

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL GONIDAKIS et al.,

Plaintiffs,

THE OHIO ORGANIZING
COLLABORATIVE, COUNCIL ON
AMERICAN-ISLAMIC RELATIONS,
OHIO, OHIO ENVIRONMENTAL
COUNCIL, SAMUEL GRESHAM JR.,
AHMAD ABOUKAR, MIKAYLA LEE,
PRENTISS HANEY, PIERRETTE
TALLEY, and CRYSTAL BRYANT,

Intervenor-Plaintiffs,

v.

FRANK LAROSE, in his official capacity,

Defendant.

Case No. 2:22-cv-00773

Circuit Judge Amul R. Thapar
Chief Judge Algenon L. Marbley
Judge Benjamin J. Beaton
Magistrate Judge Elizabeth Preston Deavers

ORAL ARGUMENT REQUESTED

INTERVENOR-PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

The Ohio Organizing Collaborative (“OOC”), Council on American-Islamic Relations, Ohio (“CAIR-Ohio”), Ohio Environmental Council (“OEC”), Samuel Gresham Jr., Ahmad Aboukar, Mikayla Lee, Prentiss Haney, Pierrette Talley, and Crystal Bryant (collectively, the “OCC Plaintiffs”) hereby move, pursuant to Fed. R. Civ. P. 65, in the event that there is no operative General Assembly district plan in effect on April 20, 2022, for a Preliminary Injunction ordering Defendant Frank Larose, in his official capacity as Secretary of State of Ohio, to implement the Revised Johnson/McDonald Plan submitted via the Declaration of Dr. Megan Gall with this motion for the 2022 General Assembly primary and general election. This Motion is accompanied by a Memorandum in Support that details the grounds for granting the requested relief.

Given the complexity of the factual and legal issues presented, OOC Plaintiffs request an evidentiary hearing and will file a separate motion with this Court in accordance with Local Rule 7.1(b)(1). Alternatively, they request oral argument to facilitate the fair resolution of this case.

Dated: April 6, 2022

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF MOTION FOR A PRELIMINARY INJUNCTION
BY INTERVENOR-PLAINTIFFS
THE OHIO ORGANIZING COLLABORATIVE, ET AL.**

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INTRODUCTION

In 2015, Ohioans voted overwhelmingly to amend the state constitution, including establishing partisan fairness and proportionality standards for the state's General Assembly plan. On March 28, 2022, the Ohio Redistricting Commission ("Commission") flouted these provisions for the fourth time this cycle, enacting a plan that plainly violates the state constitution and prior orders of the Ohio Supreme Court. The Ohio Supreme Court has retained jurisdiction in ongoing state court litigation, and the OOC Plaintiffs filed objections to the March 28 Plan (Exhibit A, OOC Objections and Request for Remedies) and sought other relief to compel compliance with the Ohio Constitution. (Exhibit B, OOC Joinder in Renewed Motion for Order to Show Cause).

If the Ohio Supreme Court invalidates the March 28 Plan and there are no operative maps on April 20, 2022, the OOC Plaintiffs seek a preliminary injunction ordering the implementation of a General Assembly plan for the 2022 primary and general election. This plan should comport with federal law and the Ohio Constitution, including its partisan fairness and proportionality provisions. *See White v. Weiser*, 412 U.S. 783, 795 (1973) ("a federal district court, in the context of legislative reapportionment, should follow the policies and preferences of the State, as expressed in . . . *constitutional* provisions . . . whenever adherence to state policy does not detract from the requirements of the Federal Constitution." (emphasis added)).

With this motion, the OOC Plaintiffs submit a modified version of a General Assembly plan that was jointly produced by two independent map-drawers hired by the Commission, one identified by each party (the "Revised Johnson/McDonald Plan", Exhibit C, Gall Declaration at ¶¶ 42-46). This revised plan corrects some minor technical issues in the plan originally produced by these map-drawers (the "Johnson/McDonald Plan") and complies with both federal and state law.

The OOC Plaintiffs request that this Court order the implementation of the Revised Johnson/McDonald Plan or any substantially similar plan.

To give due respect to federal law and the Ohio constitution, this Court should reject any calls for the implementation of the prior decade's plan ("2011 Plan"). Not only is the 2011 Plan malapportioned and no easier to implement for the 2022 election than the Revised Johnson/McDonald Plan, but it was drawn before the 2015 amendments and fails to comply with numerous provisions of Article XI of the Ohio Constitution. Nor should this Court order the use of any other plan that fails to materially comply with the Ohio Constitution. Finally, this Court should give full faith and credit to the Ohio Supreme Court's rulings and reject any request to order the use of a plan invalidated by the state high court.

BACKGROUND

I. Ohioans Amend their State Constitution to Prohibit Political Gerrymandering

In 2011, Ohio's General Assembly district plan was adopted by the then-operative "Ohio Apportionment Board" pursuant to a prior version of Article XI of the Ohio Constitution, which the Ohio Supreme Court ruled permitted the Board to favor or disfavor a political party during map-drawing. *See Wilson v. Kasich*, 134 Ohio St. 3d 221, 225, 981 N.E.2d 814, 820. In the wake of this decision, Ohioans sought *enforceable* rights against partisan gerrymandering. In 2014, the General Assembly adopted a joint resolution to propose amendments to Article XI, and Senate President Matthew Huffman and Senator Vernon Sykes formed Fair Districts for Ohio, an organization supporting the amendment. *See League of Women Voters of Ohio v. Ohio Redistricting Comm'n*, --N.E.3d--, 2022 WL 110261, at *10 (Ohio Jan. 12, 2022) ("*League I*"). The organization issued literature, including a flyer stating that the amendment would bring about the following reforms:

Fairness

- Protects against gerrymandering by prohibiting any district from primarily favoring one political party.
- Requires districts to closely follow the statewide preferences of the voters.

Accountable

- Creates a process for the Ohio Supreme court to order the commission to redraw the map if the plan favors one political party.

Id. In November 2015, Ohioans approved Issue 1 with more than 71 percent of the vote, *id.* at *1; *id.* at *4 (Brunner, J., concurring)—thereby rejected the redistricting regime that produced the 2011 plan.

Despite these significant changes, the 2021 process of enacting a General Assembly plan remained thoroughly partisan. Senate President Huffman and House Speaker Robert Cupp oversaw its creation, using their personal staffers to draw a plan. *Id.* at *6. These partisan staff were not instructed to comply with the new fairness criteria. *Id.* at *7. Ultimately, the Commission voted 5 to 2, along party lines, to adopt a slightly modified version of the Huffman/Cupp-orchestrated plan. *Id.* at *4. Notwithstanding the 2015 amendments, this plan would have produced much the same gerrymandered results as the 2011 Plan it replaced.

II. The Ohio Supreme Court Invalidates the Plan Because it Violates Section 6(A) and Section 6(B) of Article XI of the Ohio Constitution

Three separate petitioner groups—including the OOC Plaintiffs—filed suit in the Ohio Supreme Court against the Commission and its members. *League I*, at *5-6. On January 12, 2022, the court ruled that the plan violated Section 6 of Article XI. *See generally League I*. The court acknowledged that Section 6 “speaks not of desire but of direction: the commission *shall attempt* to achieve the standards of that section.” *Id.* at *17 (emphasis in original). “If it is possible for a district plan to comply with Section 6 and [the other map-drawing requirements in Article XI], the commission must adopt a plan that does so.” *Id.*

With respect to Section 6(B), which requires a plan that reflects the statewide voting preferences of Ohioans, the court stated that “there is no dispute that under this methodology, which looks at votes cast in statewide elections over the relevant period, about 54 percent of Ohio voters preferred Republican candidates and about 46 percent of Ohio voters preferred Democratic candidates.” *Id.* at *22. According to the court, “the commission did not attempt to comply with the standard set forth in that section” and “even if Senate President Huffman and House Speaker Cupp had had the right target in mind, the evidence shows that they never asked the principal map drawers . . . to try to comply with Section 6.” *Id.* at *23.

With respect to Section 6(A), which prohibits drawing a plan primarily to favor or disfavor a political party, the court recognized that “[a] map-drawing *process* may support an inference of predominant partisan intent[.]” *League I*, at *24 (emphasis added), and that “[t]he evidence here demonstrates that Senate President Huffman and House Speaker Cupp controlled the process of drawing the maps that the commission ultimately adopted.” *Id.* The one-sided partisan process led to one-sided partisan results. Under the plan, “if Republican candidates won 54 percent of the statewide vote under the adopted plan, they would win 64 House seats (a supermajority)” and “with the same statewide vote-share percentage, Democratic candidates would not win even a bare majority of the House seats under the adopted plan.” *Id.* at *25. For the Senate, “the Republican candidates would win an average of 17 percent more seats than Democratic candidates for the same vote share.” *Id.*

The Ohio Supreme Court concluded by stating that, “because the election cycle *should not proceed with a General Assembly-district map that we have declared invalid*, it is appropriate to issue further remedial orders in an effort to have the redistricting commission adopt a plan that complies with Article XI in time for the plan to be effective for the 2022 election cycle[.]” *Id.* at

*28 (emphasis added). With that, it ordered the Commission to adopt a constitutional plan and retained jurisdiction to ensure that happened. *Id.* at *29.

III. The Ohio Supreme Court Invalidates Two Revised Plans Because They Violated Section 6(A) and Section 6(B) of Article XI of the Ohio Constitution

The three remedial processes and three revised plans that followed failed to comply with the Ohio Constitution and the Ohio Supreme Court’s clear instructions. Time and again, the Ohio Supreme Court found that the Commission’s work violated Section 6(A) and Section 6(B) of Article XI of the Ohio Constitution. Each plan made minor adjustments to the heavily-partisan original plan and maximized Republican advantage by creating a large number of toss-up districts for Democrats and safe districts outside the competitive range for Republicans.

During the first redraw, Republican commissioners instructed their staffers to use the “base map”—*i.e.*, the invalidated plan—as a “starting point.” *League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, 2022 WL 354619, at *4 (Ohio Feb. 7, 2022) (“*League II*”). In its *League II* opinion, the court characterized this approach as “an intent to preserve as much partisan favoritism as could be salvaged.” *Id.* at *8. The large number of nominally Democratic districts that were toss-ups and lack of Republican equivalents provided further proof of intent. *Id.* The court also emphasized that it did “not read Article XI, Section 6(B) as prohibiting the creation of competitive districts,” but that toss-up districts “must either be excluded from the proportionality assessment or be allocated to each party in close proportion to its statewide vote share.” *Id.* at *13. It gave the Commission ten days to generate a new plan. *Id.* at *14.

The Commission waited eight days after the court’s ruling to convene for the second redraw. *See League of Women Voters of Ohio v. State Redistricting Comm’n*, 2022 WL 803033, at *2 (Ohio March 16, 2022) (“*League III*”). At that meeting, a Democratic plan was rejected on a party-line vote. *Id.* at *2-3. Rather than adopting an alternative, the Commission adjourned and

declared impasse on February 18. *Id.* at *3. That same morning, the Gonidakis Plaintiffs filed this action. ECF 1. The Ohio Supreme Court ordered the Commissioners to appear to show-cause as to why they should not be held in contempt. *League III* at *4. Following this order, the Commission convened and passed the third plan (February 24 Plan), which, like its predecessors, was drafted with only Republican input. *Id.*

Substantively, this plan differed little from the first redraw; procedurally, its development was even worse. The Ohio Supreme Court declared it to be unlawful. *See generally League III*. Notably, the court found that the Commission’s “concern for protecting incumbents is not grounded in Article XI” and it clarified that Article XI was adopted to address the “extreme disproportionality” that the 2011 Plan facilitated. *Id.* at *9.

To avoid yet another partisan plan, the court provided procedural guidance, instructing the Commission to “retain an independent map drawer—who answers to all commission members, not only to the Republican legislative leaders—to draft a plan through a transparent process” and emphasizing that “the drafting should occur in public and the commissioners should convene frequent meetings to demonstrate their bipartisan efforts to reach a constitutional plan within the time set by this court.” *Id.* at *7, *11. Once again, the Commission had 10 days to produce compliant maps – with explicit direction from the court that the “commission” collectively draft a plan and that it be “entirely new.” *Id.* at *11. Once again, the Commission failed.

IV. The Commission Undermines Independent Map Drawers and Re-adopts the Invalidated Third Plan with Cosmetic Changes

For the third redraw, the Commission retained two outside consultants: Dr. Douglas Johnson from the National Demographics Corporation and Dr. Michael McDonald from the University of Florida. (Exhibit D, 3/23/22 Hrg Tr. at 00:53-04:55). By March 26, each independent map drawer had a House map to present. (Exhibit E, 03/26/22 Hrg Tr.). Both maps achieved

proportionality—54 Republican-leaning districts and 45 Democratic-leaning districts. (*Id.* at 30:09-34:18). The independent map drawers reported that their respective maps did not have significant differences. (*Id.* at 35:39-38:00). The day before the court-ordered deadline to produce a new plan, the Commission instructed the map drawers to consider residence of non-term-limited House and Senate incumbents and avoid pairing them together. (03/27/22 Mediation Statement).¹

On March 27, the map drawers reported having completed Senate and House maps. (Exhibit F, 03/27/22 Hrg Tr. at 1:30-7:03). On March 28, when the Commission convened in the morning, the independent map drawers explained that they had merged their plans into one and started “cleanup” of technical defects. (Exhibit G, 3/28/22 Hrg Tr., Part 1 at 1:31-4:00). They also indicated that they would consider incumbent data as directed. (*Id.* at 8:09-18:09). When the Commission reconvened at about 4:30 p.m., the independent map drawers reported that they had nearly finished considering incumbent addresses in the House map, (Exhibit H, 3/28/22 Hrg Tr., Part 2 at 00:10-02:22), and that a complete Senate map would be available later in the day. (*Id.* at 02:22-03:16).

But Republican commissioners had other plans. Senate President Huffman stated, “I think we need a failsafe” and “I think we need something else for the Commission to be able to vote on.” (*Id.* at 43:41-50:08). He moved to alter the February 24 Plan—which the Ohio Supreme Court had invalidated. (*Id.* at 43:41-50:08). Senator Sykes argued that “to distract the staff and map drawers and to divert to some other task is ridiculous [and] contrary to the directive, the spirit and the direction of the court.” (*Id.* at 50:16-51:35). Leader Russo argued that, under the Ohio Supreme

¹ Ohio Redistricting Commission, 2022-03-27 Mediation Statement – Instructions – As Adopted, <https://redistricting.ohio.gov/assets/organizations/redistricting-commission/events/commission-meeting-march-27-2022-280/2022-03-27-mediation-statement-instructions-as-adopted.pdf>.

Court's orders, the Commission should not use an unconstitutional plan as a starting point for enacting a new plan. (*Id.* at 54:34-55:36).

Nonetheless, the Commission approved Senate President Huffman's motion on a party-line vote, (Exhibit I, 3/28/22 Hrg Tr., Part 3 at 07:32-08:06), and diverted the Republican staff mapper from aiding Dr. Johnson to implementing superficial changes to the February 24 Plan. (Exhibit J, 3/28/22 Hrg Tr., Part 4 at 18:39-30:59). About two-and-a-half hours before the deadline, Dr. Johnson reported that he had completed the House map and needed about 45 minutes for the Senate map. (*Id.* at 00:22-03:02). Senate President Huffman argued that the Commission should "move on" and consider the tweaked February 24 Plan, despite the Ohio Supreme Court's order that the Commission produce an "entirely new" plan. (*Id.* at 10:17-11:04). The Commission adopted that plan and recessed to craft an explanatory statement. (*Id.* at 54:03-54:34). During the recess, Dr. Johnson completed the Johnson/McDonald plan and posted it to the Commission's website.²

On March 30, the Ohio Supreme Court ordered the Commission and its members to show cause why they should not be held in contempt. On April 1, OOC Plaintiffs filed renewed objections to the plan. The March 28 Plan suffers the same infirmities as the February 24 Plan.

ARGUMENT

I. The OOC Plaintiffs' Requested Injunctive Relief Best Resolves the Federal and State Constitutional Injuries Stemming from Malapportionment

This Court's review focuses on the four factors that a plaintiff must establish to obtain injunctive relief: "(1) whether the movant has a strong likelihood of success on the merits; (2) whether the movant would suffer irreparable injury without the injunction; (3) whether issuance of the injunction would cause substantial harm to others; and (4) whether the public

² The Johnson/McDonald Plan is available on the Commission's website and labeled "Johnson McDonald Independent Plan 328 Final," <https://redistricting.ohio.gov/maps>.

interest would be served by the issuance of the injunction.” *Northeast Ohio Coal. v. Husted*, 696 F.3d 580, 590-91 (6th Cir. 2012). A preliminary injunction ordering the use of the plan prepared by the independent map-drawers hired by the Commission, with or without minor adjustments to address minor technical defects, is supported by all four factors.

