

**IN THE CIRCUIT COURT  
FOR ANNE ARUNDEL COUNTY, MARYLAND**

**KATHRYN SZELIGA, *et al.***

*Plaintiffs,*

v.

**Case No. C-02-CV-21-001816**

**LINDA H. LAMONE, *et al.***

*Defendants.*

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**PLAINTIFFS' SUPPLEMENTAL MEMORANDUM**

Plaintiffs respectfully submit this supplemental memorandum to address two issues raised by the Court at the February 16, 2022 hearing on Defendants' motion to dismiss.

**I. STATUTES PROVIDED BY THE COURT**

Plaintiffs have not been able to locate additional information concerning the statutes the Court provided. It appears that all local and public laws passed in Maryland were repealed in 1860 when the General Assembly adopted the first Maryland Code. To the extent that these statutes bear on the issues in this case, they indicate that there is a long history in Maryland of tying the election of members of Congress to State constitutional requirements.

**II. STANDARDS GOVERNING PLAINTIFFS' CLAIM UNDER ARTICLE 7 OF THE DECLARATION OF RIGHTS**

During the February 16, 2022 hearing, the Court posed questions to the plaintiffs in the -1773 matter concerning the standards that should govern a partisan gerrymandering challenge under Article 7 of Maryland's Declaration of Rights. Plaintiffs in this matter submit the limited supplemental information below to provide the Court their views concerning: (1) the applicable standards governing their claim under Article 7; and (2) as the Court inquired of undersigned counsel, whether Plaintiffs must prove intent to establish a violation of Article 7.

The various criteria set forth in Article III, § 4 of the Maryland Constitution are proper criteria for the Court to use to evaluate Plaintiffs' claim under Article 7. Adjoining territory, compactness, equal population, and due regard for political subdivisions and natural boundaries are traditional redistricting criteria. *Shaw v. Reno*, 509 U.S. 630, 647 (1993); *Reynolds v. Sims*, 377 U.S. 533, 578-79 (1964). Indeed, the Court of Appeals has recognized that "[e]qual apportionment, contiguity and compactness have been referred to as the trinity of equitable representation." *In re Legislative Districting of State*, 299 Md. 658, 676 n.9 (1982). These traditional redistricting criteria, moreover, provide neutral legal standards for the Court to apply when evaluating a partisan gerrymandering claim under Article 7. *See League of Women Voters v. Commonwealth*, 178 A.3d 737, 814-18 (Pa. 2018) (adopting similar factors as the proper measure of a partisan gerrymandering claim under Pennsylvania's "free and equal" elections clause).

When these neutral criteria are subordinated to partisan politics in the creation of congressional districts, Article 7 has been violated. *See id.* at 817; *see also In re Legislative Districting of the State*, 370 Md. 312, 370 (2002). Plaintiffs do not believe they need to prove that the General Assembly intentionally subordinated traditional redistricting criteria to other considerations to prove a violation of Article 7. *League of Women Voters*, 178 A.3d at 817. Plaintiffs should only have to prove that traditional redistricting criteria were subordinated to other considerations. *Id.*; *see also In re Legislative Districting of the State*, 370 Md. at 370, 373.

Subordination of the traditional redistricting criteria listed in Article III, § 4, however, is not the only way to show a violation of Article 7. The Court of Appeals has broadly applied Article 7 in other contexts. *See Nader for President 2004 v. Md. State Bd. of Elections*, 399 Md. 681, 708 (2007); *Md. Green Party v. Md. Bd. of Elections*, 377 Md. 127, 150-51, 152-53 (2003).

Additionally, the North Carolina Supreme Court recently issued its opinion detailing how partisan gerrymandering violates North Carolina’s “free elections” clause. *See Harper v. Hall*, 2022-NCSC-17 (Feb. 14, 2022), slip op. ¶¶ 133- 141, *available at* <https://appellate.nccourts.org/opinion-filings/?c=sc>.<sup>1</sup> In that case, the court construed North Carolina’s “free elections” clause broadly and declined to adopt specific criteria or mathematical tests to establish an unlawful partisan gerrymander, leaving such tests to future development. *Id.* ¶¶ 140-141, 160-170, 180, 220-222. Thus, the Court could find that Article 7 is violated whenever Marylanders’ voting power is infringed upon, diminished, or diluted on a partisan basis without adopting bright-line rules for how such a violation can be proven. *See id.*

Respectfully submitted,

Dated: February 17, 2022

/s/ Strider L. Dickson  
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<sup>1</sup> Undersigned counsel did not find this opinion prior to the hearing on Defendants’ motion to dismiss and still is not able to locate it on the electronic legal research service available to him.

**CERTIFICATE OF SERVICE**

I certify that on February 17, 2022 the foregoing Plaintiffs' Supplemental Memorandum was filed and served via the Court's MDEC system. Counsel of record also was provided with a copy of the foregoing Memorandum via electronic mail.

/s/ Strider L. Dickson \_\_\_\_\_  
Strider L. Dickson

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