

IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY

NEIL PARROTT, ET AL., *
Plaintiffs, *
v. * No. C-02-CV-21-001773
* (consolidated with lead case
LINDA LAMONE, ET AL., * No. C-02-CV-21-001816)
Defendants. *

* * * * *

DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES

ANSWER

Defendants hereby answer the Complaint against them by Plaintiffs Neil Parrott, et al., and state as follows:

INTRODUCTION¹

1. Denied.
2. Defendants admit that plaintiffs are individual registered voters but are without sufficient information to admit or deny the remainder of the sentence.
3. Denied.

JURISDICTION AND VENUE

4. States a legal conclusion to which no responsive pleading is required.

¹ The headings from the Complaint are reprinted herein for ease of reference. To the extent a response to these headings is required, the headings are denied.

5. States a legal conclusion to which no responsive pleading is required.

THE PARTIES

6. Admitted.

7. Defendants admit that the plaintiff is a citizen of Maryland who is registered to vote as a Republican but are without sufficient information to admit or deny the remainder of the sentence.

8. Defendants admit that the plaintiff is a citizen of Maryland who is registered to vote as a Republican but are without sufficient information to admit or deny the remainder of the sentence.

9. Defendants admit that the plaintiff is a citizen of Maryland who is registered to vote as a Republican but are without sufficient information to admit or deny the remainder of the sentence.

10. Defendants admit that the plaintiff is a citizen of Maryland who is registered to vote as a Republican but are without sufficient information to admit or deny the remainder of the sentence.

11. Defendants admit that the plaintiff is a citizen of Maryland who is registered to vote as a Republican but are without sufficient information to admit or deny the remainder of the sentence.

12. Defendants admit that the plaintiff is a citizen of Maryland who is registered to vote as a Republican but are without sufficient information to admit or deny the remainder of the sentence.

13. Defendants admit that the plaintiff is a citizen of Maryland who is registered to vote as a Republican but are without sufficient information to admit or deny the remainder of the sentence.

14. Defendants admit that the plaintiff is a citizen of Maryland who is registered to vote as a Republican but are without sufficient information to admit or deny the remainder of the paragraph.

15. Defendants admit that the plaintiff is a citizen of Maryland who is registered to vote as a Republican but are without sufficient information to admit or deny the remainder of the sentence.

16. Defendants admit that the plaintiff is a citizen of Maryland who is registered to vote as a Republican but are without sufficient information to admit or deny the remainder of the sentence.

17. Defendants admit that the plaintiff is a citizen of Maryland who is registered to vote as a Republican but are without sufficient information to admit or deny the remainder of the sentence.

18. Defendant Linda Lamone's office title is State Administrator of Elections. Md. Code Ann., Election Law § 2-103(a). Otherwise admitted.

19. The first sentence is admitted. As to the second sentence, the State Board of Elections manages and supervises elections in the State. Md. Code Ann., Election Law § 2-102(a). Otherwise the second sentence is denied.

20. Admitted.

FACTUAL ALLEGATIONS

A. “The Adoption of Maryland’s New Congressional District Plan”

21. The first two sentences are denied. As to the third sentence, the quoted phrase is taken out of context from a United States District Court decision that dismissed a challenge to the validity of Maryland’s 2011 congressional districting plan. Otherwise the sentence is denied. As to the fourth and fifth sentences, the quoted word and phrases are taken out of context from opinions in a United States District Court decision upholding the validity of Maryland’s 2011 congressional districting plan. Otherwise the fourth and fifth sentences are denied.

22. Defendants admit that the quoted phrases are taken out of context from the cited article expressing views of its author. Otherwise denied.

23. The paragraph consists of legal argument to which no responsive pleading is required. Otherwise denied.

24. Defendants admit that Governor Hogan issued the referenced executive order on August 6, 2015. Otherwise denied.

25. The first three sentences are admitted. As to the fourth and fifth sentences, the November 3, 2015 report issued by the Maryland Redistricting Reform Commission acknowledged that “[t]he Maryland General Assembly has the authority to redistrict congressional districts, but the state constitution and laws are silent on congressional redistricting.” Report at 7, available at <https://governor.maryland.gov/wp-content/uploads/2015/11/Final-Redistricting.pdf> (last visited March 10, 2022). The report further stated that “Maryland’s constitution and laws offer no criteria or guidelines for congressional redistricting,” and “[b]ecause the Maryland Constitution is silent on

congressional districting, challenges to a congressional-level district plan are unlikely to succeed at the Maryland Court of Appeals[.]” *Id.* at 8, 10. The report also included an appendix listing a number bills that had been introduced in the Maryland General Assembly proposing the adoption of provisions that would govern congressional redistricting, none of which have been enacted. *Id.* Appendix at 47-48. Otherwise defendants admit that the Commission’s recommendations included those referenced in the fourth and fifth sentences.