I. The OOC Plaintiffs Have a Strong Likelihood of Success on the Merits

Should there be no 2022 General Assembly plan in effect on April 20, 2022, the Ohio General Assembly districts will be substantially malapportioned, in violation of the OOC Plaintiffs’ federal constitutional rights. The U.S. Constitution requires both chambers of a legislature to be “apportioned on a population basis,” which means districts must be “as nearly of equal population as is practicable.” *Reynolds v. Sims*, 377 U.S. 533, 577 (1964). The Supreme Court has established that a map with a maximum population deviation of more than 10 percent is “presumptively impermissible.” *Evenwel v. Abbott*, 578 U.S. 54, 60 n.2 (2016). Applying 2020 Census data to the 2011 Plan, the maximum population deviation among House districts is 34.23 percent and among Senate districts is 25.26 percent. (Exhibit C, Gall Declaration at ¶¶ 34, 36). Moreover, 45 of 99 House districts and 13 of 33 Senate districts are beyond these permissible thresholds. (*Id.*)

Given the extent of the deviation, there can be no dispute that the 2011 Plan is malapportioned. The only question is the proper relief. It is well-established that “a federal district court . . . should follow the policies and preferences of the State, as expressed in statutory and *constitutional* provisions or in the reapportionment plans proposed by the state legislature, whenever adherence to state policy does not detract from the requirements of the Federal Constitution.” *White v. Weiser*, 412 U.S. 783, 795 (1973) (emphasis added). For this reason, while a federal court “must ordinarily achieve the goal of population equality with little more than de

minimis variation” when adopting state legislative districts, state policy considerations can be a “persuasive justification[]” for allowing greater variation. *Chapman v. Meier*, 420 U.S. 1, 26-27 (1975). “Where important and significant state considerations rationally mandate departure from [the de minimis population variation] standards,” courts must explain why minimal variance cannot be achieved. *Id.* at 27. For instance, a recent three judge panel accepted a proposed map that featured a 9.44 percent variance because it adhered to county boundary rules and other codified state policies, and modified it slightly to reduce the variance to 6.72 percent. *Brown v. Jacobsen*, - -- F. Supp. 3d ---, 2022 WL 683089, at *12-13 (D. Mont. March 8, 2022).

In Ohio, Article XI of the Ohio Constitution provides “important and significant” state policy considerations that must be considered by federal courts. Sections 3 and 4 of Article XI set out detailed, prioritized rules for allocating representation to counties based on population, splitting sub-state units of government, and permissible population deviations, among other things.³ Section 6 sets out standards requiring that no plan primarily favor or disfavor a political party, that districts correspond closely to the statewide preferences of Ohio voters, and that districts be compact. The Ohio Supreme Court has given detailed guidance about the administration of both the partisan fairness and the proportionality standards. *See League I*, 2022 WL 110261; *League II*, 2022 WL 354619; *League III*, 2022 WL 803033.

Both federal and state law counsel in favor of selecting the Revised Johnson/McDonald Plan put forward by OOC Plaintiffs.⁴ Its maximum population deviation is 9.97 percent, less than the permitted 10 percent. (Exhibit C, Gall Declaration at ¶¶ 43, 45). These variances are necessary

³ Notably, the Ohio Constitution allows for a full 10 percent deviation as a matter of state policy. Ohio. Const. Art. XI, Sec. 3(B)(1). Presumably, so that all other criteria can be satisfied.

⁴ This plan is available at Exhibit K and was prepared by Dr. Megan Gall, a political scientist and demographer.

and justified by “important and significant state considerations,” i.e., the Ohio Constitution. As Dr. Gall explains in her expert affidavit, to comply with the constitution’s line-drawing and proportionality requirements, any General Assembly district plan will need to include a maximum deviation near or at the 10 percent limit. (Exhibit C, Gall Declaration at ¶¶ 47-48). For example, Section 3(C)(2) requires giving counties within the 10 percent deviation range their own House districts. According to the 2020 Census, Wayne County and Richland County are entitled to such districts, but this alone creates a deviation of at least 7 percent, without addressing any other line-drawing requirements. The Revised Johnson/McDonald Plan is also the plan that best meets Ohio’s important and significant policy considerations, as reflected in the Ohio Constitution.

1. The Revised Johnson/McDonald Plan Complies with All Substantive Provisions of the Ohio Constitution.

The Ohio Constitution contains exacting rules governing county, municipality, and township splits in the creation of House districts. *See* Ohio Const. Art. XI, Sec. 3. Specifically, once the ideal population is calculated, House districts are allocated to populous counties and splits of municipalities, and townships are minimized based on permissible deviations from the ideal population. Ohio Const. Art. XI, Sec. 3(C)(1); (C)(2); (D)(1)(c); (D)(2). Section 4 of Article XI provides similar instructions for the combination of House districts into Senate districts. Ohio Const. Art. XI, Sec. 4(B)(1). The Revised Johnson/McDonald plan complies with all provisions of Sections 3 and 4. (Exhibit C, Gall Declaration at ¶¶ 23-28). Indeed, Dr. Gall made minor alterations to the Johnson/McDonald plan specifically to resolve any lingering technical issues and ensure compliance with the allocation of district and sub-state unit split rules. (*Id.* at ¶¶ 23-26).

The Revised Johnson/McDonald plan also complies with Section 6 of Article XI, which imposes three additional requirements for legislative maps: proportionality, partisan fairness, and compactness. These provisions are mandatory unless it is “impossible” to achieve them while also

following the map drawing requirements laid out in the rest of Article XI. *League I*, 2022 WL 110261 at *17. Section 6(B) requires General Assembly districts that “favor each political party” to “correspond closely to the statewide preferences of the voters of Ohio” as determined by statewide races over the course of the prior decade. Ohio Const. Art. XI, Sec. 6(B). Over that stretch, 54 percent of Ohioans voted for Republicans and 46 percent for Democrats in statewide elections. *League I*, 2022 WL 110261 at *23. The proportion of districts favoring each party in the Revised Johnson/McDonald plan matches that split nearly perfectly with 55 percent of districts favoring Republicans and 45 percent, Democrats, when toss-up districts are included. (Exhibit L, Latner Declaration, Tables 5 & 6). Further, this plan allocates toss-up districts evenly across the parties, *id.*, thereby avoiding constitutional infirmities in plans rejected by the Ohio Supreme Court. *See League III*, 2022 WL 803033 at *9. This plan performs better than any of the maps produced by the Commission (Exhibit L, Latner Declaration at ¶ 34) and will produce proportional results that correlate closely to the preferences of Ohio voters across a variety of foreseeable election scenarios.

The Revised Johnson/McDonald Plan also comports with Section 6(A), which forbids plans that are “drawn primarily to favor or disfavor a political party.” Ohio Const. Art. XI, Sec. 6(A). In applying this rule, the Ohio Supreme Court has looked to the intent of the map-drawers as evidenced by whether the map-drawing process was “one-sided,” reflecting only the input of one political party, *League III*, 2022 WL 803033 at *7, as well as measures of “partisan asymmetry” as established in the political science literature. *Id.* at *8. The record is clear that the Johnson/McDonald Plan was not produced to favor or disfavor a political party. It was produced jointly by two independent map drawers hired by the Commission, one selected by the Democratic commissioners and one selected by the Republican commissioners. They drew the plan publicly

and they incorporated input into the plan from the Commission as a whole, along with individual commissioners. (*See, e.g.*, Ground Rules for Map Drawers).⁵ Dr. Gall made only minor revisions to the Johnson/McDonald plan to resolve a handful of technical discrepancies. (Exhibit C, Gall Declaration). Unsurprisingly, the Revised Johnson/McDonald Plan is highly symmetrical and lacks any indicia of partisan favoritism, in contrast to the maps produced by the Commission. (Exhibit L, Latner Declaration at ¶ 50).⁶

2. The Revised Johnson/McDonald Plan Best Complies with the Procedural Provisions of the Ohio Constitution.

The Johnson/McDonald Plan also comes closer than any other to meeting the procedure laid out in Section 1 of Article XI of the Ohio Constitution, which requires “the commission,” as an entity, to produce a plan, with the input of both Republican and Democratic commissioners. Art. XI, Section 1(C); *see also League III*, 2022 WL 803033 at *7 (Commission has an “Article XI duty to draft a plan, not to simply adopt one drafted by legislative staff at the direction of members of one political party” and rejecting that “members of one political party alone may draw the plan.”). While the Johnson/McDonald Plan was not adopted, it was produced by mappers picked by the Commissioners who provided input and guidance over the course of several days.

Nor is the Commission’s decision to enact a different plan in lieu of the Johnson/McDonald Plan an indicator of legitimate state policymaking that should be given deference given the

⁵ Ohio Redistricting Commission, Commission Meetings (March 24, 2022), Ground Rules for Map Drawers, <https://redistricting.ohio.gov/meetings>.

⁶ The Ohio Supreme Court has rejected the Commission’s arguments that drawing a proportional and symmetrical plan constitutes gerrymandering in favor of Democrats, in violation of the Ohio Constitution. *See League II*, 2022 WL 354619 at *13 (“[W]e reject the suggestion that our order constitutes a mandate to gerrymander to create Democratic-leaning districts. This suggestion implies that neither the September 2021 plan nor the revised plan were Republican-favoring gerrymanders. The evidence demonstrates otherwise. Throughout the process, the Republican map drawers refused to expressly work toward a 54 to 46 percent partisan share. Yet that is not a ‘superficial ratio,’ a ‘Democratic ratio,’ or an ‘arbitrary percentage,’ as one commissioner cavalierly dismissed it.”).

unconstitutionality of its actions. *See White*, 412 U.S. at 797 (instructing courts to “defer to state policy in fashioning relief only where that policy is consistent with constitutional norms and is not itself vulnerable to legal challenge”); *Graves v. Barnes*, 446 F. Supp. 560, 564 (W.D. Tex. 1977) (reasoning that it is “only to the extent that the present plan demonstrates a legitimate state policy that it enjoys that privileged review”). Instead of adopting or refining the Johnson/McDonald Plan, the Commission defied the Ohio Supreme Court’s ruling that instructed the Commission to draw an “entirely new” map that met all requirements of the Ohio Constitution. *League III*, 2022 WL 803033, at *11. While Dr. Johnson worked to finish the plan, the only Republican staff mapper stopped providing guidance to Dr. Johnson and instead turned his attention to tweaking the February 24 Plan. (Exhibit J, 3/28/22 Hrg Tr., Part 4 at 18:39-30:59) Ultimately, the Commission defied the Ohio Supreme Court’s ruling forbidding the use of the February 24 Plan as a starting point and the minor modifications failed to remedy the Section 6 violations. Because this does not reflect legitimate state policy, the Commission’s decision to forego the Johnson/McDonald Plan in favor of gerrymandered maps is not entitled to deference.

II. The Requested Relief Is Necessary to Avoid Irreparable Harm

The OOC Plaintiffs have also established that “in the absence of a preliminary injunction, [they are] likely to suffer irreparable harm before a decision on the merits can be rendered.” *Winter v. NRDC, Inc.*, 555 U.S. 7, 22 (2008) (citation and internal quotation marks omitted). The Secretary of State has represented that a General Assembly plan for the 2022 election needs to be ordered by April 20, 2022, for the primary to proceed in an orderly fashion. Without the relief sought by the OOC Plaintiffs—an order imposing a plan that complies with federal law and the Ohio Constitution, including its protections against partisan gerrymandering—the OOC Plaintiffs will suffer irreparable constitutional injuries.

The relief requested by the OOC Plaintiffs protects them from voting under a malapportioned plan that would deny their federal constitutional right to “an equally effective voice in the election of members of [the] state legislature.” *Reynolds*, 377 U.S. at 565; *see also Brown v. Kentucky Legislative Rsch. Comm’n*, 966 F. Supp. 2d 709, 724–25 (E.D. Ky. 2013) (“Plaintiffs have shown that legislative malapportionment has and continues to cause them irreparable injury in the form of vote dilution, for which there is no remedy at law”). The requested relief also protects the OOC Plaintiffs’ rights under the 2015 amendments to the Ohio Constitution, which created cognizable state-law interests in fair districts that closely correspond with the statewide preferences of Ohio voters—and which were adopted in a direct repudiation of the gerrymandered 2011 Plan. *See* Ohio Const. Art. XI, Sec. 6; *Leggue I*, 2022 WL 110261.

Absent the requested relief, lawmakers elected in malapportioned and/or gerrymandered districts will set policy and make budgetary and other decisions with negative long-term consequences for the interests of the OOC Plaintiffs. (*See* Exhibit L, Latner Declaration at ¶¶ 20–22 (detailing research about the harms to democracy from gerrymandered districts); Exhibit M, Declaration of Molly Shack, ¶¶ 5–10; Exhibit N, Declaration of Chris Tavenor, ¶¶ 9–13; Exhibit O, Declaration of Mikayla Lee, ¶¶ 4–7, 9). Moreover, even if constitutionally compliant maps are drawn ahead of 2024, state senators elected from districts that violate the federal or state constitution in 2022 will hold office until 2026. *See* Ohio Const. Art. II, Sec. 2 (setting four-year terms for senators); Art. XI, Sec. 5 (requiring the assignment of senators whose terms have not yet expired to newly drawn districts).

III. Issuance of the Requested Relief Would Cause No Harm to Others

OOC Plaintiffs’ requested relief gives effect both to federal rights and to the Ohio Constitution. No Ohio voters have a legal interest in continued malapportionment or

gerrymandering; indeed, the 2015 amendments to Article XI are precisely to the contrary. The implementation of the Revised Johnson/McDonald Plan would also have no greater impact on election administration than would that of any other plan. It is undisputed that the primary election cannot go forward on May 3, 2022, given the Commission's repeated failure to enact a constitutional General Assembly plan. ECF No. 97 (Notice of Issuance of Ohio Secretary of State Directive 2022-31); ECF No. 150, 3/30/22 Hr'g Tr. at 13:20–14:17. Whatever plan this Court orders, Ohio will need to administer a separate election on August 2, and take the same administrative steps to prepare counties, and voters, for the election. Except for the Commission's third plan, which was previously submitted to county election boards for implementation prior to being invalidated, each of the plans would require election officials to take the same steps to be implemented, including reprogramming their voter registration systems and reopening filing periods for candidate petitions. ECF No. 150, 3/30/22 Hr'g Tr. at 87:1–17.

IV. The Public Interest Would Be Served by Granting the Requested Relief

The public interest is served by ordering use of the Revised Johnson/McDonald Plan because it meets federal constitutional requirements and comports with the Ohio Constitution, including the amendments passed overwhelmingly in 2015, to the maximum extent possible. Moreover, failure to impose a plan that comports with the 2015 amendments would create perverse incentives for the Ohio Redistricting Commission to flout constitutional requirements it does not wish to implement, using the federal courts to make an end run around the Ohio Constitution and its prescribed remedies for unconstitutional maps.

Even absent Ohio's clear policy interests in a proportional and unbiased plan, the Revised Johnson/McDonald Plan also forwards prudential interests in "judicial neutrality." *Prosser v. Elections Bd.*, 793 F. Supp. 859, 867 (W.D. Wis. 1992). These exist because "[j]udges should not

select a plan that seeks partisan advantage—that seeks to change the ground rules so that one party can do better than it would do under a plan drawn up by persons having no political agenda.” *Id.* Indeed, federal courts have rejected districts where partisan interests and political goals rather than legitimate interests motivated population deviations. *See Larios v. Cox*, 300 F. Supp. 2d 1320, 1352-53 (N.D. Ga.), *aff’d*, 542 U.S. 947 (2004).

The OOC Plaintiffs’ proposed remedy satisfies all legal requirements. To the extent the Court orders the use of a different plan, it should satisfy these requirements as well or better.

II. There is No Justification for Using the 2011 Plan in the 2022 Election

There is no justification for imposing Ohio’s malapportioned 2011 Plan for the 2022 election. The U.S. Supreme Court has, at times, allowed lower courts to order elections under plans that violate the equal population doctrine, but “[n]ecessity has been the motivating factor in these situations.” *Upham v. Seamon*, 456 U.S. 37, 44 (1982). Specifically, there can be “certain circumstances, such as where an impending election is imminent and a State’s election machinery is already in progress” that may justify a court withholding relief even when an apportionment is invalid. *Reynolds*, 377 U.S. at 585.

