the judiciary from asserting control over ‘the performance of duties that are purely legislative in

character and over which such legislative bodies have exclusive control.” *Toledo v. State*, 154 Ohio St.3d 41, 2018-Ohio-2358, 110 N.E.3d 1257, ¶ 27. “[T]he judicial function does not begin until after the legislative process is completed.” *Id.* at ¶¶ 26-28 (internal quotation omitted).

In Ohio, redistricting of general assembly districts is a legislative task delegated to an independent commission. *League I*, at ¶¶ 76, 79; *Wilson v. Kasich*, 134 Ohio St.3d 221, 2012-Ohio-5367, 981 N.E.2d 814, ¶¶ 18–24. As such, the Commission’s “lawmaking prerogative cannot be delegated to or encroached upon by the other branches of government.” *Toledo*, 2018-Ohio-2358, at ¶ 26. The Court may declare a general assembly district plan invalid under Article XI, Section 9(B), but it cannot tell the Commission when or how to carry out its constitutional duties in response to the Court declaring a plan invalid. *See* Ohio Constitution Article XI, Section 9(B) (“the commission *shall* reconvene”) (emphasis added).

A majority of the Court has found reasons to disagree with the decisions the Commission has made. The constitutional remedy under Article XI, Section 9 for that is for the Court to invalidate the plan before it. The remedy is not for the Court to order the Commission to take certain steps or take an “adopt a map or else” approach, as the Petitioners apparently believe. Doing so would elevate the Court above the other branches, infringe on the Article XI duties of the Commission, and violate fundamental principles of separation of powers. As such, the separation of powers doctrine prohibits the Court from ordering the Commission to enact a general assembly plan by a date certain.

## **II. The Court cannot hold individual Commission members in contempt.**

The May 25 Order, and all prior merits orders in this case, requires *the Commission* to convene and take certain action. *League V*, 2022-Ohio-1727, ¶ 5. That is consistent with this Court’s previous opinion, which held that the Commission is the only necessary party in this

matter. *League I*, Slip Opinion No. 2022-Ohio-65, at ¶ 61. Accordingly, neither Respondent McColley nor LaRe failed to comply with any order directed to them.

Furthermore, as previously set forth in prior responses, the actions of the members of the Commission when convened are legislative and thus subject to legislative immunity. *See Wilson v. Kasich*, 134 Ohio St. 3d 221, 228, 2012-Ohio-5367, 915 N.E.2d 814, ¶ 20. Contempt sanctions are inappropriate against Commission members when performing their official duties. Assuming arguendo that the Court has broader authority than Article XI, Section 9 grants, which it does not, the Court cannot hold individual Commission members in contempt.

### **III. The 2022 election calendar made it impossible for the Commission to comply with the Court's May 25 Order.**

Petitioners ask the Court to order Respondents to show cause for failing to carry out an impossible task. Assuming arguendo that the Court has broader authority than Article XI, Section 9 grants, the 2022 election calendar made it impossible for the Commission to comply with the Court's May 25 Order.

Ohio courts cannot hold a party in contempt where performance of an obligation ordered by the court would be impossible. *See State ex rel. DeWine v. Washington C.H.*, 2014-Ohio-3557, 18 N.E.3d 448, ¶ 29 (12th Dist. 2014) (citing *Gauthier v. Gauthier*, 12th Dist. Warren No. CA2011-05-048, 2012-Ohio-3046, 2012 WL 2524374, ¶ 33 (July 12, 2012) ("Impossibility of performance occurs when an unforeseen event arises that renders a party's performance of an obligation impossible. The performance of the obligation must have been rendered impossible without any fault of the party asserting the defense.")). And the performance Petitioners seek to compel through this Court's contempt power is indeed impossible.

