

IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*, :
 :
 Petitioners, : **Case No. 2021-1193**
 :
 : **Original Action Filed Pursuant to**
 v. : **Ohio Constitution, Article XI, Section 9(A)**
 :
 :
 Ohio Redistricting Commission, *et al.*, : **[Apportionment Case Pursuant to S. Ct.**
 : **Prac. R. 14.03]**
 Respondents. :

Bria Bennett, *et al.*, :
 :
 Petitioners, : **Case No. 2021-1198**
 :
 : **Original Action Filed Pursuant to**
 v. : **Ohio Constitution, Article XI, Section 9(A)**
 :
 :
 Ohio Redistricting Commission, *et al.*, : **[Apportionment Case Pursuant to S. Ct.**
 : **Prac. R. 14.03]**
 Respondents. :

The Ohio Organizing Collaborative, *et al.*, :
 :
 Petitioners, : **Case No. 2021-1210**
 :
 : **Original Action Filed Pursuant to**
 v. : **Ohio Constitution, Article XI, Section 9(A)**
 :
 :
 Ohio Redistricting Commission, *et al.*, : **[Apportionment Case Pursuant to S. Ct.**
 : **Prac. R. 14.03]**
 Respondents. :

**RESPONSE OF RESPONDENTS SENATOR VERNON SYKES
AND HOUSE MINORITY LEADER C. ALLISON RUSSO
TO PETITIONERS' MOTIONS FILED JUNE 7 AND 8, 2022**

C. BENJAMIN COOPER (0093103)

Counsel of Record

CHARLES H. COOPER, JR. (0037295)

CHELSEA C. WEAVER (0096850)

Cooper & Elliott, LLC

305 West Nationwide Boulevard

Columbus, Ohio 43215

(614) 481-6000

(614) 481-6001 (fax)

benc@cooperelliott.com

chipc@cooperelliott.com

chelseaw@cooperelliott.com

Special Counsel for Respondents

Senator Vernon Sykes and

House Minority Leader C. Allison Russo

RETRIEVED FROM DEMOCRACYDOCKET.COM

FREDA J. LEVENSON (0045916)
ACLU of Ohio Foundation, Inc.
4506 Chester Avenue
Cleveland, OH 44103
Tel: (614) 586-1972 x125
flevenson@acluohio.org

DAVID J. CAREY (0088787)
ACLU of Ohio Foundation, Inc.
1108 City Park Avenue, Suite 203
Columbus, OH 43206
Tel: (614) 586-1972 x2004
dcarey@acluohio.org

ALORA THOMAS (PHV 22010)
JULIE A. EBENSTEIN (PHV 25423)
American Civil Liberties Union
125 Broad Street
New York, NY 10004
Tel: (212) 519-7866
athomas@aclu.org
jebenstein@aclu.org

ROBERT D. FRAM (PHV 25414)
DONALD BROWN (PHV 25480)
JOSHUA GONZÁLEZ (PHV 25424)
DAVID DENUYL (PHV 25452)
JULIANA GOLDROSEN (PHV 25193)
Covington & Burling LLP
Salesforce Tower
415 Mission Street, Suite 5400
San Francisco, CA 94105
Tel: (415) 591-6000
rfram@cov.com

ALEXANDER THOMAS (PHV 25462)
Covington & Burling LLP
850 W. Tenth Street, NW
Washington DC 20001
Tel: (202) 662-5968
athomson@cov.com

ANUPAM SHARMA (PHV 25418)
YALE FU (PHV 25419)
Covington & Burling LLP
3000 El Camino Real
5 Palo Alto Square, 10th Floor
Palo Alto, CA 94306
Tel: (650) 632-4716
asharma@cov.com
yfu@cov.com

Counsel for Petitioners
League of Women Voters of Ohio, *et al.*

DONALD J. MCTIGUE (0022849)
DEREK S. CLINGER (0092075)
McTigue Colombo & Clinger LLC
545 East Town Street
Columbus, OH 43215
Tel: (614) 263-7000
dmctigue@electionlawgroup.com
dclinger@electionlawgroup.com