Such circumstances and necessity are not present here. As of the time of this filing, a revised date has not been set for a General Assembly primary election. However, the primary cannot go forward on May 3, 2022. ECF No. 150, 3/30/22 Hr’g Tr. at 13:20–14:17. Neither the Ohio Supreme Court nor lawmakers have set a new election schedule. In other words, Ohio’s election machinery is not in progress and no impending election is imminent. Nor is there any administrative advantage to implementing the 2011 Plan over one that complies with federal and state law. *Id.*

These facts clearly distinguish the present situation from instances where states were permitted to use malapportioned plans. Most recently, in *Pileggi v. Aichele*, a federal judge permitted Pennsylvania's 2012 election to proceed under the prior decade's maps after the Pennsylvania Supreme Court had struck down newly drawn districts and ordered the 2001 plan to remain in effect because the election process had "already begun." 843 F. Supp. 2d 584, 593-95 (E.D. Pa. 2012). There, the court found "no reasonable alternative . . . but to allow the elections to proceed under the 2001 Plan." *Id.* at 596. That court noted other key distinctions: there had been no breakdown of the redistricting process and "no indication that the Commonwealth [had] adamantly refused to comply with constitutional mandates and court orders." *Id.* at 594. In sharp contrast, the Commission has passed four unconstitutional General Assembly plans in short order, defying clear instructions from the Ohio Supreme Court.

Use of the 2011 Plan would also violate Article XI of the Ohio Constitution—and the will of Ohioans who voted overwhelmingly in 2015 to amend the constitution. The 2011 Plan was enacted by a different body (the then-existing Apportionment Board), with a different process, using different criteria than what currently exists in the Ohio Constitution. Indeed, the 2011 plan that the Apportionment Board enacted was one of the most gerrymandered plans in the nation (Exhibit L, Latner Declaration at ¶ 33) and Ohio voters overhauled Article XI in 2015 specifically to prevent another such plan from ever going into effect. The 2011 Plan complies neither with the line-drawing requirements of Sections 3 and 4 of Article XI (Exhibit C, Gall Declaration at ¶ 22), nor with the proportionality and partisan fairness provisions of Section 6 (Exhibit L, Latner Declaration at ¶¶ 11-12), nor with the procedural requirements in Section 1 of Article XI as outlined in *League III*.

III. There is no Justification for Using a Plan the Ohio Supreme Court has Invalidated

There is likewise no justification for ordering the use of any plan passed by the Ohio Redistricting Commission that has been invalidated by the Ohio Supreme Court on or before April 20. Doing so would be inconsistent with giving full faith and credit to the Ohio Supreme Court's rulings. 28 U.S.C. § 1738. In *Grove v. Emison*, the U.S. Supreme Court not only required federal courts to defer action unless there was evidence that a state legislature or court could not timely address a redistricting issue, but also recognized the important role that state courts play in redistricting, including "the elementary principles of federalism and comity embodied in the full faith and credit statute, 28 U.S.C. § 1738, obligate[] federal court[s] to give [state court] judgement legal effect." 507 U.S. 25, 36 (1993) (emphasis in the original).

The Ohio Supreme Court has made clear that "the election cycle *should not proceed with a General Assembly-district map that we have declared invalid.*" *League I*, 2022 WL 110261, at *28 (emphasis added). It invalidated the Commission's second and third plans "in [their] entirety." *League II*, 2022 WL 354619 at *14, *League III*, 2022 WL 803033 at *8. Should there not be a constitutionally compliant plan by April 20, this Court will need to intercede to ensure that Ohio's primary can proceed in a timely and orderly fashion. But in doing so it should not resurrect plans already invalidated by the Ohio Supreme Court. Such plans are not entitled to deference as a statement of Ohio public policy. *Graves* 446 F. Supp. at 564. And ordering the use of any one of these plans would functionally override the Ohio Supreme Court's decision to invalidate them. Put simply, "[f]ederal courts are not to be used as state courts of appeal." *Osborn v. Ashland Cty. Bd. of Alcohol, Drug Addiction & Mental Health Servs.*, 979 F.2d 1131, 1134 (6th Cir. 1992) (citing *Allen, supra*, and *Migra v. Warren City Sch. Dist. Bd. of Educ.*, 465 U.S. 75, 84 (1984)); see also *Williams v. Kelly*, 2005 WL 8155532, at *2 (E.D. Mich. Nov. 2, 2005) (under the *Rooker-*

Feldman doctrine, inferior federal courts also lack authority to perform appellate review of state court decisions). The Ohio Supreme Court left no avenue for an invalid plan to be used in 2022, and giving full faith and credit to the Ohio Supreme Court's rulings means that this Court should not create one.

CONCLUSION

In the event there is no operative General Assembly Plan in effect on April 20, 2022, this Court should grant OOC Plaintiffs' motion for a preliminary injunction and order the use of the Revised Johnson/McDonald Plan for the 2022 primary and general election (Exhibit P, Proposed Order).

Dated: April 6, 2022

Respectfully submitted,

/s/ Christina J. Marshall

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CERTIFICATE OF SERVICE

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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL GONIDAKIS et al.,

Plaintiffs,

THE OHIO ORGANIZING
COLLABORATIVE, COUNCIL ON
AMERICAN-ISLAMIC RELATIONS,
OHIO, OHIO ENVIRONMENTAL
COUNCIL, SAMUEL GRESHAM JR.,
AHMAD ABOUKAR, MIKAYLA LEE,
PRENTISS HANEY, PIERRETTE
TALLEY, and CRYSTAL BRYANT,

Intervenor-Plaintiffs,

v.

FRANK LAROSE, in his official capacity,

Defendant.

Case No. 2:22-cv-00773

Circuit Judge Amul R. Thapar
Chief Judge Algenon L. Marbley
Judge Benjamin J. Beaton
Magistrate Judge Elizabeth Preston Deavers

**DECLARATION OF CHRISTINA J. MARSHALL IN SUPPORT OF INTERVENOR-
PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**

I, Christina J. Marshall, having been duly sworn and cautioned according to law, hereby state that I am over the age of eighteen years and am competent to testify as to the facts set forth below based on my personal knowledge and having personally examined all records referenced in this declaration, and further state as follows:

1. I am one of the counsel for Intervenor-Plaintiffs in the above-captioned case.
2. Exhibit A is a true and correct copy of Petitioners' the Ohio Organizing Collaborative, et al. Objections to the third revised General Assembly district plan adopted by the Ohio

Redistricting Commission on March 28, 2022 and Request for Remedies in Case No. 2021-1210.

3. Exhibit B is a true and correct copy of Petitioners' the Ohio Organizing Collaborative, et al. Joinder in Renewed Motion for An Order Directing Respondents to Show Cause and Motion to Schedule Contempt Hearing Filed by Petitioners Bria Bennett, et al. in Case No. 2021-1198.
4. Exhibit C is a true and correct copy of a Declaration sworn to by Dr. Megan Gall and corresponding appendix.
5. Exhibit D is a true and correct copy of relevant excerpts from the transcript of the March 23, 2022 Ohio Redistricting Commission Hearing, which is publicly available on the Commission's website, <https://redistricting.ohio.gov/meetings>.
6. Exhibit E is a true and correct copy of relevant excerpts from the transcript of the March 26, 2022 Ohio Redistricting Commission Hearing, which is publicly available on the Commission's website, <https://redistricting.ohio.gov/meetings>.
7. Exhibit F is a true and correct copy of relevant excerpts from the transcript of the March 27, 2022 Ohio Redistricting Commission Hearing, which is publicly available on the Commission's website, <https://redistricting.ohio.gov/meetings>.
8. Exhibit G is a true and correct copy of relevant excerpts from Part 1 of the transcript of the March 28, 2022 Ohio Redistricting Commission Hearing, which is publicly available on the Commission's website, <https://redistricting.ohio.gov/meetings>.
9. Exhibit H is a true and correct copy of relevant excerpts from Part 2 of the transcript of the March 28, 2022 Ohio Redistricting Commission Hearing, which is publicly available on the Commission's website, <https://redistricting.ohio.gov/meetings>.

10. Exhibit I is a true and correct copy of relevant excerpts from Part 3 of the transcript of the March 28, 2022 Ohio Redistricting Commission Hearing, which is publicly available on the Commission's website, <https://redistricting.ohio.gov/meetings>.
11. Exhibit J is a true and correct copy of relevant excerpts from Part 4 of the transcript of the March 28, 2022 Ohio Redistricting Commission Hearing, which is publicly available on the Commission's website, <https://redistricting.ohio.gov/meetings>.
12. Exhibit K is a true and correct copy of a Declaration sworn to by Dr. Michael S. Latner and corresponding appendix.
13. Exhibit L is a true and correct copy of a Declaration sworn to by Molly Shack, the Co-Executive Director of The Ohio Organizing Collaborative.
14. Exhibit M is a true and correct copy of a Declaration sworn to by Chris Tavenor, Staff Attorney at The Ohio Environmental Council.
15. Exhibit N is a true and correct copy of a Declaration sworn to by Mikayla Lee of The Ohio Organizing Collaborative.
16. Exhibit O is a true and correct copy of a Proposed Order Granting Motion for Preliminary Injunction by Intervenor-Plaintiffs

I declare the above to be true under penalty of perjury of the laws of the United States of America.

Respectfully submitted,

/s/ Christina J. Marshall

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CERTIFICATE OF SERVICE

I, Christina J. Marshall, hereby certify that on this 6th day of April, 2022, I electronically filed the foregoing with the Clerk of Court for the United States District Court for the Southern District of Ohio, Eastern Division via the ECF system, which will send notification of such filing to all counsel of record.

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EXHIBIT B

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IN THE SUPREME COURT OF OHIO

THE OHIO ORGANIZING
COLLABORATIVE, *et al.*,

Petitioners,

v.

OHIO REDISTRICTING
COMMISSION, *et al.*,

Respondents.

: Case No. 2021-1210

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APPORTIONMENT CASE

Filed pursuant to S.Ct.Prac.R. 14.03(A)
and Section 9 of Article XI of the Ohio
Constitution to challenge a plan of
apportionment promulgated pursuant to
Article XI.

**PETITIONERS' THE OHIO ORGANIZING COLLABORATIVE, ET AL. JOINDER
IN RENEWED MOTION FOR AN ORDER DIRECTING RESPONDENTS TO SHOW
CAUSE AND MOTION TO SCHEDULE CONTEMPT HEARING FILED BY
PETITIONERS BRIA BENNETT, ET AL. IN CASE NO. 2021-1198**

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STATEMENT OF JOINDER

Petitioners The Ohio Organizing Collaborative et al. (the “OOC Petitioners”) hereby join in the Renewed Motion for an Order Directing Respondents to Show Cause and to Schedule a Contempt Hearing filed by Petitioners Bria Bennett et al. (the “Bennett Petitioners”) on March 29, 2022 in Case No. 2021-1198. For the reasons stated in the Bennett Petitioners’ motion, the OOC Petitioners request that this Court require the Ohio Redistricting Commission (the “Commission”) and each of its members to explain in detail:

- (1) Why they adopted a remedial plan on March 28, 2022 (the “Fourth Plan”) that was, by their own admission, based on the Commission’s plan of February 24, 2022 (the “Third Plan”), despite this Court’s decision to “invalidate the [Third Plan] in its entirety,” *League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, 2022-Ohio-789 (“*LWV III*”) ¶ 44, and this Court’s repeated order that the Commission “draft and adopt an entirely new General Assembly district plan that conforms to the Ohio Constitution.” *League of Women Voters of Ohio v. Ohio Redistricting Comm’n*, 2022-Ohio-342 (“*LWV II*”) ¶ 67; *LWV III* ¶ 44.
- (2) Why they chose to adopt a remedial plan drafted almost exclusively by partisan staffers, outside of public view, despite this Court’s directive that “*the commission* draft and adopt” a plan, with the drafting to “occur in public.” *LWV III* ¶ 44 (emphasis in original); *see also LWV II* ¶ 67 (“We further order the commission to be reconstituted, to convene, and to draft and adopt” a new plan); *League of Women Voters v. Ohio Redistricting Comm’n*, 2022-Ohio-65 (“*LWV I*”) ¶ 138 (“we order the commission to be reconstituted under Article XI, Section 1, to convene, and to ascertain and adopt” a new plan).
- (3) Why they adopted a remedial plan that continues to allocate competitive seats between Democrats and Republicans with gross asymmetry, despite this Court’s repeated holding that plans may not allocate competitive districts between the two parties in a “monolithically disparate” fashion. *LWV II* ¶ 40; *LWV III* ¶ 34.
- (4) Why they refused to adopt a plan drafted and proposed by independent mapmakers selected by members of both parties, which does not contain the constitutional infirmities described in (1), (2), or (3).

OOC Petitioners request that the Court require Respondents to submit responses no later than no later than 9:00 a.m. on Wednesday, March 30, 2022, and furthermore schedule a hearing

on the motion on Thursday, March 31, 2022. OOC Petitioners also ask this Court to declare that no steps be taken to implement the Fourth Plan, including the making of any directives to local boards of election, pending resolution of this motion, in accordance with its “inherent authority . . . to compel obedience of [its] lawfully issued orders.” *Cramer v. Petrie*, 537 N.E.2d 882, 884 (Ohio 1994).

If the Court finds that Respondents’ explanation for why the Commission did not adopt a constitutionally compliant plan using the process as ordered by the Court is inadequate, then in addition to the Court directing Respondents to take further action to comply with the Court’s order, the Court should (a) find the Commission and, as the Court deems appropriate, individual Respondents, in contempt pursuant to R.C. 2705 and its inherent contempt power, (b) award OOC Petitioners’ attorneys’ fees under R.C. 2323.51, with any such fees issued against the Commission and its members jointly or severally, or apportioned between Respondents as the Court deems appropriate, or (c) order any other remedy that the Court deems appropriate.

Dated: March 29, 2022

Respectfully submitted,

/s/ Brian A. Sutherland

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CERTIFICATE OF SERVICE

I, M. Patrick Yingling, hereby certify that, on March 29, 2022, I caused a true and correct copy of the foregoing Joinder of Renewed Motion for an Order Directing Respondents to Show Cause and Motion to Schedule Contempt Hearing Filed by Petitioner Bria Bennett, et al. in Case No. 2021-1198 to be served by email upon the counsel listed below:

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EXHIBIT C

RETRIEVED FROM DEMOCRACYDOCKET.COM

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL GONIDAKIS et al.,

Plaintiffs,

THE OHIO ORGANIZING
COLLABORATIVE, COUNCIL ON
AMERICAN-ISLAMIC RELATIONS, OHIO,
OHIO ENVIRONMENTAL COUNCIL,
SAMUEL GRESHAM JR., AHMAD
ABOUKAR, MIKAYLA LEE, PRENTISS
HANEY, PIERRETTE TALLEY, and
CRYSTAL BRYANT,

Intervenor-Plaintiffs,

v.

FRANK LAROSE, in his official capacity,

Defendant.

Case No. 2:22-cv-00773

Circuit Judge Amul R. Thapar

Chief Judge Algenon L. Marbley

Judge Benjamin J. Beaton

Magistrate Judge Elizabeth Preston Deavers

DECLARATION OF MEGAN A. GALL, PhD

BACKGROUND & QUALIFICATIONS

1. I am a Principal at Blockwell Consulting, LLC (“Blockwell”). My business address is 833 Edgewood Drive, Charleston, WV 25302.

2. I have experience conducting redistricting for the U.S. Department of Justice, national non-profit law firms, private law firms, and community groups. For this work, I draw new district boundaries, assess compliance with state and federal constitutions, and assess malapportionment. I’ve done redistricting work in several states including, but not limited to, Alabama, Mississippi, North Carolina, South Dakota, North Dakota, Arizona, Montana, Alaska, Georgia, and Texas. I’ve also conducted redistricting for many counties and local jurisdictions. I conduct racially polarized voting (RPV) analyses for VRA compliance matters and to inform district line drawing. I previously worked as the sole RPV expert for the 2020 California Citizen’s Redistricting Committee. I also conducted RPV analyses for the U.S. Department of Justice, the NAACP LDF, the Lawyers’ Committee for Civil Rights Under Law, private law firms, and county and local jurisdictions. I conducted distance analyses for VRA Section 2 vote denial investigations by measuring average travel distance and time for voters to access voting sites or resources. During my career, I have conducted extensive voting rights policy research for academic publications and national non-profits. I am certified by the GIS Certification Institute as a GIS Professional, which means I am certified a geographic information science practitioner. A copy of my curriculum vitae is attached as **Exhibit 1**.

3. I also work as a quantitative geographer and political scientist doing research in voting rights, criminal justice, education, and housing. I have taught university courses in political geography, GIS, and cartography. I was a guest lecturer at American University Washington College of Law and Howard University School of Law. I have also taught

workshops for practitioners in mapping, redistricting, and RPV. I hold a PhD from the State University of New York at Buffalo in Political Science with a focus on American politics and a Master's Degree from the University of Denver in Geographic Information Science.

4. I have substantial experience conducting demographic analyses using U.S. Census Bureau data. I also specialize in administrative electoral data. I have personally facilitated a wide range of research on voting rights policy including redistricting, election administration, legal disparate impact, and policy impact. I am familiar with and have studied Article XI of the Ohio Constitution and the Fourteenth Amendment to the United States Constitution.