The Ohio Constitution requires that primary elections be held for all state and local elective offices, including senators and representatives of Ohio's general assembly. Ohio Constitution,

Article V, Section 7. Carefully interrelated provisions of the Revised Code set the timeline for the many actions required to prepare for, conduct, and certify the results of Ohio's primary and general elections. While the Commission exercises legislative authority, it does not have legislative authority to eliminate these constitutional and statutory requirements, nor to change any impending election dates set by the Revised Code or a federal court's order. *See League IV*, Slip Opinion No. 2022-Ohio-1235, at ¶ 69. Secretary LaRose and the state's 88 county boards of elections are responsible for implementing and carrying out elections under any plan adopted by the Commission, and the Secretary explained in a statement submitted for the Commission's May 5, 2022 meeting why Map 3 is the only plan that can be implemented in time for an August 2, 2022 primary election date. *See Secretary LaRose's Statement to the Commission*<sup>7</sup>; *see also League IV*, at ¶¶ 151-55 (DeWine, J., dissenting). Impasse litigation in the Southern District of Ohio further vetted the need for implementation of Map 3 should the Court and the Commission remain at an impasse as of May 28, 2022. *Gonidakis*, 2022 WL 1175617, at \*23. The Court knew of this deadline when drafting and implementing its May 25 Order, *see League V*, at ¶ 2, but ordered an entirely new plan be submitted to the Court by noon on June 3, 2022. Therefore, Respondents were left to either (a) support the adoption of an entirely new map that the state's chief elections officer repeatedly testified could not be implemented in time, and therefore *violate* Article V, Section 7 of the Ohio Constitution by failing to hold a primary election; or (b) support Map 3 in order to conduct the latest primary date of August 2, 2022, and therefore *comply* with Article V,

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<sup>7</sup> Secretary LaRose's Statement is publicly available at <https://redistricting.ohio.gov/assets/organizations/redistricting-commission/events/commission-meeting-may-5-2022-316/statement-to-commission-by-secretary-larose-2022-5-05.pdf>. The Secretary's position was also supported by an April 18, 2022 Press Release of the Ohio Association of Elected Officials, publicly available at <https://redistricting.ohio.gov/assets/organizations/redistricting-commission/events/commission-meeting-may-5-2022-316/oaoe-election-officials-press-for-august-2-primary-2022-4-18.pdf>.

Section 7. Respondents were faced with an impossible choice that made exact compliance with the Court's April 25 Order impossible.

**IV. Respondents will continue to abide by the constitutionally mandated apportionment process and adopt a constitutionally compliant general assembly district plan for the 2024 election.**

Contrary to Petitioners' dramatic assertions, the Commission and its members have adhered to, and will continue to abide by, the rule of law. In response to this Court's orders, the Commission has enacted four separate general-assembly plans to be evaluated by the Court. The Commission even hired two independent map-drawers in an attempt to meet the Court's changing proportionality criteria. As set forth in Representative LaRe's June 3, 2022 letter, Respondents "fully intend for the Commission to reconvene and adopt a constitutionally compliant plan." A true and correct copy of Representative LaRe's June 3 letter and the email transmitting the same are attached hereto as **Exhibit A**. Senator McColley and Secretary LaRose sent separate correspondence of the same date joining in the commitment to reconvene the Commission to adopt a new general-assembly plan. True and correct copies of Senator McColley and Secretary LaRose's correspondence are attached hereto as **Exhibits B and C** respectively. That said, arbitrary deadlines in light of the mandated use of Map 3 in the 2022 election<sup>8</sup> are unwarranted under the limited grant of jurisdiction in Article XI as explained *supra* and would cause more harm than good.

Moreover, under Article XI, Section 5, state senate incumbents must represent largely the same population for their entire term, unless their term is to expire within two years of the date of enactment of a general assembly plan. As Map 3 must be used in the 2022 election, logistically, a

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<sup>8</sup> The named and founding partner of the law firm representing Petitioners admitted on June 6, 2022, that for Ohio's general assembly elections, "the lines that we have are the lines they're going to use for November." *Transcript: All in with Chris Hayes, 6/6/22*, at [20:35-19], MSNBC (June 6, 2022), <https://www.msnbc.com/transcripts/all-in/transcript-all-chris-hayes-6-6-22-n1296174>.

new general assembly plan's adherence to Section 5 will not be determinable until after the 2022 election cycle. Respondents will comply with their constitutional duty to ensure a constitutional plan is in place for the 2024 elections, including Section 5 and all other provisions of the Ohio Constitution.