26. Defendants admit that Governor Hogan issued the referenced executive order on January 12, 2021 and that the composition of the Maryland Citizens Redistricting Commission was as described in the second sentence. Otherwise denied.

27. Admitted.

28. Defendants admit that the Maryland Citizens Redistricting Commission’s final recommended congressional redistricting map, as depicted in paragraph 28, was issued on November 5, 2021. Otherwise denied.

29. States legal conclusions to which no responsive pleading is required.

30. Denied.

31. Defendants are without sufficient information to admit or deny the allegations.

32. Admitted.

33. Defendants admit that on December 6, 2021 the Legislative Redistricting Advisory Commission voted to recommend its congressional redistricting plan to the General Assembly, which was introduced as House Bill 1. Otherwise denied.

34. Admitted.
35. Admitted.
36. Admitted.
37. Admitted.
38. Denied.

B. “Maryland’s Congressional District Plan is a Partisan Gerrymander.”

39. States a legal conclusion to which no responsive pleading is required.
40. States a legal conclusion to which no responsive pleading is required.
41. States a legal conclusion to which no responsive pleading is required.
42. States a legal conclusion to which no responsive pleading is required.
43. States a legal conclusion to which no responsive pleading is required.
44. Denied.
45. Defendants admit that under Maryland’s 2021 adopted congressional plan, portions of Anne Arundel County are in Districts 1, 2, and 4, and that District 1 includes population residing on the Eastern Shore and in Anne Arundel County. Otherwise denied.
46. Defendants admit that under Maryland’s 2021 adopted congressional plan, portions of Baltimore City are in Districts 2, 3, and 7.
47. Defendants admit that under Maryland’s 2021 adopted congressional plan, portions of Baltimore County are in Districts 2, 3, and 7.
48. Defendants admit that under Maryland’s 2021 adopted congressional plan, portions of Montgomery County are in Districts 3, 4, 6, and 8.
49. Denied.

50. Defendants are without sufficient information to admit or deny the allegations.

51. Denied.

52. Denied.

53. Denied.

54. Defendants admit that under Maryland's 2021 adopted congressional plan, District 8 includes population residing in Montgomery, Frederick, and Carroll Counties, but deny that all of the Frederick County and Carroll County portions of District 8 are either "more Republican" or "rural" as that term is understood by the United States Census Bureau. *See* <https://mtgis-portal.geo.census.gov/arcgis/apps/MapSeries/index.html?appid=49cd4bc9c8eb444ab51218c1d5001ef6> (last visited March 10, 2022).

55. As to the first sentence, defendants admit that under Maryland's 2021 adopted congressional plan, District 6 includes Garrett County and a portion of Montgomery County that includes Potomac. Defendants deny the sentence's implication that a congressional district need be socioeconomically or otherwise homogeneous. The second sentence states a legal conclusion to which no responsive pleading is required. As to the third and fourth sentences, the quoted phrases are taken out of context from a concurring opinion in a United States District Court decision upholding the validity of Maryland's 2011 congressional districting plan. Otherwise the third and fourth sentences are denied.

56. The first sentence is denied. As to the remainder of the paragraph, defendants admit the accuracy of the paragraph's description of the Polsby-Popper test methodology.

57. Denied.

58. Denied.

59. Denied.

60. Denied.

61. Denied.

62. Denied.

63. Denied.

64. Denied.

65. According to the Maryland Citizens' Redistricting Commission's final report, its proposed plan would have split seven counties. Report at 5, available at <https://redistricting.maryland.gov/Documents/Redistricting-Commission-After-Action-Report.pdf> (last visited March 10, 2022). Otherwise denied.

66. Defendants admit that under Maryland's 2021 adopted congressional plan, nine counties have population assigned to more than one congressional district. Otherwise denied.

67. Denied.

68. States a legal conclusion to which no responsive pleading is required.

69. States a legal conclusion to which no responsive pleading is required.

70. Denied.

71. Denied.

72. As to the first sentence, attempts to obtain pertinent information from the Princeton Gerrymandering Project website, <https://gerrymander.princeton.edu/> (last visited March 10, 2022) revealed no information on the estimate described in the sentence. Defendants therefore are without sufficient information to admit or deny the allegations in the first sentence. The second sentence is denied.