ABHA KHANNA (PHV 2189)
BEN STAFFORD (PHV 25433)
Elias Law Group
1700 Seventh Ave., Suite 2100
Seattle, WA 98101
Tel: (206) 656-0716
akhanna@elias.law
bstafford@elias.law

JYOTI JASRASARIA (PHV 25401)
SPENCER W. KLEIN (PHV 25432)
Elias Law Group
10 G Street NE, Suite 600
Washington, DC 20002
Tel: (202) 968-4490
jjasrasaria@elias.law
sklein@elias.law

Counsel for Petitioners
Bria Bennett, *et al.*

ALICIA L. BANNON (PHV 25409)
YURIJ RUDENSKY (PHV 25422)
HARRY BLACK (PHV 25544)
Brennan Center for Justice at NYU School
of Law
120 Broadway, Suite 1750
New York, NY 10271
Tel: (646) 292-8310
alicia.bannon@nyu.edu

PETER M. ELLIS (0070264)
M. PATRICK YINGLING (PHV 10145)
NATALIE R. SALAZAR
Reed Smith LLP
10 South Wacker Drive, 40th Floor
Chicago, IL 60606
Tel: (312) 207-1000
pellis@reedsmith.com

BRIAN A. SUTHERLAND (PHV 25406)
Reed Smith LLP
101 Second Street, Suite 1800
San Francisco, CA 94105
Tel: (415) 543-8700
bsutherland@reedsmith.com

BEN R. FLIEGEL (PHV 25411)
Reed Smith LLP
355 South Grand Avenue, Suite 2900
Los Angeles, CA 90071
Tel: (213) 457-8000
bfliegel@reedsmith.com

BRAD A. FUNARI (PHV 3139)
DANIELLE L. STEWART (0084086)
Reed Smith LLP
225 Fifth Avenue
Pittsburgh, PA 15222
Tel: (412) 288-4583
bfunari@reedsmith.com
dstewart@reedsmith.com

Counsel for Petitioners
The Ohio Organizing Collaborative, *et al.*

RETRIEVED FROM DEMOCRACYDOCKET.COM

JOHN W. ZEIGER (0010707)
MARION H. LITTLE, JR. (0042679)
CHRISTOPHER J. HOGAN (0079829)
Zeiger, Tigges & Little LLP
3500 Huntington Center
41 South High Street
Columbus, Ohio 43215
Tel: (614) 365-9900
zeiger@litoio.com
little@litoio.com
hogan@litoio.com

**Counsel for Respondent
Governor Mike DeWine**

JONATHAN D. BLANTON (0070035)
JULIE M. PFEIFFER (0069762)
MICHAEL A. WALTON (0092201)
Ohio Attorney General
30 E. Broad Street, 16th Floor
Columbus, OH 43215
Tel: (614) 466-2872
jonathan.blanton@ohioago.gov
julie.pfeiffer@ohioago.gov
michael.walton@ohioago.gov

**Counsel for Respondents
Secretary of State Frank LaRose and
Auditor Keith Faber**

ERIK J. CLARK (0078732)
ASHLEY MERINO (0096853)
Organ Law LLP
1330 Dublin Road
Columbus, OH 43215
Tel: (614) 481-0900
ejclark@organlegal.com
amerino@organlegal.com

**Counsel for Respondent
Ohio Redistricting Commission**

W. STUART DORNETTE (0002955)
BETH A. BRYAN (0082076)
PHILIP D. WILLIAMSON (0097174)
Taft Stettinius & Hollister LLP
425 Walnut St., Suite 1800
Cincinnati, OH 45202
Tel: (513) 381-2838
dornette@taftlaw.com
bryan@taftlaw.com
pwilliamson@taftlaw.com