### **CONCLUSION**

For the reasons stated above, Petitioners' Motions should be denied.

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Respectfully submitted this the 17th day of June, 2022.

/s/ Phillip J. Strach

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*\*Admitted Pro Hac Vice*

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I hereby certify that on this the 17th day of June, 2022, I have served the foregoing document by email:

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/s/Phillip J. Strach  
Phillip J. Strach

# **Exhibit A**

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## Blessing, Heather

---

**From:** Blessing, Heather  
**Sent:** Friday, June 03, 2022 9:13 AM  
**To:** Morrison, Christine; Disantis, Paul; Rowe, Mike; Boas, George; Stabler, Breanna; Stockman, Scott; Barron, John; Strigari, Frank; Matt Grodhaus; 'jmauk@ohiosos.gov'; 'Olivet, Chris'; Matt Donahue; 'Aaron.Crooks@governor.ohio.gov'; 'dan.tierney@governor.ohio.gov'; 'Michael.Hall@governor.ohio.gov'; Majikas, Maya; DiPalma, Andy; Cherry, Sarah; Spain, Mindy; Evans, Monica; Loganathan, Uma; 'eeredman@ohioauditor.gov'; 'stspalding@ohioauditor.gov'; Leak, Traevon; Sabo, Josh; Boehner, Sheila; Rothey, Kristin; Stockman, Scott; McColley, Robert; Sanderson, Jordan; LaRe, Jeff; Plottner, Jordan  
**Subject:** Letter from Co-Chair LaRe  
**Attachments:** 2022-06-03 Letter to Co-Chair Sykes.pdf

Dear Redistricting Commission Members:

Please find attached a letter from Co-Chair LaRe.

Sincerely,  
Heather Blessing

\*\*\*

Heather N. Blessing, Esq.  
Deputy Chief Legal Counsel, Office of the Speaker  
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**Representative Jeff LaRe**  
Ohio's 77<sup>th</sup> House District

June 3, 2022

Dear Co-Chair Sykes:

Thank you for your correspondence dated June 2, 2022. Respectfully, I decline the invitation to try and adopt a new general assembly district plan by a specified time and on a specified date.

Article XI of the Ohio Constitution undoubtedly empowers the Ohio Supreme Court with the exclusive jurisdiction to review a general assembly district plan. Consequently, the Court is clearly authorized to determine whether such a plan complies with the requirements of Article XI. On May 25, 2022, the Court did that when it concluded that the Redistricting Commission's general assembly district plan adopted on May 5, 2022 was incompatible with Article XI. Although I disagree with the majority's decision, I respect that outcome and fully intend for the Commission to reconvene and adopt a constitutionally compliant plan. However, doing so by an artificial date and time is not appropriate at this time for a number of reasons.

First, it is the Ohio Constitution, not the Court, which dictates when and how the Commission must respond to a plan that is invalidated by the Court. Specifically, Section 9(B) of Article XI tells us that the Commission "shall be reconstituted..., convene, and ascertain and determine a general assembly district plan in conformity with such provisions of this constitution as are then valid ..." Nowhere in the language of the Constitution does it place a time limit on the Commission to do that. Further, the Constitution does not empower the Court with the authority to tell the Commission when it must do that. There is sound reason for that; namely, the separations of powers inherent in our Constitution prevents such action.

Second, as you know, the federal court has imposed a map for the 2022 election. Accordingly, adopting yet another new plan immediately before an impending election will do nothing but continue to sow confusion among Ohioans. A primary election for General Assembly districts is now set to proceed on August 2, 2022 under defined district lines. It would be foolish for the Commission to take any further action that would disrupt that election, or the general election that is scheduled a mere 3 months later.

