
IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Carol Ann Carter, Monica Parrilla, : **CASES CONSOLIDATED**
Rebecca Poyourow, William Tung, :
Roseanne Milazzo, Burt Siegel, Susan :
Cassanelli, Lee Cassanelli, Lynn :
Wachman, Michael Guttman, Maya :
Fonkeu, Brady Hill, Mary Ellen :
Balchunis, Tom DeWall, Stephanie :
McNulty and Janet Temin, :
Petitioners :

v. : No. 464 M.D. 2021

Veronica Degraffenreid, in her official :
capacity as the Acting Secretary of the :
Commonwealth of Pennsylvania; :
Jessica Mathis, in her official capacity :
as Director for the Pennsylvania :
Bureau of Election Services and :
Notaries, :
Respondents :

Philip T. Gressman; Ron Y. Donagi; :
Kristopher R. Tapp; Pamela Gorkin; :
David P. Marsh; James L. :
Rosenberger; Amy Myers; Eugene :
Boman; Gary Gordon; Liz McMahan; :
Timothy G. Feeman; and Garth Isaak, :
Petitioners :

v. : No. 465 M.D. 2021

Veronica Degraffenreid, in her official :
capacity as the Acting Secretary of the :
Commonwealth of Pennsylvania; :
Jessica Mathis, in her official capacity :
as Director for the Pennsylvania :
:

Bureau of Election Services and :
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Respondents

CARTER PETITIONERS' RESPONSE TO THE APPLICATIONS TO INTERVENE FILED BY GUY RESCHENTHALER, JEFFREY VARNER, TOM MARINO, RYAN COSTELLO, AND BUD SHUSTER

Pursuant to this Court's scheduling order, the *Carter* Petitioners hereby oppose the application to intervene filed by Guy Reschenthaler, Jeffrey Varner, Tom Marino, Ryan Costello, and Bud Shuster ("Proposed Intervenors"). Proposed Intervenors, who include one current and three former United States Representatives and one voter from Pennsylvania's Tenth District, App. ¶¶ 11-15, seek to join the case as Petitioners alongside the *Carter* and *Gressman* Petitioners.

Proposed Intervenors' interests in protecting their districts' boundaries and their constituents' voting strength are not legally cognizable. Rather, they are exactly the kind of cursory interests Pennsylvania courts have declined to recognize for the purpose of intervention in redistricting litigation. *Albert v. 2001 Legislative Reapportionment Commission* is a case in point. 567 Pa. 670 (2002). In *Albert*, a malapportionment challenge to Pennsylvania's legislative districts, the Pennsylvania Supreme Court concluded that non-voting petitioners (in that case, Chairs of the Republican and Democratic Committees, Boards of Commissions, and Townships) did not have a direct interest in a redistricting challenge sufficient for standing. As the Court explained, the "subject matter of a reapportionment challenge" is "the right

to vote and the right to have one's vote counted," and thus, any non-voting entity or representative party lacked a direct interest in the outcome of the litigation. *Id.* at 678-79. This rule, moreover, was meant to vindicate the "personal and individual" voting rights at stake in the case. *See id.* at 679 (citing *Reynolds v. Sims*, 377 U.S. 533, 544-55, 561 (1964)). As in *Albert*, these Proposed Intervenors are not vindicating their personal and individual voting rights, but instead assert interests on behalf of their current and former constituents.