PHILLIP J. STRACH (PHV 25444)
THOMAS A. FARR (PHV 25461)
JOHN E. BRANCH, III (PHV 25460)
ALYSSA M. RIGGINS (PHV 25441)
GREG MCGUIRE (PHV 25483)
Nelson Mullins Riley & Scarborough LLP
4140 Parklake Ave., Suite 200
Raleigh, NC 27612
Tel: (919) 329-3812
phil.strach@nelsonmullins.com
tom.farr@nelsonmullins.com
john.branch@nelsonmullins.com
alyssa.riggins@nelsonmullins.com
greg.mcguire@nelsonmullins.com

**Counsel for Respondents
Senate President Matt Huffman and
House Speaker Robert Cupp**

**RESPONSE OF RESPONDENTS SENATOR VERNON SYKES AND
HOUSE MINORITY LEADER C. ALLISON RUSSO
TO PETITIONERS' MOTIONS FILED JUNE 7 AND 8, 2022**

Senator Sykes and Leader Russo believe the Court understands well what the Republican Commissioners have done, what their intentions appear to be, and what the stakes are. In a less contentious time, in a more common case, the remedy for flat out ignoring a court order would seem to be simple.

The Democratic Commissioners agree with the Petitioners' arguments and requests. *See* Bennett Petitioners' Mot. to Enforce (June 7, 2022) 1–4; League of Women Voters of Ohio Petitioners' Mot. for Order (June 8, 2022) 1–5; Ohio Organizing Collaborative Petitioners' Joinder and Mot. (June 8, 2022) 1–2. The Republican Commissioners should be ordered to show cause at a hearing as to why they did not comply with the Court's May 25 order. Ultimately, they will not be able to justify their utter refusal to comply, as shown in the attached affidavit of Leader Russo. *See* Russo Aff. (June 16, 2022) ¶¶ 8–18.

Senator Sykes and Leader Russo respectfully ask this Court to impose a line that the Republican Commissioners cannot cross. Without consequences for breaking the law, the majority Commissioners will not stop and will not give up their supermajority power. They will continue to “do what they want.” *See League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-1727, ¶ 13 (May 25, 2022) (O'Connor, C.J., concurring).

Respectfully submitted,

/s/ C. Benjamin Cooper

C. Benjamin Cooper (0093103)

Counsel of Record

Charles H. Cooper, Jr. (0037295)

Chelsea C. Weaver (0096850)

Cooper & Elliott, LLC

305 West Nationwide Boulevard

Columbus, Ohio 43215

(614) 481-6000

(614) 481-6001 (fax)

benc@cooperelliott.com

chipc@cooperelliott.com

chelseaw@cooperelliott.com

*Special Counsel for Respondents Senator Vernon
Sykes and House Minority Leader Allison Russo*

CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2022, the foregoing *Response of Respondents Senator Vernon Sykes and House Minority Leader C. Allison Russo to Petitioners' Motions filed June 7 and 8, 2022* was filed electronically and sent via email to the following counsel of record:

FREDA J. LEVENSON, flevenson@acluohio.org
DAVID J. CAREY, dcarey@acluohio.org
ALORA THOMAS, athomas@aclu.org
JULIE A. EBENSTEIN, jebenstein@aclu.org
ROBERT D. FRAM, rfram@cov.com
ALEXANDER THOMAS, athomson@cov.com
YALE FU, yfu@cov.com
ANUPAM SHARMA, asharma@cov.com

Counsel for Petitioners
League of Women Voters of Ohio, et al.

DONALD J. MCTIGUE, dmctigue@electionlawgroup.com
DEREK S. CLINGER, dclinger@electionlawgroup.com
ABHA KHANNA, akhanna@elias.law
WILLIAM B. STAFFORD, bstafford@elias.law
ARIA C. BRANCH, abbranch@elias.law
JYOTI JASRASARIA, jjasrasaria@elias.law
SPENCER W. KLEIN, sklein@elias.law

Counsel for Petitioners
Bria Bennett, et al.