Finally, there are logistical problems with adopting a new plan at this time. For example, under Section 5 of Article XI, now that a map is in place for the 2022 elections, it is not possible to draw a new general assembly district plan until the results of the November elections are known.

As I said above, I respect the Court and its decision. I fully expect the Commission to adopt a constitutionally compliant general assembly district plan in advance of the 2024 elections.

Respectfully,

A handwritten signature in black ink, appearing to read "J LaRe", is written over the typed name.

Jeff LaRe  
Ohio's 77<sup>th</sup> House District

# **Exhibit B**

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## Blessing, Heather

---

**From:** McColley, Robert <Robert.McColley@ohiosenate.gov>  
**Sent:** Friday, June 03, 2022 9:51 AM  
**To:** Blessing, Heather  
**Cc:** Morrison, Christine; Disantis, Paul; Rowe, Mike; Boas, George; Stabler, Breanna; Stockman, Scott; Barron, John; Strigari, Frank; Matt Grodhaus; jmauk@ohiosos.gov; Oliveti, Chris; Matt Donahue; Aaron.Crooks@governor.ohio.gov; dan.tierney@governor.ohio.gov; Michael.Hall@governor.ohio.gov; Majikas, Maya; DiPalma, Andy; Cherry, Sarah; Spain, Mindy; Evans, Monica; Loganathan, Uma; eeredman@ohioauditor.gov; stspalding@ohioauditor.gov; Leak, Traevon; Sabo, Josh; Boehner, Sheila; Rothey, Kristin; Sanderson, Jordan; LaRe, Jeff; Plottner, Jordan  
**Subject:** Re: Letter from Co-Chair LaRe  
**Attachments:** 2022-06-03 Letter to Co-Chair Sykes.pdf

Co-Chair LaRe,

I fully agree with your assessment and plan for both reconvening the Redistricting Commission and adopting a constitutionally compliant general assembly plan.

Now is not the time to confuse Ohioans any more than they currently are. And since any plan that we adopt will not be effective until an election that is 2 years away, we should not rush to produce a plan under a highly constrained time frame.

Like you, I am committed to adopting a new general assembly district plan that meets all the requirements of the Ohio Constitution. I look forward to doing that under a timeframe that we can all agree upon.

Regards,

Rob McColley

Sent from my iPhone

On Jun 3, 2022, at 9:13 AM, Heather.Blessing@ohiohouse.gov wrote:

Dear Redistricting Commission Members:

Please find attached a letter from Co-Chair LaRe.

Sincerely,  
Heather Blessing

\*\*\*

Heather N. Blessing, Esq.  
Deputy Chief Legal Counsel, Office of the Speaker  
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# **Exhibit C**

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## Blessing, Heather

---

**From:** Oliveti, Chris <coliveti@OhioSOS.Gov>  
**Sent:** Friday, June 03, 2022 1:52 PM  
**To:** Blessing, Heather; Morrison, Christine; Disantis, Paul; Rowe, Mike; Boas, George; Stabler, Breanna; Stockman, Scott; Barron, John; Strigari, Frank; Matt Grodhaus; Mauk, Jason; Matt Donahue; 'Aaron.Crooks@governor.ohio.gov'; 'dan.tierney@governor.ohio.gov'; 'Michael.Hall@governor.ohio.gov'; Majikas, Maya; DiPalma, Andy; Cherry, Sarah; Spain, Mindy; Evans, Monica; Loganathan, Uma; 'eeredman@ohioauditor.gov'; 'stspalding@ohioauditor.gov'; Leak, Traevon; Sabo, Josh; Boehner, Sheila; Rothey, Kristin; Stockman, Scott; McColley, Robert; Sanderson, Jordan; LaRe, Jeff; Plottner, Jordan  
**Subject:** RE: [EXTERNAL] Letter from Co-Chair LaRe  
**Attachments:** Memo from Secretary LaRose 060322.pdf

Good Afternoon,

Please see the attached letter from Secretary LaRose.