To the extent Proposed Intervenors (notably, Mr. Varner) assert interests as voters living in malapportioned districts themselves, they acknowledge that those interests are the same as those of the *Carter* and *Gressman* Petitioners, and they do not explain why the other parties and the Court do not adequately represent them. Under Rule 2329, a court may deny intervention if the party's interests are already adequately represented in the litigation, or if the intervention would "unduly delay, embarrass or prejudice the trial or the adjudication of the rights of the parties." Pa. R.C.P. 2329; *Wilson v. State Farm Mut. Auto. Ins. Co.*, 512 Pa. 486, 492, 517 A.2d 944, 947 (1986) (explaining, under Rules 2327 and 2329, "a mere prima facie basis for intervention is not enough . . ." and that Rule 2329 can otherwise preclude intervention to a party who has already shown a legally enforceable interest). Here, both are true. Proposed Intervenors' primary interest is in gaining access to the remedial map-drawing process. *See* App. ¶ 52. Because of the sheer number of

intervenors, each with particular policy agendas, the risk that intervention would “unduly delay, embarrass or prejudice the trial or the adjudication of the rights of the parties” is high. *See E. Am. Transp. & Warehousing, Inc. v. Evans Conger Broussard & McCrea, Inc.*, No. 2187, 2002 WL 1803718, at *4 (Pa. Ct. Com. Pl. July 31, 2002) (denying intervention under Rule 2329(3) where there were already many parties in the case and allowing intervention “would unnecessarily delay and complicate” the case); *see also Erfer*, 568 Pa. at 132 (Pennsylvania Supreme Court ordered Commonwealth Court to hear redistricting claims on an expedited basis and produce findings of fact and conclusions of law within two weeks of the Court’s order).

Because Proposed Intervenors do not allege any valid interest that is not already represented by others in this case, and admission will only serve to delay proceedings, this Court should deny Proposed Intervenors’ application.

Dated: January 4, 2022

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I caused the foregoing Response to be served upon the following parties and in the manner indicated below, which service satisfies the requirements of Pa. R.A.P. 121:

By first class mail:

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All counsel of record as set forth in the PACFile proof of service filed herewith

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Carol Ann Carter, Monica Parrilla, : 464 MD 2021
Rebecca Poyourow, William Tung, : 465 MD 2021
Roseanne Milazzo, Burt Siegel, :
Susan Cassanelli, Lee Cassanelli,
Lynn Wachman, Michael Guttman,
Maya Fonkeu, Brady Hill, Mary Ellen
Balchunis, Tom DeWall, Stephanie McNulty
and Janet Temin,
Petitioners

v.

Veronica Degraffenreid, in her official
capacity as the Acting Secretary of the
Commonwealth of Pennsylvania;
Jessica Mathis, in her official capacity
as Director for the Pennsylvania Bureau
of Election Services and Notaries,
Respondents