ALICIA L. BANNON, alicia.bannon@nyu.edu
PETER M. ELLIS, pellis@reedsmith.com
M. PATRICK YINGLING, mpyingling@reedsmith.com
BEN R. FLIEGEL, bfliegel@reedsmith.com
BRAD A. FUNARI, bfunari@reedsmith.com
DANIELLE L. STEWART, dstewart@reedsmith.com
BRIAN A. SUTHERLAND, bsutherland@reedsmith.com

Counsel for Petitioners
The Ohio Organizing Collaborative, et al.

ERIK J. CLARK, ejclark@organlegal.com
ASHLEY MERINO, amerino@organlegal.com

**Counsel for Respondent
Ohio Redistricting Commission**

JOHN W. ZEIGER, zeiger@litohio.com
MARION H. LITTLE, JR., little@litohio.com
CHRISTOPHER J. HOGAN, hogan@litohio.com

**Counsel for Respondent
Governor Mike DeWine**

JONATHAN D. BLANTON, jonathan.blanton@ohioago.gov
JULIE M. PFEIFFER, julie.pfeiffer@ohioago.gov
MICHAEL A. WALTON, michael.walton@ohioago.gov

**Counsel for Respondents
Secretary of State Frank LaRose and Auditor Keith Faber**

W. STUART DORNETTE, dornette@taftlaw.com
BETH A. BRYAN, bryan@taftlaw.com
PHILIP D. WILLIAMSON, pwilliamson@taftlaw.com
PHILLIP J. STRACH, phil.strach@nelsonmullins.com
THOMAS A. FARR, tom.farr@nelsonmullins.com
JOHN E. BRANCH, III, john.branch@nelsonmullins.com
ALYSSA M. RIGGINS, alyssa.riggins@nelsonmullins.com
GREG MCGUIRE, greg.mcguire@nelsonmullins.com

**Counsel for Respondents
Senate President Matt Huffman and House Speaker Robert Cupp**

/s/ C. Benjamin Cooper
C. Benjamin Cooper

AFFIDAVIT OF C. ALLISON RUSSO

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 Respondents. :

AFFIDAVIT OF RESPONDENT C. ALLISON RUSSO

State of Ohio
County of Franklin, SS:

I, C. Allison Russo, hereby submit the following affidavit and state under oath and penalty of perjury as follows:

Introductory Information

1. I have personal knowledge of all the information below.
2. I am a member of the Ohio House of Representatives, representing District 24. I assumed office on January 1, 2019. On January 12, 2022, the Ohio House Democratic Caucus elected me as the Ohio House Minority Leader. I was sworn in as Minority Leader during the House's session on January 26, 2022.
3. I serve as a Commissioner on the Ohio Redistricting Commission ("Commission"). I am the only woman on the Commission. I serve as a representative from the Democratic Party, along with Co-Chair Senator Vernon Sykes (together, the "Democratic Commissioners"). The remaining five Commissioners are Republicans (together, the "Republican Commissioners").
4. I also serve as Co-Chair of the Legislative Task Force on Redistricting. Senator Rob McColley serves as the Republican Co-Chair. That Task Force is responsible for, among other things, allocating funding to support the state's redistricting work.
5. I was sued in the above-captioned case and am a named Respondent. The Ohio Supreme Court, however, has recognized that my interests align more with the Petitioners than that of the Commission or the Republican Commissioners. Slip Opinion No. 2022-Ohio-65, ¶ 66. I have urged the Supreme Court to invalidate the Commission's previous General Assembly maps because they violated Section 6, Article XI of the Ohio Constitution.
6. In its most recent opinion, on May 25, 2022, this Court again directed the Commission to convene and adopt an entirely new plan that satisfies the Ohio Constitution, and to

submit the plan by June 3, 2022. As described below, the Republican Commissioners refused to meet or even acknowledge this Court's orders. I submit this affidavit in response to Petitioners' June 7 and June 8, 2022 motions, seeking relief from this Court in light of the Republican Commissioners' utter abandonment of their constitutional duties.