5. Blockwell, my firm, is being compensated for my services in this matter at my standard rate of \$250 per hour. No part of my compensation or Blockwell's compensation depends on the outcome of this litigation.

DOCUMENTS REVIEWED

6. As part of my work, I reviewed the Intervenor-Plaintiffs' Complaint in this matter, Article XI of the Ohio Constitution, the Fourteenth Amendment to the United States Constitution, statements and dissents released by the Ohio Redistricting Commission pursuant to Section 8(C)(2) of Article XI of the Ohio Constitution at the time it enacted each General Assembly plan, and the three opinions of the Ohio Supreme Court regarding the drawing of an Ohio General Assembly district plan for the 2020 redistricting cycle: *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, No. 2021-1193 (Ohio Sept. 23, 2021), Slip Opinion No. 2022-Ohio-65, Slip Opinion No. 2022-Ohio-342, and Slip Opinion No. 2022-Ohio-789.

ASSIGNMENT & SUMMARY OF OPINIONS

7. I have been asked by the Ohio Organizing Collaborative Intervenor-Plaintiffs to analyze two General Assembly district plans to determine whether each plan complies with line-

drawing requirements of the Ohio Constitution, Article XI, Sections 3–4. The first plan was adopted during the previous redistricting cycle by the Ohio Apportionment Board, which was “the body then responsible for drawing Ohio’s legislative-district maps[,]”¹ on September 30, 2011 (“2011 Plan”).² The second plan was submitted to the Ohio Redistricting Commission (“Commission”) on March 28, 2022 by two independent map drawers hired by the Commission, Douglas Johnson and Michael McDonald (“Johnson/McDonald Plan”). The 2011 Plan for both chambers are available for download on the U.S. Census Bureau website, and block equivalency files are attached as **Exhibit 2** and **Exhibit 3** (manually submitted).³ The Johnson/McDonald Plans are available for download on the Commission’s website.⁴

8. I was also asked to modify the Johnson/McDonald Plan to the extent that I found any instances where the plan did not comply with Sections 3 or 4, and to prepare a revised plan (the “Revised Johnson/McDonald Plan”) that fully complied with Sections 3 and 4.

9. To conduct the Section 3 and 4 analyses, I rely on publicly available data and GIS software including Maptitude for Redistricting⁵ and QGIS.

¹ Slip Opinion No. 2022-Ohio-65, ¶ 340.

² These plans both include maps for the state House and Senate. References below to these individual maps will retain this nomenclature, e.g., “Original House,” “First Revised Senate” and “Second Revised House”.

³ State House Districts:

https://www2.census.gov/geo/tiger/TIGER2021/SLDL/tl_2021_39_sldl.zip; State Senate Districts https://www2.census.gov/geo/tiger/TIGER2021/SLDU/tl_2021_39_sldu.zip

⁴ <https://www.redistricting.ohio.gov/maps>.

⁵ Maptitude for Redistricting is created by the Caliper Corporation and is a full-featured mapping and GIS software that has been an industry leader in redistricting. From my professional experience, it is the go-to technical tool that combines demographic population data, geographic shapefiles, political data, among other desired inputs. From my understanding and observation, official map-drawing by Ohio Redistricting Commission staff and by Dr. Johnson and Dr. McDonald were done using Maptitude.

10. I have also been asked to analyze the 2011 Plan and the Revised Johnson/McDonald Plan to determine whether each plan reflects equipopulous districts when applied to Ohio's current demographic configuration, i.e., whether the Plans are malapportioned.

11. To conduct the malapportionment analysis, I rely on 2020 U.S. Census Bureau data from the PL 94-171 redistricting files as procured by the Ohio University Common and Unified Redistricting Database. Demographic data reflect the total population from table P1 and voting age populations from P4 of the PL 94-171 files.

12. Overall, the 2011 Plan does not comply with the Ohio and federal constitutions. If utilized in 2022, the 2011 Plan would result in malapportioned districts. Additionally, the 2011 Plan violates many of the requirements in Article XI, Sections 3 and 4. The Johnson/McDonald Plan and subsequently the Revised Johnson/McDonald Plan, are not malapportioned. The Revised Johnson/McDonald Plan corrects for very small violations of Article XI, Sections 3 in the Johnson/McDonald Plan. The revisions have nominal impacts to the district boundaries, district deviations, and maximum plan deviations.

* * *

13. The remainder of this report discusses my general understanding of the background in this matter, the research I conducted, and provides a detailed discussion of the results of my analyses.

BACKGROUND

14. The Ohio Constitution requires that map drawers use entire counties, municipal corporations, and townships as the foundation for district lines, to the extent possible. Counties

with populations greater than the ideal district population must spill over into a single additional district. The map drawer must also strive to not split counties more than once, and to not split more than one municipality per district. *See generally* Ohio Constitution, Article XI, Sections 3. Given map drawers must comply with all of these rules, the maximum deviation among districts permitted under Ohio law is 10 percent. *See* Ohio Constitution, Article XI, Section 3(B)(1) (noting that “[i]n no event shall any district contain a population of less than ninety-five percent nor more than one hundred five per cent of the applicable ratio of representation.”).

15. Similarly, the Fourteenth Amendment prevents map drawers from producing malapportioned maps. More specifically, it prohibits a state from “deny[ing] to any person within its jurisdiction the equal protection of the laws.” U.S. CONST. amend. XIV, § 1. This provision therefore “requires that the seats in both houses of a bicameral state legislature [] be apportioned on a population basis.” *Reynolds v. Sims*, 377 U.S. 533, 568 (1964).

16. Where the maximum population deviation in a map is greater than 10 percent, the deviation is presumptively impermissible. *See Evenwel v. Abbott*, 578 U.S. 54, 60 (2016).

ANALYSIS AND OPINIONS

I. Line-Drawing Analysis: Whether the 2011 and Johnson/McDonald Plans Comply with Sections 3 and 4 of Article XI

17. In order to evaluate compliance, I first produced population statistics by district. Maptitude software allows for this procedure as a basic function. I then examined the district deviations to assess compliance with the +/- 5 percent deviation requirement. I calculated the maximum plan deviation (the absolute value of the district with the lowest deviation plus the value of the district with the highest deviation) to check compliance with the requirement for a maximum plan deviation of no more than 10 percent. I used a built-in function in Maptitude to

check for non-contiguous areas and I did a visual inspection to assess the plans for boundaries with a nonintersecting continuous line. It is not possible to fully assess Section 3(C)(1) detailing the order in which the map drawers must construct and name districts. The rule was non-applicable for the 2011 Plan. For the Johnson/McDonald Plan, I isolated the counties with the highest population and assessed whether they were districted and labeled sequentially and before counties with smaller populations. Assessing compliance with Section 3(C)(3) and 3(D) was also a multi-step process. In order, I ran an algorithm to isolate counties, cities, villages, and then townships that overlap with district boundaries. I then visually inspected those overlapping jurisdictions to assess whether the split counted as an official split under specifications outlined in Section 3(D). After individually inspecting splits for those four geographies, I returned to the official splits for the four geographies and counted the number of splits per district.

18. The Johnson/McDonald Plan complies with nearly all of the line-drawing requirements of the Ohio Constitution. *See* Ohio Constitution, Article XI, Sections 3 and 4. To the extent there are any violations, I have identified them below and detail the ways I addressed them in the Revised Johnson-McDonald Plan. As those violations are small, I conclude that the Johnson/McDonald Plan is materially compliant with the Ohio Constitution.

19. The 2011 Plan, on the other hand, contains an extensive number of violations and so is not compliant, let alone materially, with the Ohio Constitution. I will begin with a discussion of the 2011 Plan.

a. 2011 Plan

20. The 2011 Plan does not comply with Section 3(B)(1) of Article XI, which, as noted, requires that a General Assembly district plan contain a maximum deviation of less than 10 percent. Using 2020 demographic data, the districts in the 2011 Plan range from 19.69 percent to -

14.54 percent for a maximum deviation range of 34.23 percent. The 2011 Plan is clearly malapportioned.

21. Furthermore, the 2011 Plan is not in compliance with Section 3(D)(3). Under Section 3(D)(3) of Article XI, “Where the requirements of divisions (B), (C), and (D) of this section cannot feasibly be attained by forming a representative district from whole municipal corporations and townships, not more than one municipal corporation or township may be split per representative district.” Ohio Constitution, Article XI, Section 3(D)(3) of Article XI. Districts cannot be drawn such that they cross more than one city, village, or township boundary. Functionally, this means that most cities, villages, and townships in Ohio are kept intact in single house or senate districts and splits of these geographies are minimized.

22. The Section 3(D)(3) violations stem from the fact that Section 3 was not in place when the 2011 Plan was drawn. As such, splits of municipalities are not minimized in the 2011 Plan. For example, in Butler County, Middletown city is split by the 2011 Plan but easily accommodated and kept intact in the Johnson/McDonald Plan.

b. Johnson/McDonald Plan

23. I have identified three minor compliance issues in the Johnson/McDonald Plan, all of which are violations of Section 3(D)(3). I have created a revised version of the Johnson/McDonald Plan that corrects for these issues, and describe those violations and fixes as follows:

24. Revision 1: Sunbury Village and Delaware City were split between Districts 67 and 68, which represents more than one municipality split per district. Article XI, Section 3(D)(3) requires, to the extent possible, that districts split no more than one municipal corporation or township. To revise this, I moved the remainder of Delaware City out of District 67 and into

District 68. The revision reallocated 1,357 from District 67 into District 68. Delaware City is now completely contained in District 68. Sunbury Village is now the only municipality split in Districts 67 and 68. Under the Johnson/McDonald Plan, the deviation is -1.97 percent for District 67 and -4.79 percent for District 68. Under the Revised Johnson/McDonald Plan, the deviation is -3.11 for District 67 and -3.65 percent for District 68.

25. Revision 2: District 82 had two split villages including Weston village and Jerry City village. Again, this violates Section 3(D)(3) by including more than one split municipality in the district. For Weston village, I moved one Census block with zero population from District 60 into District 82 in order to keep Weston village whole. For Jerry City village, I moved nine Census blocks with 229 people from District 60 into District 82 to keep Jerry City village whole. Under the Johnson/McDonald Plan, the deviation is 3.39 percent for District 60 and -4.91 percent for District 82. Under the Revised Johnson/McDonald Plan, the deviation is 3.2 percent for District 60 and -4.72 percent for District 82.

26. Revision 3: District 9 splits Franklin and Jackson townships. Again, this violates Section 3(D)(3) by including more than one split township or municipality in the district. These townships are in Franklin County which is the most populous state in Ohio and therefore contains several districts. Non-contiguous city and township boundaries make redistricting in Franklin County more difficult. Therefore, it was only practicable to substantively correct for the split to Jackson Township. I moved 81 people from District 10 to District 9 to keep Jackson Township whole. Franklin Township is not a contiguous geography and as a result there are portions that are not kept in the same district as the rest of the township in the Revised Johnson/McDonald Plan. However, some sections of Franklin Township were contiguous with District 9. I reallocated those areas from District 10 to District 9, and those areas included 1,067 people. To create more

compact districts along the boundary, I moved two additional Census blocks from District 10 to District 9. The two blocks contained 43 people. Under the Johnson/McDonald Plan, the deviation is -4.63 percent for District 9 and -3.30 percent for District 10. Under the Revised Johnson/McDonald Plan, the deviation is -3.63 percent for District 9 and -4.30 percent for District 10.

27. A pdf image of the Revised Johnson/McDonald House Plan is attached as **Exhibit 4**, and a block equivalency file in excel format is attached as **Exhibit 5** (manually submitted).

28. I did not need to revise the senate districts in the Revised Johnson/McDonald Plan. Article XI, Section 4(A) requires that senate districts be composed of three contiguous house districts. The requirement creates a situation in which some parts of each house district boundary lie within the senate districts while other parts of each house district boundary share the senate district boundary. While I did make small changes to some of the house district boundaries, none of the senate district boundaries in the original Johnson/McDonald Plan were impacted.

29. A pdf image of the Revised Johnson/McDonald Senate Plan is attached as **Exhibit 6**, and a block equivalency file in excel format is attached as **Exhibit 7** (manually submitted). As noted above, the Revised Johnson/McDonald Senate Plan is identical to the original Johnson/McDonald Senate Plan.

II. Malapportionment Analysis: Whether the 2011 and Johnson/McDonald Plans Comply with the Fourteenth Amendment of the United States Constitution

a. The 2011 Plan

30. In order to assess malapportionment, I first calculate the ideal district population. To do that calculation, I take the total population in the state and divide by the number of districts.

That number then becomes the ideal population for each district in the state and the benchmark from which district deviation and overall plan deviation are calculated.

31. According to the 2010 Census, Ohio had a population of 11,536,504. Therefore, a decade ago, the ideal population of each of Ohio's 99 state House districts (*i.e.*, the State's total population divided by the number of districts) was 116,530 persons. Similarly, the ideal population for each of Ohio's 33 state Senate districts was 349,591 persons.

32. The results of the 2020 Census report that Ohio's resident population as of April 2020 increased by 2.28 percent, totaling 11,799,448 persons. Consequently, the ideal population for each of Ohio's 99 state House districts increased to 119,186 while the ideal population for each of Ohio's 33 state Senate districts increased to 357,560.

33. In the past decade, Ohio's population has shifted significantly, which skews the current legislative districts away from population equality. **Table 1** below, which was generated from Census data, reveals where populations for each of Ohio's House districts drawn in 2011 now stands as of the 2020 Census. An excel file containing the information provided in Table 1 is attached as **Exhibit 8** (manually submitted).

**Table 1: 2011 House Plan Population
Deviation**

District	Total Population	Deviation	% Deviation
1	116,894	-2,292	-1.92%
2	124,936	5,750	4.82%
3	132,248	13,062	10.96%
4	102,206	-16,980	-14.25%
5	101,877	-17,309	-14.52%
6	123,329	4,143	3.48%
7	119,562	376	0.32%
8	116,600	-2,586	-2.17%
9	116,195	-2,991	-2.51%
10	112,385	-6,801	-5.71%
11	106,341	-12,845	-10.78%

12	114,399	-4,787	-4.02%
13	111,364	-7,822	-6.56%
14	111,504	-7,682	-6.45%
15	111,375	-7,811	-6.55%
16	121,763	2,577	2.16%
17	116,012	-3,174	-2.66%
18	136,039	16,853	14.14%
19	133,846	14,660	12.30%
20	139,823	20,637	17.32%
21	139,857	20,671	17.34%
22	133,768	14,582	12.23%
23	136,182	16,996	14.26%
24	126,074	6,888	5.78%
25	131,643	12,457	10.45%
26	130,563	11,377	9.55%
27	116,574	-2,612	-2.19%
28	125,471	6,285	5.27%
29	118,485	-701	-0.59%
30	113,456	-5,730	-4.81%
31	117,386	-1,800	-1.51%
32	125,392	6,206	5.21%
33	113,875	-5,311	-4.46%
34	108,211	-10,975	-9.21%
35	108,971	-10,215	-8.57%
36	118,727	-459	-0.39%
37	122,719	3,533	2.96%
38	113,686	-5,500	-4.61%
39	107,022	-12,164	-10.21%
40	119,235	49	0.04%
41	118,659	-527	-0.44%
42	117,850	-1,336	-1.12%
43	115,542	-3,644	-3.06%
44	108,500	-10,686	-8.97%
45	113,664	-5,522	-4.63%
46	115,705	-3,481	-2.92%
47	121,689	2,503	2.10%
48	114,569	-4,617	-3.87%
49	116,839	-2,347	-1.97%
50	111,559	-7,627	-6.40%
51	117,607	-1,579	-1.32%
52	130,619	11,433	9.59%
53	123,220	4,034	3.38%
54	131,917	12,731	10.68%

55	122,869	3,683	3.09%
56	121,855	2,669	2.24%
57	126,805	7,619	6.39%
58	112,969	-6,217	-5.22%
59	115,645	-3,541	-2.97%
60	113,457	-5,729	-4.81%
61	119,146	-40	-0.03%
62	129,331	10,145	8.51%
63	107,384	-11,802	-9.90%
64	106,108	-13,078	-10.97%
65	129,051	9,865	8.28%
66	123,226	4,040	3.39%
67	142,650	23,464	19.69%
68	134,195	15,009	12.59%
69	126,098	6,912	5.80%
70	121,919	2,733	2.29%
71	127,215	8,029	6.74%
72	123,324	4,138	3.47%
73	117,889	-1,297	-1.09%
74	113,207	-5,979	-5.02%
75	118,689	-497	-0.42%
76	117,739	-1,447	-1.21%
77	125,790	6,604	5.54%
78	121,777	2,591	2.17%
79	116,695	-2,491	-2.09%
80	127,554	8,368	7.02%
81	113,649	-5,537	-4.65%
82	109,580	-9,606	-8.06%
83	111,822	-7,364	-6.18%
84	116,562	-2,624	-2.20%
85	108,820	-10,366	-8.70%
86	121,437	2,251	1.89%
87	109,504	-9,682	-8.12%
88	110,042	-9,144	-7.67%
89	115,986	-3,200	-2.68%
90	114,761	-4,425	-3.71%
91	119,931	745	0.63%
92	122,375	3,189	2.68%
93	115,108	-4,078	-3.42%
94	116,478	-2,708	-2.27%
95	115,360	-3,826	-3.21%
96	113,512	-5,674	-4.76%
97	116,795	-2,391	-2.01%

98	124,386	5,200	4.36%
99	106,819	-12,367	-10.38%

34. **Table 1** shows that, applying 2020 Census data, the maximum deviation among state House districts for the 2011 Plan is 34.23 percent. In total, 45 of the 99 state House districts for the 2011 Plan are beyond acceptable deviations with 22 districts below -5 percent deviation and 23 districts above 5 percent deviation.