PROOF OF SERVICE

I hereby certify that this 4th day of January, 2022, I have served the attached document(s) to the persons on the date(s)
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Petitioner Eugene Boman
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Petitioner Garth Isaak
Petitioner Garth Isaak
Petitioner Gary Gordon
Petitioner Gary Gordon
Petitioner James L. Rosenberger
Petitioner James L. Rosenberger
Petitioner Kristopher R. Tapp
Petitioner Kristopher R. Tapp
Petitioner Liz McMahon
Petitioner Liz McMahon
Petitioner Pamela Gorkin
Petitioner Pamela Gorkin
Petitioner Philip T. Gressman
Petitioner Philip T. Gressman
Petitioner Ron Y. Donagi
Petitioner Ron Y. Donagi
Petitioner Timothy G. Feeman
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Petitioner James L. Rosenberger
Petitioner James L. Rosenberger
Petitioner Kristopher R. Tapp
Petitioner Kristopher R. Tapp
Petitioner Liz McMahon
Petitioner Liz McMahon
Petitioner Pamela Gorkin
Petitioner Pamela Gorkin
Petitioner Philip T. Gressman
Petitioner Philip T. Gressman
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Respondent Jessica Mathis
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Petitioner Gary Gordon
Petitioner James L. Rosenberger
Petitioner James L. Rosenberger
Petitioner Kristopher R. Tapp
Petitioner Kristopher R. Tapp
Petitioner Liz McMahon
Petitioner Liz McMahon
Petitioner Pamela Gorkin
Petitioner Pamela Gorkin
Petitioner Philip T. Gressman
Petitioner Philip T. Gressman
Petitioner Ron Y. Donagi
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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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Possible Intervenor Maryn Formley
Possible Intervenor Patrick Beaty
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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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Possible Intervenor Jay Costa
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Possible Intervenor Lindsey Williams
Possible Intervenor Lindsey Williams
Possible Intervenor Lisa Boscola
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Possible Intervenor Marty Flynn
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Possible Intervenor Nikil Saval
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Possible Intervenor Steve Santarsiero
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Possible Intervenor Vincent Hughes
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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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Possible Intervenor Jesse Stowell
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Possible Intervenor Joseph Amodei
Possible Intervenor Joseph Amodei
Possible Intervenor Kyle Hynes
Possible Intervenor Kyle Hynes
Possible Intervenor Michael Skros
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Possible Intervenor Mike Walsh
Possible Intervenor Mike Walsh
Possible Intervenor Myra Forrest
Possible Intervenor Myra Forrest
Possible Intervenor Priscilla McNulty
Possible Intervenor Priscilla McNulty
Possible Intervenor Rick Bryant
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Possible Intervenor Sandra Strauss
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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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Possible Intervenor Christine Tartaglione
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Possible Intervenor James Brewster
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Possible Intervenor Vincent Hughes
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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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Possible Intervenor Evan Smith
Possible Intervenor Evan Smith
Possible Intervenor James Foreman
Possible Intervenor James Foreman
Possible Intervenor James Thompson
Possible Intervenor James Thompson
Possible Intervenor James Vasilko
Possible Intervenor James Vasilko
Possible Intervenor Jay Hagerman
Possible Intervenor Jay Hagerman
Possible Intervenor Jeffrey Piccola
Possible Intervenor Jeffrey Piccola
Possible Intervenor Joseph Renwick
Possible Intervenor Joseph Renwick
Possible Intervenor Justin Behrens
Possible Intervenor Justin Behrens
Possible Intervenor Kenneth Lunsford
Possible Intervenor Kenneth Lunsford
Possible Intervenor Kim Geyer
Possible Intervenor Kristine Eng
Possible Intervenor Kristine Eng
Possible Intervenor Leslie Oshe
Possible Intervenor Leslie Oshe
Possible Intervenor Linda Daniels
Possible Intervenor Linda Daniels
Possible Intervenor Louis Capozzi
Possible Intervenor Louis Capozzi
Possible Intervenor Mary Owlett
Possible Intervenor Mary Owlett
Possible Intervenor Matthew Stuckey
Possible Intervenor Matthew Stuckey
Possible Intervenor Michael Slupe
Possible Intervenor Michael Slupe
Possible Intervenor Pamela Thompson
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Possible Intervenor Richard Rafferty

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

PROOF OF SERVICE

(Continued)

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Possible Intervenor Tammy Lunsford
Possible Intervenor Thomas Reed
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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

/s/ Edward David Rogers

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Petitioner Boman, Eugene
Petitioner Carter, Carol Ann
Petitioner Cassanelli, Lee
Petitioner Cassanelli, Susan
Petitioner DeWall, Tom
Petitioner Donagi, Ron Y.
Petitioner Feeman, Timothy G.
Petitioner Fonkeu, Maya
Petitioner Gordon, Gary
Petitioner Gorkin, Pamela
Petitioner Gressman, Philip J.
Petitioner Guttman, Michael
Petitioner Hill, Brady
Petitioner Isaak, Garth
Petitioner Marsh, David P.
Petitioner McMahon, Liz
Petitioner McNulty, Stephanie
Petitioner Milazzo, Roseanne
Petitioner Myers, Amy
Petitioner Parrilla, Monica
Petitioner Poyourow, Rebecca
Petitioner Rosenberger, James L.
Petitioner Siegel, Burt
Petitioner Tapp, Kristopher R.
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Petitioner Wachman, Lynn