7. In addition to this affidavit, I have filed five affidavits in this case previously, each demonstrating my efforts to comply with the Ohio Constitution and this Court's orders. I incorporate those by reference. *See* May 11, 2022 Affidavit of C. Allison Russo; April 3, 2022 Affidavit of C. Allison Russo; March 2, 2022 Affidavit of C. Allison Russo; February 23, 2022 Affidavit of C. Allison Russo; January 28, 2022 Affidavit of C. Allison Russo.

8. We are here for a sixth time because the Republican Commissioners have, yet again, failed to comply with this Court's clear orders. And most recently, they have done so with blatant disregard for this Court's authority and the rule of law, ignoring a clear order from our state's highest court. Astonishingly, they acted as if this Court's May 25 order did not exist. As a result of the Republican Commissioners' disrespect for this Court's authority and the will of Ohio voters, this Court's June 3 deadline came and went without a single Commission meeting taking place or a single plan submitted.

9. As a single minority commissioner, I do not have the power to coerce the Commission to follow this Court's orders. Still, I worked diligently to fulfill my constitutional duties and to follow this Court's orders. I tried to get my Republican colleagues to do the same, but to no avail.

10. Earlier in this process, the Commission had nearly passed a compliant plan: the independent mapmakers' plan. All that was left was to fix a few technical errors to that plan. In my opinion, the Republican Commissioners wanted to avoid the risk of actually adopting a plan

that reflects the voter preferences of this state, so they simply ignored this Court's directives. Their absolute refusal to work with Co-Chair Sen. Sykes and me, or even agree to call a meeting, blocked the Commission from following the Court's orders and satisfying our constitutional duties to create fair maps for Ohio voters.

11. **Wednesday, May 25, 2022.** As urged by the Democratic Commissioners, this Court struck down the Republican Commissioners' efforts to simply readopt a previous map that this Court had already found unconstitutional. Specifically, the Court invalidated the Commission's Readopted Third Plan (declared unconstitutional in *League III* but readopted on May 5, 2022) and ordered the Commission to reconvene and draft and adopt an entirely new General Assembly-district plan that meets the requirements of the Ohio Constitution by June 3. *League of Women Voters of Ohio v. Ohio Redistricting Commission*, 2022-Ohio-1725, ¶ 5 ("*League V*"). Expecting the Republican Commissioners to resort to their ongoing tactics of delay in order to claim there was not sufficient time to adopt a new map, I immediately made a plan with Senator Sykes. On May 25, 2022, Senator Sykes and I agreed that Senator Sykes would call and write to Co-Chair LaRe to urge him to schedule a Commission meeting as soon as possible.

12. **Tuesday, May 31, 2022.** On May 31, my staff confirmed with Sen. Sykes' office that Co-Chair LaRe had not responded to Sen. Sykes' calls or his May 26 letter requesting to schedule Commission meetings. Together, Sen. Sykes and I sent Co-Chair LaRe a second letter asking to reconvene the Commission, emphasizing the June 3 deadline, and setting forth a list of action items, including scheduling meetings and coordinating with the independent mapmakers to finalize the maps. We reiterated that there was still enough time to abide the Court's order. We went a step further and, in the interest of compromise, proposed that the Commission start from Auditor Faber's version of the independent mapmakers' maps and proposed a schedule to finish

that map on time. I heard nothing from Co-Chair LaRe or any Republican Commissioner in response to this letter. A true and correct copy of our May 31, 2022 letter to Co-Chair LaRe is attached as Exhibit A.

13. **Thursday, June 2, 2022.** Regrettably, Senator Sykes informed me on June 2, 2022, that he had still not received a response from Co-Chair LaRe to his multiple requests to schedule a Commission meeting. Senator Sykes and I drafted another letter to Co-Chair LaRe expressing our deep disappointment in the Republican Commissioners intentionally letting down the people of Ohio and abandoning their duties under the Ohio Constitution. A true and correct copy of this June 2, 2022 letter to Co-Chair LaRe is attached as Exhibit B.