35. **Table 2** below shows the same information for Ohio's Senate districts. An excel file containing the information provided in Table 2 is attached as **Exhibit 9** (manually submitted).

Table 2: 2011 Senate Plan Population Deviation

District	Total Population	Deviation	% Deviation
1	335,051	-22,508	-6.29%
2	369,923	12,364	3.46%
3	389,681	32,122	8.98%
4	371,446	13,887	3.83%
5	350,118	-7,441	-2.08%
6	355,744	-1,815	-0.51%
7	377,822	20,263	5.67%
8	357,412	-147	-0.04%
9	356,653	-906	-0.25%
10	347,791	-9,768	-2.73%
11	337,869	-19,690	-5.51%
12	327,588	-29,971	-8.38%
13	371,529	13,970	3.91%
14	367,038	9,479	2.65%
15	398,245	40,686	11.38%
16	402,113	44,554	12.46%
17	357,414	-145	-0.04%
18	355,574	-1,985	-0.56%
19	410,613	53,054	14.84%
20	364,362	6,803	1.90%
21	334,921	-22,638	-6.33%
22	372,953	15,394	4.31%
23	334,243	-23,316	-6.52%
24	364,654	7,095	1.98%

25	344,456	-13,103	-3.66%
26	340,983	-16,576	-4.64%
27	353,299	-4,260	-1.19%
28	335,909	-21,650	-6.05%
29	342,967	-14,592	-4.08%
30	345,350	-12,209	-3.41%
31	374,925	17,366	4.86%
32	320,311	-37,248	-10.42%
33	330,491	-27,068	-7.57%

36. **Table 2** shows that, using 2020 Census data, the maximum deviation among state Senate districts for the 2011 Plan is 25.26 percent. Total, 13 of the 33 state Senate districts for the 2011 Plan are beyond acceptable deviations with 8 districts below -5 percent deviation and 5 districts above 5 percent deviation.

37. In light of these population shifts, the 2011 legislative district configurations are malapportioned. If utilized in any future election, these configurations would dilute the strength of Petitioners' votes in legislative elections since they live in districts that are significantly larger than those districts in which other voters reside.

38. Petitioner Samuel Gresham Jr. lives at 255 Old Trail Drive, Columbus, OH 43213, which is in House district 26 and Senate district 15 in the 2011 Plan. Based on 2020 census data, both House district 26 and Senate district 16 are overpopulated by more than 5 percent.

39. Petitioner Ahmad Aboukar lives at 5019 Noor Park Circle, Dublin, OH 43016, which is in House district 24 and Senate district 16 in the 2011 Plan. Based on 2020 census data, both House district 24 and Senate district 16 are overpopulated by more than 5 percent.

40. Petitioner Mikayla Lee lives at 111 Latta Avenue, Unit C, Columbus, OH 43215, which is in House district 18 and Senate district 15 in the 2011 Plan. Based on 2020 census data, both House district 18 and Senate district 15 are overpopulated by more than 5 percent.

41. Petitioner Prentiss Haney lives at 918 Windsor Street, Cincinnati, OH 45206, which is in House district 32 and Senate district 9 in the 2011 Plan. Based on 2020 census data, House district 32 is overpopulated by more than 5 percent.

c. The Revised Johnson/McDonald Plan

42. **Table 3** below, which was generated from Census data, reveals how the Revised Johnson/McDonald House Plan, unlike the 2011 House Plan, is compliant with equal-population principles. An excel file containing the information provided in Table 3 is attached as **Exhibit 10** (manually submitted).

Table 3: Revised Johnson/McDonald Plan House District Statistics

District	Population	Deviation	% Deviation
1	113,804	-5,382	-4.52%
2	115,690	-3,496	-2.93%
3	114,825	-4,361	-3.66%
4	115,779	-3,407	-2.86%
5	115,549	-3,637	-3.05%
6	114,055	-5,131	-4.31%
7	116,576	-2,610	-2.19%
8	115,486	-3,700	-3.10%
9	114,854	-4,332	-3.63%
10	114,058	-5,128	-4.30%
11	121,088	1,902	1.60%
12	114,827	-4,359	-3.66%
13	122,306	3,120	2.62%
14	124,454	5,268	4.42%
15	125,091	5,905	4.95%
16	124,926	5,740	4.82%
17	125,074	5,888	4.94%
18	125,129	5,943	4.99%

19	125,139	5,953	4.99%
20	125,092	5,906	4.96%
21	125,124	5,938	4.98%
22	125,102	5,916	4.96%
23	124,875	5,689	4.77%
24	125,108	5,922	4.97%
25	115,863	-3,323	-2.79%
26	115,993	-3,193	-2.68%
27	114,191	-4,995	-4.19%
28	122,081	2,895	2.43%
29	117,150	-2,036	-1.71%
30	120,781	1,595	1.34%
31	124,580	5,394	4.53%
32	122,703	3,517	2.95%
33	117,892	-1,294	-1.09%
34	117,660	-1,526	-1.28%
35	125,086	5,900	4.95%
36	117,347	-1,839	-1.54%
37	122,537	3,351	2.81%
38	117,451	-1,735	-1.46%
39	113,301	-5,885	-4.94%
40	113,798	-5,388	-4.52%
41	124,372	5,186	4.35%
42	113,816	-5,370	-4.51%
43	121,721	2,535	2.13%
44	123,297	4,111	3.45%
45	113,289	-5,897	-4.95%
46	113,336	-5,850	-4.91%
47	113,903	-5,283	-4.43%
48	121,556	2,370	1.99%
49	124,300	5,114	4.29%
50	116,372	-2,814	-2.36%
51	116,894	-2,292	-1.92%
52	119,984	798	0.67%
53	125,055	5,869	4.92%
54	119,560	374	0.31%
55	114,688	-4,498	-3.77%
56	120,933	1,747	1.47%
57	121,180	1,994	1.67%
58	120,396	1,210	1.02%
59	122,877	3,691	3.10%
60	122,994	3,808	3.20%

61	124,936	5,750	4.82%
62	122,936	3,750	3.15%
63	119,401	215	0.18%
64	117,427	-1,759	-1.48%
65	115,369	-3,817	-3.20%
66	113,245	-5,941	-4.98%
67	115,485	-3,701	-3.11%
68	114,836	-4,350	-3.65%
69	121,444	2,258	1.89%
70	113,556	-5,630	-4.72%
71	118,762	-424	-0.36%
72	124,312	5,126	4.30%
73	124,078	4,892	4.10%
74	123,119	3,933	3.30%
75	124,970	5,784	4.85%
76	119,415	229	0.19%
77	115,502	-3,684	-3.09%
78	114,560	-4,626	-3.88%
79	121,691	2,505	2.10%
80	124,162	4,976	4.18%
81	114,218	-4,968	-4.17%
82	113,563	-5,623	-4.72%
83	115,655	-3,531	-2.96%
84	120,113	927	0.78%
85	121,599	2,413	2.02%
86	124,192	5,006	4.20%
87	122,473	3,287	2.76%
88	122,888	3,702	3.11%
89	114,201	-4,985	-4.18%
90	117,881	-1,305	-1.09%
91	114,251	-4,935	-4.14%
92	113,551	-5,635	-4.73%
93	113,990	-5,196	-4.36%
94	116,408	-2,778	-2.33%
95	113,497	-5,689	-4.77%
96	116,108	-3,078	-2.58%
97	115,806	-3,380	-2.84%
98	123,450	4,264	3.58%
99	123,450	4,264	3.58%

43. **Table 3** shows that the population deviation for each Revised Johnson/McDonald House district is within 5 percentage points of the ideal district population and the maximum plan deviation stayed at 9.97 percent.

44. **Table 4** below, which was generated from Census data, reveals how the Revised Johnson/McDonald Senate Plan, unlike the 2011 Senate Plan, is compliant with equal-population principles. An excel file containing the information provided in Table 4 is attached as **Exhibit 11** (manually submitted).

**Table 4: Revised Johnson/McDonald Senate Plan
District Statistics**

District	Population	Deviation	% Deviation
1	363,242	5,683	1.59%
2	349,846	-7,713	-2.16%
3	344,398	-13,161	-3.68%
4	362,228	4,669	1.31%
5	343,927	-13,632	-3.81%
6	351,471	-6,088	-1.70%
7	365,787	8,228	2.30%
8	352,265	-5,294	-1.48%
9	362,511	4,952	1.38%
10	353,804	-3,755	-1.05%
11	358,354	795	0.22%
12	351,202	-6,357	-1.78%
13	364,453	6,894	1.93%
14	348,181	-9,378	-2.62%
15	343,408	-14,151	-3.96%
16	351,605	-5,954	-1.67%
17	365,749	8,190	2.29%
18	371,686	14,127	3.95%
19	344,311	-13,248	-3.71%
20	360,413	2,854	0.80%
21	347,180	-10,379	-2.90%
22	351,811	-5,748	-1.61%
23	375,075	17,516	4.90%
24	375,365	17,806	4.98%
25	375,294	17,735	4.96%

26	360,120	2,561	0.72%
27	358,255	696	0.19%
28	367,403	9,844	2.75%
29	359,303	1,744	0.49%
30	353,362	-4,197	-1.17%
31	349,889	-7,670	-2.15%
32	371,509	13,950	3.90%
33	346,041	-11,518	-3.22%

45. **Table 4** demonstrates that the population deviation for each revised Johnson/McDonald Senate district is within 5 percentage points of the ideal district population and the maximum plan deviation stayed at 8.94 percent.

46. Moreover, as noted, the Revised Johnson/McDonald Plan complies with the line-drawing requirements of the Ohio Constitution. One of those rules is that the maximum deviation among districts permitted under Ohio law is 10 percent. *See* Ohio Constitution, Article XI, Section 3(B)(1) (noting that “[i]n no event shall any district contain a population of less than ninety-five per cent nor more than one hundred five per cent of the applicable ratio of representation.”).

47. Under Ohio law, each county with a population that is within 5 percent of the ideal district population must be included in a single House district. *See* Ohio Constitution, Article XI, Section 3(C)(2). There are two counties that fall under this requirement: Wayne County and Richland County. Wayne County (District 51 in the Johnson/McDonald Plan) has a population of 116,894 and a deviation of -1.92% percent, while Richland County (District 61 in the Johnson/McDonald Plan) has a population of 124,936 and a deviation of 4.82% percent. Given the difference in deviations between the two counties, any General Assembly district plan will need to include a maximum deviation of at least 7 percent. Accommodating the other line-

drawing requirements outlined in Section 3 is likely to push any General Assembly plan toward the allowable 10 percent limit.

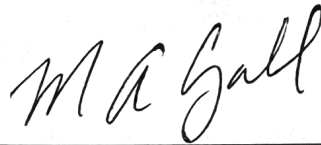
48. Hence, to comply with all of the other line-drawing requirements outlined in the Article XI, Sections 3–5, 7 and the proportionality requirements of Article XI, Section 6, any General Assembly district plan will need to include a maximum deviation near or at that 10 percent limit.

CONCLUSIONS

49. The Johnson/McDonald Plan is materially compliant with the state and federal constitutions. The Revised Johnson McDonald Plan made some minor adjustments to further refine the plan. The revisions were so minor that district deviations and maximum plan deviation stayed within acceptable limits without further manipulation of the district boundaries. The 2011 Plan, given the population growth and movement during the last decade, is not compliant with the state or federal constitutions.

50. My opinions and conclusions as expressed in this report are to a reasonable degree of professional and scientific certainty. My conclusions have been reached through the proper application of data analysis, and using methodologies relied upon by experts in the field of demography and geographic information science. My opinions will continue to be informed by any additional material that becomes available to me. I reserve the right to update and/or supplement my opinions if Intervenor-Plaintiffs provide additional information.

51. I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read "MA Gall", written over a horizontal line.

Megan A. Gall

Charleston, WV

April 6, 2022

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit 1

RETRIEVED FROM DEMOCRACYDOCKET.COM

MEGAN A. GALL, PhD, GISP

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EDUCATION:

PhD: Political Science · University at Buffalo SUNY: Buffalo, NY 8/2013
Dissertation: *The Political Geography and Electoral Consequences of the Slavery and Civil Rights Eras in American History*
Thesis: *The Efficacy of 'Broken Windows' Policies in American Cities*
MS: Geographic Information Science (GIS) · University of Denver: Denver, CO 5/2007
Thesis: *The Scope and Nature of Panhandling and the Related Crime in Denver, Colorado*
BS: Sociology · Shepherd College: Shepherdstown, WV 12/2000

SOFTWARE AND SKILLS:

Statistical & Data Viz: R stats/programming, QGIS, SQL, Tableau Public, ESRI ArcGIS/Online, Maptitude/Maptitude for Redistricting, Microsoft Excel/Access

Technology: HTML, CSS, VAN, Git, GitHub, Visual Studio Code, WordPress

EMPLOYMENT:

Principal 1/2021 - present
Blockwell Consulting, LLC: Nationwide

- Voting Rights Act (VRA) compliance and full consideration of the Gingles Preconditions including illustrative and remedial maps, racially polarized voting analyses (RPV), and demographic analyses.
 - Clients: Strumwasser & Woocher, LLP for the California Citizen's Redistricting Commission (RPV); the U.S. Department of Justice (RPV and districting); national non-profits including NAACP LDF (RPV and districting) and the Native American Rights Fund (districting); state and local non-profits (RPV and districting); and numerous local jurisdictions including cities, counties, and special jurisdictions (RPV and districting).
 - A full client list is available upon request
- Conducting quantitative analyses, research, and reporting in support of voting rights and criminal justice policy and litigation
 - A full client list is available upon request

National Data Director 6/2018 – 5/1/2021

All Voting is Local, a Leadership Conference Education Fund Campaign: Washington, DC

- Directing quantitative research to evaluate and recommend election administration policy, investigate voting rights violations, inform campaign strategy, and evaluate programmatic work
- Orchestrating multiple research projects with remote teams
- Managing large scale experiments testing efficacy of different modes of voter outreach
- Designing and implementing scalable data pipelines, analytics, and storage systems
- Building a scalable research team including recruitment, supervision, and mentorship
- Consulting with vendors, stakeholders, and research communities to further programmatic goals
- Developing program metrics and evaluation

Senior Researcher

9/2017 - 6/2018

Thurgood Marshall Institute at the NAACP Legal Defense and Educational Fund: Washington, DC

- Maintained a research portfolio focused on voting rights, redistricting, and criminal justice policy
- Conducted quantitative analyses in support of voting rights and criminal justice litigation

Social Scientist

3/2014 – 9/2017

Lawyers' Committee for Civil Rights Under Law: Washington, DC

- Investigated 35 U.S. jurisdictions in 14 states for voting rights violations resulting in 10 lawsuits:
 - modeled racially polarized voting patterns using multiple ecological inference statistical methods for over 200 electoral contests
 - created and evaluated political districting maps for 30 local and statewide jurisdictions
 - conducted spatial and aspatial demographic analyses
 - interpreted statistical results and relevant law, and provided litigation recommendations
- Developed quantitative evidence and writing legal declarations for employment, housing, and education litigation
- Research and reporting e.g. concept development, spatial and aspatial data analyses, statistical interpretation, writing, editing, and digital content creation
- Trained in-house and *pro bono* counsel on ecological inference, redistricting, GIS, and the collection and use of administrative and U.S. Census Bureau data
- Advised the national nonpartisan Election Protection Coalition on survey design, data collection, data privacy, and dissemination
- Assisted Development Team in grant writing when subject matter expertise is needed, including helping secure a \$1.3M, 3-year criminal justice grant
- Consulted with external expert witnesses, stakeholders, and *pro bono* counsel on research, evaluation, and data handling