Best,  
Chris



**Chris Oliveti | Director of Legislative Affairs**

Office of the Ohio Secretary of State

O: 614.728.7590

C: [REDACTED]

[OhioSoS.gov](mailto:coliveti@OhioSoS.gov)

This message and any response to it may constitute a public record and thus may be publicly available to anyone who requests it.

**From:** Heather.Blessing@ohiohouse.gov <Heather.Blessing@ohiohouse.gov>  
**Sent:** Friday, June 3, 2022 9:13 AM  
**To:** Christine.Morrison@ohiohouse.gov; Paul.Disantis@ohiohouse.gov; Mike.Rowe@ohiosenate.gov; George.Boas@ohiosenate.gov; Breanna.Stabler@ohiosenate.gov; Scott.Stockman@ohiosenate.gov; John.Barron@ohiosenate.gov; Frank.Strigari@ohiosenate.gov; Grodhaus, Michael <mgrodhaus@OhioSOS.Gov>; Mauk, Jason <jmauk@OhioSOS.Gov>; Oliveti, Chris <coliveti@OhioSOS.Gov>; matthew.donahue@governor.ohio.gov; 'Aaron.Crooks@governor.ohio.gov' <Aaron.Crooks@governor.ohio.gov>; 'dan.tierney@governor.ohio.gov' <dan.tierney@governor.ohio.gov>; 'Michael.Hall@governor.ohio.gov' <Michael.Hall@governor.ohio.gov>; Maya.Majikas@ohiohouse.gov; Andy.DiPalma@ohiohouse.gov; Sarah.Cherry@ohiohouse.gov; Mindy.Spain@ohiohouse.gov; Monica.Evans@ohiohouse1.gov; Uma.Loganathan@ohiohouse.gov; 'eeredman@ohioauditor.gov' <eeredman@ohioauditor.gov>; 'stspalding@ohioauditor.gov' <stspalding@ohioauditor.gov>; Traevon.Leak@ohiosenate.gov; Josh.Sabo@ohiohouse.gov; Sheila.Boehner@ohiohouse.gov; Kristin.Rothey@ohiosenate.gov; Scott.Stockman@ohiosenate.gov; Robert.McColley@ohiosenate.gov; Jordan.Sanderson@ohiohouse.gov; Jeff.LaRe@ohiohouse.gov; Jordan.Plottner@ohiohouse.gov  
**Subject:** [EXTERNAL] Letter from Co-Chair LaRe

\*\*\*\*Secretary of State Security Notice\*\*\*\*

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Dear Redistricting Commission Members:

Please find attached a letter from Co-Chair LaRe.

Sincerely,  
Heather Blessing

\*\*\*

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3 June 2022

Fellow Commission Members,

As I've stated repeatedly in recent months, I believe the Ohio Redistricting Commission has adopted five district plans (four legislative and one congressional) that meet the standards set forth by the citizens of our state in the Ohio Constitution.

While a slim majority of the justices on the Ohio Supreme Court hold a different view, their authority is limited to that disagreement. I concur with Co-Chair LaRe that the Constitution empowers the Court to invalidate a district plan, but it does not give the Court the authority to mandate a timeline for remediation. Nevertheless, the Commission has accommodated the Court's previous deadlines in the interest of reaching finality on district plans for use in the 2022 elections. Last week, a federal court order gave Ohio that finality only for this year's elections, clearly stating that the process of adopting a constitutional General Assembly district plan would need to be revisited for 2024 and beyond. Therefore, I concur with the co-chair's assessment that there is no immediate need to draw new districts that will not apply to this year's elections.

I acknowledge the Court's authority to review and, if necessary, invalidate a General Assembly district plan, and I recognize the need to reconvene the Ohio Redistricting Commission for the purpose of adopting a new plan for use in future statewide elections. The timeline for doing so will be established by the Commission, according to the co-equal authority granted to it by the Ohio Constitution.

Yours in service,

A handwritten signature in blue ink, reading "Frank LaRose", is written over a faint, diagonal watermark that says "RETRIEVED FROM DEMOCRACYDOCS.COM".

Frank LaRose  
Ohio Secretary of State