

No. ____ - ____

**In the
Supreme Court of the United States**

MICHAEL BANERIAN, MICHON BOMMARITO, PETER COLOVOS,
WILLIAM GORDON, JOSEPH GRAVES, BEAU LAFAVE, SARAH
PACIOREK, CAMERON PICKFORD, HARRY SAWICKI, MICHELLE
SMITH,

Applicants,

v.

JOCELYN BENSON, IN HER OFFICIAL CAPACITY AS THE
MICHIGAN SECRETARY OF STATE, et al.,

Respondents.

**APPLICATION FOR EXTENSION OF TIME TO FILE
A JURISDICTIONAL STATEMENT**

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TO THE HONORABLE Brett M. Kavanaugh, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE SIXTH CIRCUIT

Applicants,¹ Plaintiffs below, respectfully request that this Court grant an extension of time to file a jurisdictional statement, pursuant to Supreme Court Rules 18.3, 21, 22, and 30. Applicants request a thirty-day extension of time to and including Friday, July 28, 2022 in which to file a jurisdictional statement in the appeal from the denial of Applicants' requested preliminary injunction seeking to enjoin Michigan's newly enacted congressional districts. *See Banerian v. Benson*, No. 22-cv-00054 (W.D. Mich. April 1, 2022) (three-judge court) (attached as Exhibit A). Counsel for the Applicants has conferred with counsel for all respondents. Counsel does not object to the Applicants' request for an extension.

Applicants challenge Michigan's enacted congressional districts. After the 2020 Census, Michigan was apportioned 13 congressional districts. *See Ex. A* at 7. The ideal population for each district is 775,179. *Ex. A* at 3.² Applicants contend that the enacted congressional districts violate the constitutional requirement of achieving as nearly as is practicable population equality in each congressional district. *See Karcher v. Daggett*, 462 U.S. 725, 730 (1983). Michigan's congressional districts contained an overall population deviation of 0.14%, or 1,122 persons. *Ex. A*

¹ The Applicants are Michael Banerian, Michon Bommarito, Peter Colovos, William Gordon, Joseph Graves, Beau LaFave, Sarah Paciorek, Cameron Pickford, Harry Sawicki, and Michelle Smith.

² *See also* U.S. Census Bureau, Table 1. Apportionment Population And Number Of Representatives By State: 2020 Census (April 26, 2021), *available at* <https://www2.census.gov/programs-surveys/decennial/2020/data/apportionment/apportionment-2020-table01.pdf> (last visited June 10, 2022).

at 3. Of the congressional district plans adopted in the fifty states, Michigan's population deviation is the fourth largest.³ Because Plaintiffs' challenged Michigan's congressional maps as violating the U.S. Constitution, a three-judge court was convened. *See* 28 U.S.C. § 2284(a).

On April 1, 2022, however, the three-judge court ruled that the deviation contained in Michigan's congressional districts was "necessary to achieve" Michigan's state goal of maintaining communities of interest. Ex. A at 9. Accordingly, the three-judge court denied Applicants' motion for preliminary injunction.

On April 29, 2022, Applicants timely filed their notice of appeal identifying that Applicants were appealing the three-judge court's denial of Applicants requested injunction. Fed. R. App. P. 4(a)(1)(A) (notice of appeal attached as Exhibit B). Because a three-judge district court issued the order denying Applicants' requested preliminary injunction, this Court has jurisdiction under 28 U.S.C. § 1253.

Pursuant to Supreme Court Rule 18.3, Applicants' jurisdictional statement is due sixty days from April 29, 2022. The current deadline is therefore Tuesday, June 28, 2022. For good cause, "a Justice may extend the time to file a jurisdictional statement for a period not exceeding 60 days." Sup. Ct. R. 18.3.

Accordingly, Applicants' respectfully request an extension of thirty days to file their jurisdictional statement. Granting the request would move the deadline to Thursday, July 28, 2022.

Good cause exists to grant the extension.

³ Only Rhode Island (1,223 persons), West Virginia (1,582 persons), and Hawaii (2,481 persons) have higher population deviations. And each of these three states have only two congressional districts.

1. This case involves the right to vote and the weight of the persons vote. This Court has previously ruled that the right to vote is “a fundamental political right because[*it is*] preservative of all rights.” *Reynolds v. Sims*, 377 U.S. 533, 562 (1964); *see also Wesberry v. Sanders*, 376 U.S. 1, 17 (1964) (“No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live.”). The constitutional right to vote is violated when an individual’s vote is diluted. *Wesberry*, 376 U.S. at 17. Because this case involves the fundamental right to vote, good cause exists to grant the requested extension to afford Applicants’ counsel adequate time to address the constitutional rights at stake.
2. Additionally, due to other pressing litigation deadlines, an extension of time to file the jurisdictional statement is necessary. For example, among other cases, counsel to Applicants here also serves as counsel to Jeff Landry, the Attorney General for the State of Louisiana. On June 6, 2022, the district court entered its opinion and order in *Robinson v. Ardoin*, No. 22-CV-211, 2022 U.S. Dist. LEXIS 100975 (M.D. La. June 6, 2022) (a congressional redistricting case). Defendants, including undersigned counsel, appealed and filed an emergency application for a stay of the district court’s order, which was denied. *Robinson v. Ardoin*, No. 22-30333, slip op. (5th Cir. June 12, 2022). The U.S. Court of Appeals for the Fifth Circuit ordered expedited briefing and oral argument during the week of July 4, 2022. *See id.* at 2-3,

33. Undersigned counsel here is counsel in *Ardoin* and will need time to prepare briefs in that case and prepare for oral argument, and for the upcoming special legislative session and potential remedial proceedings before the district court.

3. Finally, on June 9, 2022, Applicants emailed counsel for Defendants and Defendant-Intervenors to seek their position on Applicants' requested relief. On the same day, Defendants and Defendant-Intervenors stated that they do not object to the relief requested in this Application.

CONCLUSION

Applicants respectfully request that this Court grant the requested extension and permit Applicants to file their jurisdictional statement on or before July 28, 2022.

Dated: June 14, 2022

Respectfully submitted,

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