Research/Teaching Assistant

9/2009 - 5/2013

University at Buffalo: Buffalo, NY

- Wrote proposal securing \$4,000 Baldy Center for Law & Social Policy Research Grant
- Conducted spatial and aspatial analyses for ongoing research
- Instructed undergraduate level class titled *Politics and Geography*

Research Associate

12/2007 - 7/2009

OMNI Institute: Denver, CO

- Supported client-based research projects e.g. proposal development, research design, data collection, data analyses, and reporting
- Integrated geospatial analyses into existing and developing research projects
- Provided company-wide geospatial analytic and cartographic support
- Designed and constructed 38 data storage systems for 24 federally funded HIV/AIDS programs throughout Colorado with cross-site evaluation capabilities
- Evaluated offender specific court systems (DUI, drug, and prostitution courts), homeless service organizations, and Hepatitis C/HIV/AIDS service programs
- Served as liaison to the Denver Office of Drug Strategy Commission

Temporary Fair Housing Researcher

5/2007 - 12/2007

Colorado Department of Local Affairs, Division of Housing: Denver, CO

- Conducted spatial and aspatial data analyses
- Assisted in the research and production of the Colorado Analysis of Impediments (AI) to Fair

Housing

- Assisted in development of the Colorado Housing Needs Assessment data systems
- Designed and created an atlas of commuters in Colorado counties

Student Research & Teaching Assistant

9/2005 - 5/2007

University of Denver: Denver, CO

- Wrote proposal securing \$5,000 Public Good Scholarship Grant
- Conducted thesis research in collaboration with the National Law Enforcement and Corrections Technology Center, the Denver Police Department, the Denver Department of Health and Human Resources, and other local agencies
- Assisted with the Denver Police Department GIS Crime Analyst Needs Assessment
- Conducted various geospatial, cartographic, and research duties
- Wrote technical laboratory exercises and acted as teaching assistant for four GIS undergraduate classes, such as *Introduction to Cartographic Design* and *Introduction to GIS*

Independent Contractor: Archaeology Field/Laboratory Technician 3/2000 - 8/2005

Five state region including WV, KY, MD, OH, and VA

- Experienced with all phases of recovery with both prehistoric and historic components
- Drafted large-scale village maps, small-scale planviews, and profile maps of excavation units
- Designed and implemented on-site artifact processing and catalog system

CERTIFICATIONS:

Certified GIS Professional (GISP)

10/2014 – present

GIS Certification Institute: Des Plaines, IL

Canadian Studies Graduate Certificate

8/2013

University at Buffalo SUNY: Buffalo, NY

Geographic Information Systems Graduate Certificate

5/2005

University of Denver: Denver, CO

TALKS AND SEMINARS:

- “Role of the Redistricting Expert” and “Differential Privacy in the 2020 Decennial Census” seminars presented at NARF Redistricting Training for Attorneys and Experts: Virtual (May 24, 2021)
- “Data in Civil Rights Litigation” seminar presented at American University Washington College of Law, Civil Rights & Public Interest class: Washington, DC (Mar. 27, 2019)
- “Data in Voting Rights Litigation” seminar presented at Howard University School of Law, Contemporary Developments in Civil Rights Law class: Washington, DC (Nov. 15, 2018)
- “Distance Analyses for Voting Rights Act Section 2 Vote Denial Investigations” workshop conducted three times at the Metric Geometry and Gerrymandering Group (MGGG) Austin Gerrymandering Workshop: Austin, TX (Feb. 1 and 2, 2018)
- “QGIS: An open-source tool for the Civil Rights & Racial Justice Community” lecture presented at the Metric Geometry and Gerrymandering Group (MGGG) Austin Gerrymandering Workshop: Austin, TX (Feb. 1, 2018)
- “Quantitative Anatomy of Section 2 Voting Rights Claim” lecture presented at the Metric Geometry and Gerrymandering Group (MGGG) 2017 Geometry of Redistricting Summer School: Medford, MA (Aug. 8, 2017)

- “Introduction to GIS & Voting Rights Litigation” workshop conducted twice at the Metric Geometry and Gerrymandering Group (MGGG) 2017 Geometry of Redistricting Summer School: Medford, MA (Aug. 8 and 9, 2017)
- “Introduction to mapping & QGIS” workshop conducted at the IASSIST 2017 Conference: Lawrence, KS (May 23, 2017)
- “Data: How we use it, the gaps, and how we fill the gaps going forward” panelist at the 2016 Election Protection Post-Election Convening: Washington, DC (December 2, 2016)
- “Put It On the Map: GIS & Online Mapping Tools” webinar presented in the Digital Tools in 2016 Series hosted by Election Protection: Washington, DC (May 5, 2016)
- “Using Maps for Strategic Planning and Evaluation” (with Heather Foster) workshop conducted at the 18th Annual Faces of Leadership Conference on Service and Volunteerism: Charleston, WV (August 6 - 8, 2013)

PUBLICATIONS:

Academic Publications

- Gall, Megan A. (2020). *Forthcoming – April 2022* “Making Maps: A Practitioner’s Perspective”. In Political Geometry. Ed. Moon Duchin, Ari Nieh, and Olivia Walch. Under contract with Birkhäuser Mathematics.
- Gall, Megan A. and Jennifer L. Patin (2018). “How Laquan McDonald’s Shooting Shook up the Cook County State’s Attorney Election”. In Atlas of the 2016 Elections. Ed. Stanley D. Brunn, Gerald R. Webster, Richard L. Morrill, Fred M. Shelley, Stephen J. Lavin and J. Clark Archer. Lanham, MD. Rowman & Littlefield Publishers, Inc.
- Gall, Megan A., Joshua R. Meddaugh and Joshua J. Dyck (2011). “California’s Proposition 8 (Same-Sex Marriage) and the Race Question”. In Atlas of the 2008 Elections. Ed. Stanley D. Brunn, Gerald R. Webster, Richard L. Morrill, Fred M. Shelley, Stephen J. Lavin and J. Clark Archer. Lanham, MD. Rowman & Littlefield Publishers, Inc.
- Meddaugh, Joshua R., Megan A. Gall and Joshua J. Dyck (2011). “Ballot Measures in the 2008 Election”. In Atlas of the 2008 Elections. Ed. Stanley D. Brunn, Gerald R. Webster, Richard L. Morrill, Fred M. Shelley, Stephen J. Lavin and J. Clark Archer. Lanham, MD. Rowman & Littlefield Publishers, Inc.

Organizational Publications

- Gall, Megan and Kevin Stout (2021). “Too Many Ballots of Last Resort – Disparities in Provisional Ballot Use in Ohio’s 2020 Election”. All Voting is Local: Leadership Conference Education Fund
- Banerjee, Shruti and Megan Gall (2020). “Covid-19 Silenced Voters of Color in Wisconsin”. Demos.
- Gall, Megan A. and Mike Brickner (2019). “Rejected: How the Provisional Ballot System in Franklin County, Ohio Fails Voters”. All Voting is Local: Leadership Conference Education Fund
- Patin, Jennifer L. and Megan A. Gall (2015). “The Voting Rights Act at 50: The Story of Texas Photo ID”. Lawyers’ Committee for Civil Rights Under Law
- Gall, Megan A. and Johnna Fandel (2008). “Men Who Have Sex with Men (MSM) Resource Mapping and Assessment Project”. Proprietary report prepared for the Colorado Department of Public Health and Environment and The Council by the OMNI Institute

Data Visualizations

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- Gall, Megan A., review of *The Road to Inequality* by Clayton Nall, *American Review of Politics*. volume 37, no. 1 (2020).
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- Gall, Megan A., review of *Where are Our Boys? How Newspapers won the Great War* by Martin Woods, *The Globe: Journal of the Australian and New Zealand Map Society Inc.* no. 80 (2016) 89-90.
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CONFERENCE PARTICIPATION:

- “QGIS and Democracy: Redistricting and Reapportionment with QGIS” (with John Holden and Blake Esselstyn) presented at the QGIS North America 2020 Conference: Virtual (July 20, 2020)
- “Native Vote in Arizona, 2018” presented at Native Vote - Broadening the Electorate Conference: Scottsdale, AZ (Mar. 1, 2019)
- “Data and Evaluation in Non-Profit Civil Rights Organizations” presented at the Bend Toward Justice Conference: Washington, DC (Dec. 4, 2018)
- “The Political Geography and Electoral Consequences of the Slavery and Civil Rights Eras in

- American History” (with Harvey Palmer) Paper presented at the Association of American Geographers (AAG) Conference: Boston, MA (April 5, 2017)
- “District Preferences, Legislator Preferences, and Legislators’ Votes” (with James C. Battista and Joshua J. Dyck) Paper presented at the State Politics and Policy Conference (SPPC): Iowa City, IA (May 25, 2013)
- “Multilevel Regression and Post-Stratification to estimate State Legislative District Opinion” (with James C. Battista and Joshua J. Dyck) Paper presented at the Southern Political Science Association (SPSA): New Orleans, LA (January 14, 2012)
- “The Flow of Representation: Policy Responsiveness in State Legislatures” (with James C. Battista and Joshua J. Dyck) Paper presented at the State Politics and Policy Conference (SPPC): Hanover, NH (June 3, 2011)
- “The Diffusion of MMA Legalization in the American States” (with Joshua J. Dyck) Paper presented at the Midwest Political Science Association Conference (MPSA): Chicago, IL (April 1, 2011)
- “District Characteristics and Legislator Traits” (with James C. Battista) Paper presented at the Midwest Political Science Association (MPSA) Conference: Chicago, IL (April 24, 2010)
- “Searching For Political Culture in Canada” Paper presented at Crossing Borders Conference: Niagara Falls, NY (March 26, 2009)
- “The Relationship Between Panhandling and Crime and a Public Policy Assessment” Paper presented at the Association of American Geographers (AAG) Conference: San Francisco, CA (April 18, 2007)
- “Understanding Broken Windows Policing” Paper presented at the Public Good Lecture Series and Conference: Denver, CO (February 16, 2007)

AWARDS AND DISTINCTIONS:

- DCFemTech Award: DCFemTech, 2021
- Advanced Spatial Analysis Program Invitation & Funding: Population Research Institute Center for Spatially Integrated Social Science, 2011
- Department of Geography Merit Award & Prize: University of Denver, 2007
- Outstanding Woman Geoscience Student Award: Association for Women Geoscientists, 2007
- GITA Consulting Scholarship: Geospatial Information & Technology Association, 2006

SERVICE:

- Member** · Native American Voting Rights Coalition: United States 10/2016 - present
- Co-Treasurer** · West Virginia Herbal Association: WV 10/2015 - 3/2018
- Board of Directors Member** · William Penn House: Washington, DC 12/2014 - 12/2017
- AAG GeoMentor** · Maret School: Washington, DC 8/2016 - 6/2017
- ‘Mapping Inequity in DC’ 11th/12th grade class
- GIS Analyst** · American Red Cross: West Virginia Region 9/2012 - 12/2014
- Conducted spatial analyses in support of volunteer services, and resource and fiscal management
- GIS Technician** · Spring Heights Education Center: Spencer, WV 6/2006 - 2/2007
- Converted paper maps to GIS enabled formats and provided cartographic services
- GIS Technician** · Denver Dept. of Health and Human Resources and the Colorado Coalition for the Homeless: Denver, CO 6/2006 - 2/2007
- Cleaned, managed, and mapped spatial data

Exhibit 2

Manually submitted to Court.

2011 Senate Plan Shape Files

Zip file labeled: 2011_StateSenatePlan_TIGERShapeFiles.zip

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit 3

Manually submitted to Court.

2011 House Plan Shape Files

Zip file labeled: 2011_StateHousePlan_TIGERShapeFiles.zip

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit 4

Attached & manually submitted to Court.

Revised Johnson/McDonald House Plan

File labeled: RevisedJohnsonMcDonald_StateHousePlan_Map.pdf

RETRIEVED FROM DEMOCRACYDOCKET.COM

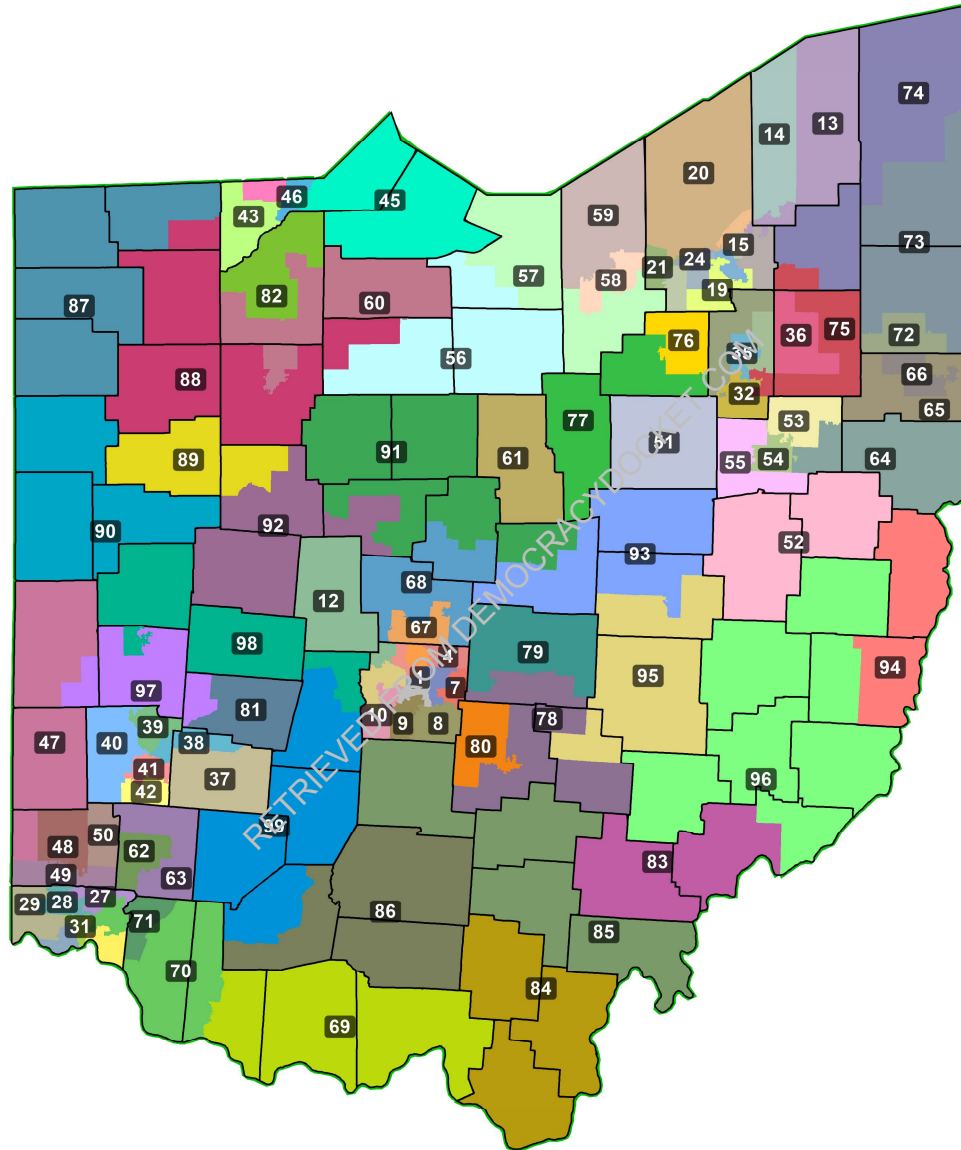


Exhibit 5

Manually submitted to Court.

Revised Johnson/McDonald House Plan

RevisedJohnsonMcDonald_StateHousePlan_EquivalencyFile.xlsx

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit 6

Attached & manually submitted to Court.