14. **Friday, June 3, 2022.** This Court's 9:00 a.m. June 3 deadline came and went. Thirteen minutes after the deadline, my staff received a copy of a letter from Co-Chair LaRe to Senator Sykes. In his letter, Co-Chair LaRe recognized this Court's authority to determine the constitutionality of a plan adopted by the Commission. Yet he also wrote that this Court has no authority to place a time limit on the Commission to convene and adopt a compliant general assembly district plan. This position makes no sense. Without the authority to set deadlines for the Commission to follow this Court's own orders, how can this Court's opinion on the constitutionality of a plan have any real meaning or practical effect? A true and correct copy of Co-Chair LaRe's June 3, 2022 letter is attached as Exhibit C.

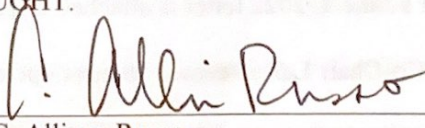
15. Co-Chair LaRe seemed to have spoken for the other Republican Commissioners, because shortly after LaRe's June 3 letter, Senator McColley sent an email, copying my staff, that echoed Co-Chair LaRe's statements. A true and correct copy of Senator McColley's email is attached as Exhibit D.

16. Also on June 3, Secretary LaRose sent a letter. He too expressed support for his colleagues' argument that this Court has no power to set deadlines for the Commission. Secretary LaRose then brazenly criticized this Court's opinions rejecting the last five district plans. But the Republican Commissioners' disagreement with this Court's opinions does not mean they can ignore the law. A true and correct copy of Secretary LaRose's letter is attached as Exhibit E.

17. To my knowledge, neither Governor DeWine nor Auditor Faber responded to these communications or otherwise expressed their opinions regarding their constitutional duties. Neither Governor DeWine nor Auditor Faber called for the Commission to meet following the Court's May 25 order.

18. This is now the sixth time the Republican Commissioners have placed partisan politics over their duty to Ohio voters and the rule of law. The Commission has a job to do. The Republican Commissioners are doing everything in their power to prevent the Commission from doing that job. So far, their efforts have worked. That has been made clear as their actions over the last months have grown increasingly lawless. I respectfully urge this Court to hold the Republican Commissioners accountable and send the message that what they have done and continue to do is unacceptable and a betrayal to the authority of this Court, the Ohio Constitution, and the people of Ohio. I thus strongly urge this Court to grant the Petitioners' motions.

FURTHER AFFIANT SAYETH NAUGHT.


C. Allison Russo

Sworn to before me and subscribed in my presence this 16th day of June 2022.



LAUREN HARRIS
Attorney At Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.

**Exhibit A
to Affidavit of
Respondent C. Allison Russo**

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May 31, 2022

The Honorable Jeff LaRe
District 77
Ohio House of Representatives
Columbus, Ohio 43215

Dear Co-Chair LaRe,

We write today to again call for the reconvening of the Ohio Redistricting Commission. The Supreme Court of Ohio has set a deadline of June 3, 2022 at 9:00 a.m. for us to draw constitutional state legislative maps. This necessitates that the Commission meet as soon as possible to fulfill our constitutional duty to the people of Ohio.

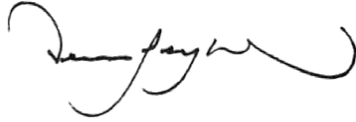
The Redistricting Commission has at least four items of business that need to be addressed: First, we must decide on meeting dates and times. Second, we should bring back the Independent Mapmakers so they may perform the final adjustments to their previous maps. These adjustments should not take longer than a few hours to complete. Third, we must live stream all mapmaking progress for the people of Ohio to witness in real time. Finally, we must come to an agreement on constitutional maps. We remain eager to get restarted on the path to constitutional maps.