73. As to the first sentence, attempts to obtain pertinent information from the Princeton Gerrymandering Project website, <https://gerrymander.princeton.edu/> (last visited March 10, 2022) revealed no information on the estimate described in the sentence. Defendants therefore are without sufficient information to admit or deny the allegations in the first sentence. The second sentence is denied.

74. Defendants admit that, according to Maryland State Board of Elections' official report of the 2020 general election, Republicans cast just under 35% of the total votes cast for Maryland congressional candidates in all eight districts combined.

75. Denied.

76. Attempts to obtain pertinent information from the Princeton Gerrymandering Project website, <https://gerrymander.princeton.edu/> (last visited March 10, 2022) revealed no information on the "overall grade" referenced in the allegation. Defendants therefore are without sufficient information to admit or deny the allegation.

C. "Maryland's Gerrymandered Congressional District Plan Injures Plaintiffs."

77. Denied.

78. Denied.

- 79. Denied.
- 80. Denied.
- 81. Denied.
- 82. Denied.
- 83. Denied.
- 84. Denied.
- 85. Denied.

D. “Maryland’s Gerrymandered Congressional District Plan Violates Plaintiffs’ Rights Under Article 7 of the Maryland Declaration of Rights.”

- 86. Admitted.
- 87. States a legal conclusion to which no responsive pleading is required.
- 88. States a legal conclusion to which no responsive pleading is required.
- 89. States a legal conclusion to which no responsive pleading is required.
- 90. States a legal conclusion to which no responsive pleading is required.
- 91. Denied.

E. “Maryland’s Gerrymandered Congressional District Plan Violates Plaintiffs’ Rights Under Article III, Sec. 4 of the Maryland Constitution.”

To the extent it is considered an allegation or averment, heading E states a legal conclusion to which no responsive pleading is required, and if any response is necessary, heading E is denied.

- 92. Admitted.
- 93. States a legal conclusion to which no responsive pleading is required.

94. States a legal conclusion to which no responsive pleading is required.
95. States a legal conclusion to which no responsive pleading is required.
96. States a legal conclusion to which no responsive pleading is required.
97. States a legal conclusion to which no responsive pleading is required.
98. States a legal conclusion to which no responsive pleading is required.

FIRST CAUSE OF ACTION
(“Violation of Md. Dec. of R. Art. 7”)

99. Defendants incorporate by reference and reassert the responses to allegations 1 through 98 as set forth above.

100. States a legal conclusion to which no responsive pleading is required.
101. States a legal conclusion to which no responsive pleading is required.
102. States a legal conclusion to which no responsive pleading is required.
103. States a legal conclusion to which no responsive pleading is required.

SECOND CAUSE OF ACTION
(“Violation of Md. Const. Art III, § 4”)

104. States a legal conclusion to which no responsive pleading is required.
105. States a legal conclusion to which no responsive pleading is required.
106. States a legal conclusion to which no responsive pleading is required.
107. States a legal conclusion to which no responsive pleading is required.
108. States a legal conclusion to which no responsive pleading is required.

PRAYER FOR RELIEF

Defendants deny the plaintiffs are entitled to any of the requested relief.

AFFIRMATIVE DEFENSES

1. Maryland law contains no provision pertaining to congressional redistricting that could serve as a basis for relief in this case.
2. The allegations in the complaint fail to state a claim upon which relief can be granted.
3. To the extent the complaint constitutes a challenge to the validity of Maryland's 2011 congressional districting plan, plaintiffs' claims are foreclosed by the result of the 2012 referendum in which the People of Maryland overwhelmingly voted to approve the 2011 plan.
4. To the extent the complaint constitutes a challenge to the validity of Maryland's 2011 congressional districting plan, plaintiffs' claims were rendered moot by

the repeal of the 2011 plan and enactment of Maryland's 2021 congressional districting plan.

5. To the extent the complaint constitutes a challenge to the validity of Maryland's 2011 congressional districting plan, plaintiffs' claims are barred by laches.

6. Plaintiffs have not been injured by any of the alleged misconduct.

Respectfully submitted,

BRIAN E. FROSH
Attorney General of Maryland

/s/ Andrea W. Trento

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March 10, 2022

Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that, on this 10th day of March, 2022, the foregoing Answer and Affirmative Defenses was filed and served electronically by the MDEC system on all persons entitled to service:

/s/ Andrea W. Trento

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