Revised Johnson/McDonald Senate Plan

File labeled: RevisedJohnsonMcDonald_StateSenatePlan_Map.pdf

RETRIEVED FROM DEMOCRACYDOCKET.COM

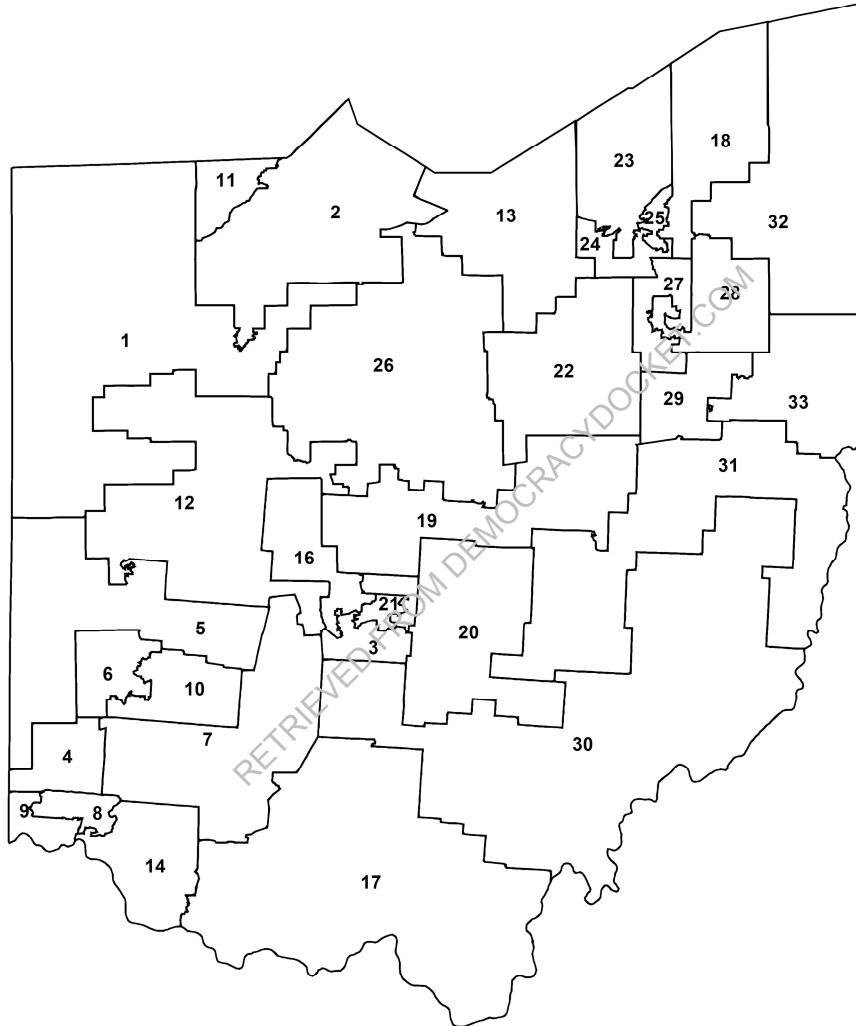


Exhibit 7

Manually submitted to Court.

Revised Johnson/McDonald Senate Plan

RevisedJohnsonMcDonald_StateSenatePlan_EquivalencyFile.xlsx

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit 8

Manually submitted to Court.

Table 1 (2011 House Plan Population Deviation)

2011_HousePlan_DistrictStats_2020Demographics.xlsx

RETRIEVED FROM DEMOCRACY DOCKET.COM

Exhibit 9

Manually submitted to Court.

Table 2 (2011 Senate Plan Population Deviation)

2011_SenatePlan_DistrictStats_2020Demographics.xlsx

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit 10

Manually submitted to Court.

Table 3 (Revised Johnson/McDonald Plan House District Statistics)

RevisedJohnsonMcDonald_StateHousePlan_DistrictStats.xlsx

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Exhibit 11

Manually submitted to Court.

Table 4 (Revised Johnson/McDonald Plan Senate District Statistics)

RevisedJohnsonMcDonald_StateSenatePlan_DistrictStats.xlsx

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EXHIBIT D

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redistricting03232022.mp4

Speaker Cupp [00:00:07] We'll have a start with a roll call,

Clerk [00:00:11] co-chair, speaker Cupp (present)

Clerk [00:00:13] co-chair, Senator Sykes (present), Governor DeWine (here) Auditor Faber (yes), President, Huffman (here), Secretary LaRose (here) Leader Russo (here). Mr. Co-Chair. A quorum is present.

Speaker Cupp [00:00:25] We do have a full attendance of the commission. In your folders are the minutes from the last meeting, which was March 22nd, 2022. Is there a motion to accept the minutes

Co Chair Sykes [00:00:39] I so move

Speaker Cupp [00:00:41] It's been moved is there a second? (All right). Been moved and seconded that the minutes be approved are there any objections or amendments to the minutes? I see none. The minutes are accepted without objection. At this time we have some budget items to take care of. Pay some bills. I would. We have a bill for \$7500 to the Calper [?] Corporation for Aptitude Licenses and three thousand fifty nine dollars and eighty seven cents to Micro Center for computer equipment. I would move that the commission approve payment for these expenses.

Co Chair Sykes [00:01:23] I would second,.

Speaker Cupp [00:01:24] And there's a second. Is there any discussion or are there any objections? Hearing none the motion to be approved without objection. it's in here. Is this in the folders? All right. So to provide an update on the federal mediators in your package, you'll find a letter from Chief Judge Sutton on the two, addressed to the two co-chairs, formalizing our engagement of the mediation services of the six Federal Circuit. Are there any questions on that before we move to the next item of business?

Co Chair Sykes [00:02:31] One update and the mediators are here, of course, but they are also starting to reach out to each member of the commission, initially with an interview, so they may or will be in contact with each member at your convenience to start the process.

Speaker Cupp [00:02:59] We also have with us this evening the two independent map drawers, and I would like to welcome both of you to come to the podium for a few moments and introduce yourselves and be entertained by the commission if they have questions. No, that's not quite the right way.

Michael McDonald [00:03:22] Hello, I'm Michael McDonald, I'm a professor at the University of Florida.

Doug Johnson [00:03:26] And I'm Doug Johnson from the National Demographics.

Speaker Cupp [00:03:30] We appreciate both of you being able to come here on relatively short notice. Thank you. Are there any questions or things anybody wants to address to

the two experts here? All right, I guess that was pretty short, so thank you. All right. So it seems to me the next item would be discussing the ground rules and instructions for the the map drawers. Chair recognizes Senator Huffman.

President Huffman [00:04:11] Thank you, Mr. Co-Chair. Distributed earlier today was a set of 18 proposed ground rules. These are things to help facilitate, both for the independent map makers and the staff, the public to try to allow this process to move along in a in a smooth way, unequivocal way allow decisions to be made. And I think those these have been already seen and reviewed and commented upon. We have a list of proposed amendments or changes to them, and I'm not sure who's proposing those, but we'll find out shortly. And so I would move that these rules be adopted by the commission for the purposes of the next several days to allow the mapmaking process to go forward.

Speaker Cupp [00:05:10] So there's a motion made to adopt these rules as the rules for guiding and directing, I guess more than guiding the the mapmakers is there is a ssecond?

Co Chair Sykes [00:05:22] Before there is a second I would if I could just provide for explanation. The co-chair and I had a discussion yesterday about this and our stance were directed to formulate and help us work through what these guidelines or guides might be. And we were to exchange these prior to this meeting so that we could try to come up with consensus. We also have because of the speaker's session today, we did not have the ample opportunity to make that exchange prior to this meeting. We also have a list that we have produced. Some of them are alike and some of them are not. And we would like consideration for this, that we could possibly take a recess for a few minutes to review both of the proposals and see if we can come up... We'll work out a consensus on these concepts.

Speaker Cupp [00:06:37] So the proposal is that we take a few minutes for recess and that we then reconvene and discuss them here in open session.

Leader Russo [00:06:46] Mr. Chair,

Speaker Cupp [00:06:48] Leader Russo,.

Leader Russo [00:06:48] Thank you. Thank you, Mr. Chair. I would also. I am not sure if the map makers themselves had have seen these rules as well, because I just want to make sure that some of the things that we have on here that they are actually practical. And if there are any concerns, I'd like to hear from our map makers. You know, for example, there's a rule in here about using one computer, which I think might be an issue. So I would recommend too that we allow the map makers also to look at them to see if there's any suggestions that they might have if... Just from a practical standpoint, some of this is not workable.

Speaker Cupp [00:07:28] Is there any objection to the see what we're about to ask them to do. All right. So we will we will do that. Any objection to how you. 30, 30 minute recess? I'm... I can proceed, I haven't had a chance to read them, but I'm sure I can follow along as we go if we want, but I'm open

Co Chair Sykes [00:08:02] maybe at least 10 minutes to review

EXHIBIT E

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Ohio Redistricting Commission 3-26-2022

Co-chair Sen. Vernon Sykes [00:00:02] I like to call the meeting to order to begin on March 25th. Is there any reason not to adjourn the meeting? Seeing and hearing none and now adjourn that meeting.

Co-chair Sen. Vernon Sykes [00:00:15] And I call to order the meeting today, 26 of the redistricting commission, will the staff please call the roll co-chair?

Clerk [00:00:27] Speaker Cupp (Present) Co-Chair Senator Sykes (Present) Governor DeWine (here) Auditor Faber (here) President Huffman (here) Secretary LaRose (here) Leader Russo (here) Mr. Co-Chair. Quorum is present.

Co-chair Sen. Vernon Sykes [00:00:40] We have a quorum and so we will meet as a full commission. At this time the independent map makers are attending the meeting virtually, and we ask that our audience today to refrain from loud noise out of respect for the independent mapmakers and persons watching the proceedings remotely on the Ohio Channel. Members who are in the room. Please use your mates and talking to your mikes so that all everyone will be able to hear you plainly. There are minutes in the folder from our last meeting. Is there a motion to accept the minute?

House Minority Leader Allison Russo [00:01:24] So moved.

Co-chair Sen. Vernon Sykes [00:01:25] Is there a second?

Co-Chair Speaker Bob Cupp [00:01:27] I'll second Mr. Co-Chairman

Co-chair Sen. Vernon Sykes [00:01:28] OK. Is there any objections to the minutes as presented?

Co-Chair Speaker Bob Cupp [00:01:32] Yes, I do have. I think there are some additions that should be added to the minutes. These are items that were raised during the commission meeting yesterday. One. And I don't see them in the minutes. One is that President Huffman requested that the independent map drawers present multiple options for Franklin County. I think that should be reflected in the minutes. Also, I requested that any areas in which the map drawers had had the intent to present to the commission that the the the information and the maps to be presented to commission members 90 minutes before the start of the scheduled commission meeting. And third that prior to drafting a full General Assembly district plan, the various proposals were presented were to be presented to the Commission for discussion. And then the commission would give direction to the map makers on how to proceed pursuant to the rules that we've previously adopted. I think all of those should be reflected in the minutes because they were they were discussed and I moved to amend to add those.

Senate President Matt Huffman [00:02:45] Second.

Co-chair Sen. Vernon Sykes [00:02:45] Any discussion on the motion? Hearing, seeing none, is there are any objections to the amendment? Hearing seeing none and then we will accept the amendment. And now the motion to approve the minutes as amended. Is there any more discussion? Any objections? Hearing seeing none we will accept the amended minutes as adopted? We will move now to the independent map drawers, and for any current updates, you might have.

Doug Johnson [00:03:33] Co-chairs, Good to see you again. It's been a busy 24 hours, I guess. We have finished our first sketch maps that we just had pieces of to show you last night or yesterday afternoon. We worked well into night and got those first sketches done around midnight or one a.m. and came back today. Started digging into the details of those trying to do some trying to do some additional work on the competitiveness, meeting that the different requirements of the court rulings. And also on one of them we have a set of Senate and Senate lines built off of that to see where there might be issues, as you're very familiar from the process working through this. The challenges, first we have to put together House seats. Then we combine them into Senate seats, see where they kind of run into problems on the Senate side side and have to go back and fix those on the House side. So there's a little bit of back and forth throughout this process until we can get a clean map that meets all the in particular, the county groupings and township rules. So we're through the first round of Senate meeting apps, and I think we're not too far off from having the second sketch map also ready. So we do have some some questions and some options to put before you today that have come out of the first two sketch maps. And we can talk a little bit about the and whether or not those have impacts on the partisan balance of the overall map and the degree of of partisan competition in each of the districts. So to start with that, I think I'll hand it over to Dr. McDonald.

Co-Chair Speaker Bob Cupp [00:05:35] Before we start on that. Do we have printed copies of those so we can follow? I cannot follow along on that screen. And I thought we were going to have these 90 minutes or so before the commission meeting started. I haven't seen anything. So it's it's really hard to follow along if we don't have it documents before us.

Senate President Matt Huffman [00:05:58] You know, Mr. co-chair, I'd understood that we asked the map makers to do that. Mr. McDonald indicated he was going to have some staff do that instead. But I also don't have any printouts to look at. Do you if you have some, you know, we could copy yours, Mr....

Co-chair Sen. Vernon Sykes [00:06:16] Can we just stand at ease in just a moment and we can try to make sure that we get those.

Co-chair Sen. Vernon Sykes [00:28:33] Back to order. Just for clarification, co-chair Cupp had approached me about making sure we had information that was being talked about or presented that we had the data and maps and so forth related to that, and I agreed. I thought we should have that information in advance and that we should work with and through our staffs and not hamper or interrupt the map drawers from doing their work. And so earlier today, the map drawers, the independent map drawers gave to both staffs information we copied. The information we were ready and prepared. You today apparently was not copied or prepared or understood that wasn't the procedure today. So we agreed that you should be able to have its information in advance and we set up a process, but apparently was not totally implemented. But now we have, everybody has the same copies of earlier today and this is the status of the map drawers. And at this time, we'll look for or hear from the map drawers themselves to make a presentation on this update status.

Dr. Michael McDonald [00:30:09] Dr. Johnson gave some update earlier. I just want to tell you where we are with our map drawing overall to give you a high level view first, as he mentioned, we've both completed house maps, they're both proportional, so they both have forty five Democratic-leaning districts in them. And now we're just working back and

forth with each other through the mapping process. What we have done is where there are certain decision points as to how a district may have to cross a county boundary line because, say, Montgomery County has three and a half districts within it that can be contained within the county. Which direction does that half district go? Which other county does that additional district cross into? So there are options at that point, and with the advice of the consultants for the partisan sides, they've already explored these and they kind of know where some of them are dead ends that it's impossible to get a solution, where it's a solution that's going to adversely affect how the Senate maps are going to be drawn. So taking their advice, we are typically when we reach one of these decision points, we're left with two options. And so Dr. Johnson's taken one option and I've taken another. We've randomized it so that there's, you know, we're not trying to have any intent here. We're just trying to work our best way through this and explore the options that we have in front of us. Through that process as I said, I, as Dr. Johnson said late last night, we had finished two maps and this today we've been looking at the choices that we respectively made, and we've come to some agreement on some areas of the map. So I have adopted elements of Dr. Johnson's Lucas County approach. Mine was a different approach, and he's adopted my Hamilton approach. So again, we're working collaboratively. We're looking at these options. We're exploring what we think is the best approach at this point. I'm trying to get to that symmetry. At this point I think we're getting close on that 50 to 52 symmetry range. And so we have some guidance. We want to and maps that we want to present to you that will explain to you where we're seeing some differences that we haven't resolved in our maps yet. To also understand. Dr. Johnson, we have had enough time to create a Senate map out of his House map, and that's putting these puzzle pieces together because you have to have three Senate districts with certain rules on how the Senate districts go together. We did not have enough time to do my map yet. So as we say, as we make this presentation, understand that we know that there are some issues. We think that they're minor with Dr. Johnson's house map as it relates to creating a Senate map, and we have not fully explored what my issues are, if any, yet either. So we're still in a draft. I would say, proposal stage. We don't have a final map, but I feel like we have made good progress to get to the point where we're getting there. So with that? At this point?

Co-chair Sen. Vernon Sykes [00:34:18] Can you hold just a minute?

Dr. Michael McDonald [00:34:19] Yes, go ahead.

Co-chair Sen. Vernon Sykes [00:34:19] Just a minute of we are glad today to know that the first lady in the state of Ohio, Fran DeWine, is here and we'd like to give her a warm welcome. He's been hanging out with us for a while, and we appreciate you joining us, thank you so much. You may continue.

Dr. Michael McDonald [00:34:47] I apologize for subjecting you to a mapping session on Saturday, so that gives you a sense of the process I and it's it's good that you interrupted me there. If there are any questions about the process that this might be a good time to ask the same questions about the process before we start showing you some of the work that we've done.

Co-chair Sen. Vernon Sykes [00:35:21] How long will it take you to? You think we're on a short fuse now, it's getting shorter and shorter just a couple of days. So how long you think to have a combined map for a recommendation to us?

Dr. Doug Johnson [00:35:39] Well, I think the the big variable is really the immediate next step is running the second map through a Senate build to see how it works out and what issues there might be in that. It took about two hours this morning to do the first map as the Senate bill. I expect it'll be a little bit faster. You know, we're we're learning as we go, but we're probably looking at an hour to two hours to build that in. And then once we know what pitfalls lie there, then we could sit down and merge the maps together. But as Dr. McDonald saying, they're not that many areas where we have significant differences among the maps. It's really Montgomery County and the Summit Lake Cuyahoga area. So those two regions is really what we have to reconcile. So today, I think, or rather tonight is a very good likelihood that we would have these these sketches ready and combine into one and ready to implement whatever alternative instructions you may give us today.

Dr. Michael McDonald [00:36:53] And I would add to to that response, I mean, this is we're not trying to impose a map. So we're still very much open to suggestions and recommendations. I know we were asked to explore two counties around Franklin and we have a question about that. We wanted to know if it was if the two counties to Madison and Pickaway, if they were meant to be put together or if they were to be looked at independently. So we we didn't have time, quite frankly, to look at it, but we also had the question of how we would proceed with exploring that option versus having Union as the county that is adjoined to Franklin. So we've that. I think we would probably get to tomorrow. Once we can get a map, a unified map together, then we would want to look at that sort of issue.