In the interest of compromise, we could consider starting from Auditor Faber's version of the Independent Mapmakers' maps. Our respective map drawing staff members, who are often cited as experts by the majority party's commissioners, should begin work in public as soon as Wednesday, June 1. The Redistricting Commission can then meet twice on Thursday, June 2. A morning meeting can be used to review the progress made by staff and provide feedback and amendments on Auditor Faber's version of the Independent Mapmakers' map. An evening meeting can serve as a chance to review Commissioners' changes and to vote on a finalized map.

There is still time to adequately perform our constitutional and Supreme Court-ordered duty to draw constitutional maps by Friday, June 3.

We should not waste any more time in pursuing this process.

Sincerely,



Senator Vernon Sykes
Co-Chair, Ohio Redistricting Commission
Senate District 28



C. Allison Russo
Commissioner, Ohio Redistricting Commission
House Minority Leader
House District 24

CC: Members, Ohio Redistricting Commission

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Exhibit B
to Affidavit of
Respondent C. Allison Russo

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STATE SENATOR VERNON SYKES
28th District

June 2, 2022

The Honorable Jeff LaRe
District 77
Ohio House of Representatives
Columbus, Ohio 43215

Dear Co-Chair LaRe,

I write today to express my deep disappointment that the Redistricting Commission has failed in its charge to produce constitutional legislative district maps for the people of Ohio by the deadline imposed by the Ohio Supreme Court.

Leader Russo and I have been prepared to meet at any time since the latest Ohio Supreme Court ruling invalidated the latest set of unconstitutional maps. However, my inquiries – letters and calls – to schedule meetings and draw maps went unanswered. Unfortunately, the deadline for producing maps by tomorrow at 9:00 a.m. is now unachievable for the Commission.

The Redistricting Commission has violated an order from the Supreme Court of Ohio. More alarming is that the Commission continues to violate its constitutional imperative to produce legislative maps for Ohio.

Sincerely,

A handwritten signature in black ink, appearing to read "Vernon Sykes", with a stylized flourish at the end.

Senator Vernon Sykes
Co-Chair, Ohio Redistricting Commission
Senate District 28

CC: Members, Ohio Redistricting Commission

**Exhibit C
to Affidavit of
Respondent C. Allison Russo**

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Representative Jeff LaRe
Ohio's 77th 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 "JH LaRe", is written over a faint, diagonal watermark that says "RETRIEVED FROM DEMOCRACYDOCKET.COM".

Jeff LaRe
Ohio's 77th House District

**Exhibit D
to Affidavit of
Respondent C. Allison Russo**

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From: [McColley, Robert](#)
To: [Heather.Blessing@ohiohouse.gov](#)
Cc: [Christine.Morrison@ohiohouse.gov](#); [Paul.Disantis@ohiohouse.gov](#); [Rowe, Mike](#); [Boas, George](#); [Stabler, Breanna](#); [Stockman, Scott](#); [Barron, John](#); [Strigari, Frank](#); [mgroddhaus@ohiosos.gov](#); [jmauk@ohiosos.gov](#); [Oliveti, Chris](#); [matthew.donahue@governor.ohio.gov](#); [Aaron.Crooks@governor.ohio.gov](#); [dan.tierney@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](#); [stspalding@ohioauditor.gov](#); [Leak, Traevon](#); [Josh.Sabo@ohiohouse.gov](#); [Sheila.Boehner@ohiohouse.gov](#); [Rothey, Kristin](#); [Jordan.Sanderson@ohiohouse.gov](#); [Jeff.LaRe@ohiohouse.gov](#); [Jordan.Plottner@ohiohouse.gov](#)
Subject: Re: Letter from Co-Chair LaRe
Date: Friday, June 03, 2022 9:50:41 AM
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
Ohio House of Representatives
77 S. High Street Columbus,
14th Floor, Ohio 43215
Office: 614.466.9194
Mobile: 614.352.5819
[Heather.Blessing@ohiohouse.gov](#)

**Exhibit E
to Affidavit of
Respondent C. Allison Russo**

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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