Dr. Doug Johnson [00:38:00] And so I guess the -- we're saying this to two things here, one is a question for you, which is just clarifying whether the press see one option that went to Madison and one that went to Pickaway both instead of union or if the goal is to go to Madison and Pickaway together with Franklin instead of union. And then the second piece is, we'll have it for you tomorrow.

Co-chair Sen. Vernon Sykes [00:38:21] Senator Huffman?

Senate President Matt Huffman [00:38:24] Yeah, I actually had a number of suggestions and I posed that question yesterday. And I think if I could answer their first question and what you know, we have, I guess maybe in priority, we have the Constitution and we have the Supreme Court decisions which interpret the Constitution. And then we're going to have specific direction of the commission as a whole. So I think if if a majority of the commission says do this and not that which we haven't gotten to that part yet, I understand. And then there may be suggestions of individual commission members. And so the take a look at the Madison Pickaway versus the Union was a suggestion of mine. And the reason I suggested that was it appeared to work better, according to, our folks who have been working on this for several months, when we got to the rest of the state. So if you don't have that tonight, that's fine. We can take a look at that. I have, if I could continue. Mr. Co-chair.

[00:39:40] Yes.

[00:39:40] There's another suggestion that when we looked at Northeast Ohio because of the problems with the counties that have priority because of their size in Wayne County, for example, in that northeast Ohio must remain in the same house district as a single county district and kind of squeezed up there in the corner Geauga and Ashtabula County, which do not have protection. And it worked well in the in the version of the map that was passed in section three or map number three that the seven counties. I think I'm going to

EXHIBIT F

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Ohio Redistricting Commission 3-27-2022 PART 1 & 2

<https://ohiochannel.org/video/ohio-redistricting-commission-3-27-2022>

Co-Chair Speaker Robert Cupp [00:00:00] The meeting of the Ohio Redistricting Commission will come to order. We are currently in the meeting, which began on March 26th and was recessed. Without objection the recess meeting will be officially adjourned. Hearing no objection the recessed meeting is now officially adjourned. I now call to order the March 27th, 2022 meeting of the Ohio Redistricting Commission, and I will ask the staff to please call the role

clerk [00:00:32] Co-chair of Speaker Cupp (Present) Co-Chair Senator Sykes (Present) Governor DeWine (present) Auditor Faber (here), President Huffman (here) Secretary LaRose (here) and Leader Russo (here) Mr. Co-Chair a quorum is present.

Co-Chair Speaker Robert Cupp [00:00:47] All members of the commission are present, at this time we will have a presentation from the independent mapmakers. They are virtual in room 116 of the Statehouse, and we ask that our audience today refrain from loud noise out of respect for the independent mapmakers and the persons watching the proceedings remotely on the Ohio Channel and commission members, please make sure that your microphone is on when talking and speak into the microphone so that all can hear. This time, I will turn this over to Dr. Johnson and Dr. McDonald and for an update.

Dr. Michael McDonald [00:01:30] Thank you co-chair and commissioners. And Dr. Johnson and I will make separate presentations of course, as we have done on. The progress that we've made to date is that we've learned from our last meeting yesterday. We now have two plans that we have checked and verified that they do compile up to Senate plans. And so we've independently done that. We've fine tuned those plans some as well, and they do take different approaches. So we'll discuss those different approaches. And I also had an opportunity to take a look at this swapping out of Union combined with Franklin County, instead using Pickaway and Madison to combine with Franklin. I'll start there first. I know we've shared maps and statistics with you. Just the high level view on that is that it can work. It doesn't substantively affect the proportional balance of the two parties, the number of districts, and it doesn't affect any of the competition or symmetry issues that the court has raised. So it's something that we could do with that plan and with all the other plans. I would also say that while we have done some fine tuning on our our maps, I think if we were really polishing these maps, we could improve county splits and compactness. And do, you know, look for those sorts of things at this point, but we want some guidance from you on the, the point where we have a disagreement about our two maps. And again, just to, I think, fairly characterize our disagreement of trying to do this as best I can because we do have a disagreement. Most of the state, we have different approaches. So our disagreement really centers down in the southeast, excuse me, southwest part of the state and between Montgomery and whether or not you go into Green with the extra district that has to cross over, which is what I do and or into Preble which is what Doug Johnson does. And but we have large amount of agreement, even though we've had different approaches, we have been working through this and adopting each other's approaches throughout the state. And although our symmetry issues, the districts that are contributing to your symmetry are a little bit different in some parts of the state and they they may behave in different ways, you know, by and large were some of that's just more of a function of the different choices that we made in those regions. It's not really a disagreement about how we could do things. And so when I talk about the disagreement that we do have and we do are seeking guidance from you on this, on which direction to go on, we could easily swap out like my approach to

Montgomery with the rest of Doug's map, where you could take my map in whole or we could take my map and swap and Doug's approach where you could in the southwest part of the state, or you could take Doug's approach in whole so, although there are different approaches, I think there's overall there's a lot of agreement between us and there's so on the rest state, it's really a matter of taste as to and again, we're not privy to all of your considerations of how you would approach things and how you think about them. So but I would characterize it more of that sort of your opinion about the rest of the state is really related to that. So I think with that, why don't I just stop before we actually present you with the question that we want to present to you and just see if you have any questions for us at this point?

Dr. Douglas Johnson [00:05:48] Well, let me just very briefly summarize the three, I guess, four, three maps that they have before them from us. One, the document just to remind you from yesterday that the one the Dr. McDonald two worked on primarily puts Cuyahoga with Lake and then has, as he described the Montgomery with Green. And then the one that I primarily worked on has Cuyahoga with going down to Summit and then has, as you mentioned, Montgomery going to Preble County. And then you have the third map that Dr. McDonald worked quite quickly today to get before you, where you have the House version of it and the Senate.

Dr. Michael McDonald [00:06:32] House and Senate

Dr. Douglas Johnson [00:06:34] Where Senate versions of Franklin pairing with Madison, Pickaway versus the first two maps of Franklin paired with Union. So those are the three sets of maps, each one having a House and Senate map before you that you have today that kind of highlight the different, the differences and the questions that we run into. So I'm just trying to get here. So with that, we're happy to answer questions you have and then we can get in.

Co-Chair Speaker Robert Cupp [00:07:03] Are there questions from the commission for the map drawers? Hearing none, so I guess you might just get in to it all.

Co-Chair Senator Vernon Sykes [00:07:14] Yes.

Dr. Michael McDonald [00:07:14] You want to start with your approach?

Dr. Michael McDonald [00:07:19] Sure, I think that the key thing that each of these maps highlights is number one, just choices, some of which I don't think have have huge constitutional or Supreme Court order related questions. They're things like in the map that goes Cuyahoga to Lake you get an extra competitive or even extra democratic district in that area. In the map that goes Cuyahoga to Summit, that last Senate Democratic seat comes in Toledo. It's the second seat in Toledo instead of just one. So we end up with the same number of Democratic seats in both the House and Senate maps kind of the magic number that's been referred to. It's just on the Senate side. It's in a different part of the state than where we where they do differ is in the symmetry side. The Cuyahoga with Lake, I get you one more competitive Republican seat, essentially a safe Republican seat comes down into the the competitive range, which improves the symmetry. All the other places, we're actually where we both on that and in the latest versions is in Mahoning. We get to there's a second map in the Cuyahoga to Summit, the second, I'm sorry, the second competitive Republican seat in the Cuyahoga, the summit map by making changes purely within Mahoning County or in the case of the Cuyahoga to Lake, make it to a third competitive Republican seat.

EXHIBIT G

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Ohio Redistricting Commission - 3-28-2022 part 1

Co-Chair Senator Vernon Sykes [00:00:00] The meeting that began on March the 27th, with no objection I pronounce adjourned said meeting. And I call to order the meeting today of the Ohio Redistricting Commission. Will the staff please call the roll.

Staff [00:00:21] Co-Chair Speaker Cupp.

Co-Chair Speaker Bob Cupp [00:00:22] Present

Staff [00:00:24] Co-Chair Senator Sykes.

Co-Chair Senator Vernon Sykes [00:00:25] Present.

Staff [00:00:25] Governor DeWine.

Governor Mike DeWine [00:00:26] Here.

Staff [00:00:27] Auditor Faber.

Auditor Keith Faber [00:00:28] Here.

Staff [00:00:28] President Huffman.

Senate President Matt Huffman [00:00:29] Here.

Staff [00:00:30] Secretary LaRose.

Sec. of State Frank LaRose [00:00:31] Here.

Staff [00:00:32] And Leader Russo.

House Minority Leader Allison Russo [00:00:32] Here.

Staff [00:00:33] Mr. Co-Chair, all members are present.

Co-Chair Senator Vernon Sykes [00:00:36] A quorum is present, so we will continue to meet as a full commission. At this time, the independent map drawers are attending the meeting virtually and we ask that the audience refrain from loud noise out of respect for the independent mapmakers and the persons watching the proceedings remotely on the Ohio Channel. Members who are in the room, please use your microphone so that everyone might hear it. The minutes of the previous meeting are in your folders; do have a motion to accept the minutes?

Co-Chair Speaker Bob Cupp [00:01:11] So moved.

Co-Chair Senator Vernon Sykes [00:01:13] Are there any objections or changes to the minutes as presented? If not, we will accept the minutes as presented. At this time, we'd like an update from the independent mapmakers.

Dr. Douglas Johnson [00:01:31] So good morning, Co-Chairs and members of the commission. Just reporting on our status, we have received the - number one, we have

merged the maps together, so we have a merged House and merged Senate map, incorporating all of the references at the time, discussed last night. And we have received and, just minutes ago, finished importing in the incumbent list and coding them purely for which are Senate, which your House. So as discussed, we do not know names or parties. We just have the dots of the senators and the dots of the House members. So that is imported in to our maps. And while I was doing that, Dr. McDonald has started on the cleanup of the village and city splits and township splits and the small technical things that trip up so many maps, so that work is already underway. And now that we have the the list imported, we will begin the process that was at your direction from last night, to begin looking at which incumbents are paired, and which incumbents raise section five issues. So that's the work we're about to kick off. The big question in our mind is a process question for the day. Obviously, a big goal today is for you to really make this your map by giving us your questions, your suggestions and requests and directions. And so wanted to, I think a good thing that could come out of this meeting would be a decision on that process, if that's possible. Anything to add, Dr. McDonald?

Dr. Michael McDonald [00:03:15] I would add that there was one change that we've already made that was recommended to us, that in Warren County that we were told would fix one of the incumbent issues. And so we looked at it. It does not affect any of the constitutional requirements or the Court requirements. So we went ahead and implemented that particular change.

Dr. Douglas Johnson [00:03:45] So if you have a process in mind for how those changes should come from the commissioners to us, we're certainly happy to work at your direction or we can offer some ideas for your consideration on that if you wish.

Co-Chair Senator Vernon Sykes [00:04:00] Could we start with you offering some ideas, because we're trying to accommodate your schedule as well.

Dr. Douglas Johnson [00:04:09] I think just from a pure process, thought it might be best if the commissioners share requests amongst the, amongst the other commissioners and primarily, I think, through the, through the staff liaisons. And if there is consensus on a change, then either that commissioner or the staff could pass that along to us and we would implement it. If there's not consensus, I presume they would likely need to come back to the commission for discussion. But that would be the easiest way because we anticipate that a lot of these changes will be unanimous, non-controversial changes. We just want to be sure that we're having some time to get some work done and not constantly getting those. So, if there is a way to consolidate, those have a staff review and sign off on them and then present them to us in batches rather than one at a time, that would be helpful for us.

Co-Chair Senator Vernon Sykes [00:05:09] Are there any questions or comments from the commissioners? Senator Huffman.

Senate President Matt Huffman [00:05:16] Yeah, thank thank you, co-chair, I guess in terms of process, my expectation, I think the other commissioners expectation, is that at some point there would be a well worked product, a merged map taking into account all of the constitutional factors, the other factors that the various commissioners have mentioned throughout these meetings. And we would have a chance then to review that and then make comments. So I guess the question it appeared, if I'm right, it appears, at least at this moment, the product, if I can call it, is not ready. But at some point the two of you will believe, Hey, here's a we'll call it a proposal, and then commissioners will have a chance

to review that. And I don't know whether we come back and formally accept that proposal that whenever that would be, or that's just something that that gets sent out. But you know, we, I can't make suggested changes if I don't know what it is that I'm changing. So I guess that's a question. Is it when, I don't want to say when, because that's, who knows. I mean, you have a better idea, but there's no reason to say this time unless you actually know. So if you, when that's ready, Mr. Co-Chair, I guess I think all seven commissioners would like to see it and then do their own analysis and be able to make their suggested changes. And maybe I'm stating the obvious, but, I don't anticipate a process where, the seven of us somewhere virtually get a proposal, and then we start making changes and the changes that I'm making may affect the changes that Senator Faber's making and 'yeah, we'll do that, Senator Huffman, yeah, we'll do that Auditor Faber,' now we've got a new I mean, at some point we have to have one working product and then move forward from there.

Co-Chair Senator Vernon Sykes [00:07:29] I believe we have a working product, at this point, the question and I appreciate the comments and the question that Senator Huffman is raising, is that prepared, is it prepared right now to share with the members? Of course you share, it's being shared all along. But are we at that stage that the members could have the unified copy and use it for evaluating it, for assessment, assessing any kind of changes?

Dr. Douglas Johnson [00:08:09] So, yes, we are not at the point of giving you a formal next map because the instruction was for us to incorporate the incumbents and make those changes and give you kind of our next merge, not just our merger but our merge with the incumbent adjustments made. But as we've been doing throughout this process, we can give you just our current working copy and your staff can, we'll pass those to your staff and they can share them with you. And and yes, I think to Senator Huffman's point, we won't have done our incumbent adjustments yet, but if your, you and your staffs, can help us along in that process, we welcome any input or direction you have on that and to the senator's point, that's my hope, is that perhaps if we are coordinating this and then we get the request come to us after they've been coordinated between both caucuses, that might be a working system.

Dr. Michael McDonald [00:09:12] I would just add that we are sharing maps with your staff and then we are posting them on to the website when there's any major revision to the map, that's beyond just a small technical issue. So we plan to, after this meeting, move on the technical adjustments that I've been making into a plan, the working draft plan, and we're going to share that with staff. And my anticipation is that we're going to and I'm getting a nod, yes, that we are going to publish that online.

Dr. Douglas Johnson [00:09:42] And then in timing, to your timing question, my thought is, we talked about this a little bit, that, well we schedule- if we make great progress and move faster, we'll certainly let you know and perhaps meet before that, but would suggest that we have the next hearing ar, Dr. McDonald's suggestion was 3:00, so we would need to get you the files by 2:00. It's not quite the 90 minutes you prefer, but we're tight, so if that's okay with you, or we can give you a current status map at 1:30 as well, but-

Dr. Michael McDonald [00:10:15] And I would just add to that, I mean, your staff are going to be looking at these maps over our shoulders and people I know are going to be viewing it online. So I, there's going to be transparency here, if you wish to come in and look at the maps as we're doing them as well, I encourage you, you know, for the commissioners who can do so, I was very aware, you know, aware, I have my own vision problems, so to Spekaer Cupp, you know, I understand he needs some maps and I

understand the reason why. So, but for those who can come down, we certainly invite you. And you know, if it doesn't interrupt our work too much, we would be happy to walk you through any issues that you may have or want to look at any particular part of the state.

Co-Chair Senator Vernon Sykes [00:11:08] Auditor Faber.

Auditor Keith Faber [00:11:10] To speed this along, I know you're talking about having various maps, but if we could see, at least have have the combined print out, I came down and looked at it. But some changes have been made and you're going to make, now that the incumbent's data, if we could have that print out for us to look at it and our staff to look at, it may help the process of offering amendments go faster. If we could see it in total and with the urban areas blown up.

Dr. Michael McDonald [00:11:38] Our strong preference is that your staff do that. It takes us time to produce maps, so we really would hope that you would rely upon your staff to do that.

Dr. Douglas Johnson [00:11:49] Just to kind of, we'll hand over all their mapping files, like in a few minutes here. And then the request is that then the respective staff secure print, the print outs. But yes, we will certainly hand over all the files they need to do that.

Co-Chair Senator Vernon Sykes [00:12:06] So it's been suggested that one, you're going to provide copies of every, to everyone right now, of the maps that you have. You have one united map, unified map and the members are to look through it to find out if there's any suggestions that they would like to make. You're going to continue to work on compactness issues and splits, as well as any suggestions, amendments, that's coming from the members. At 1:00, you suggest that we meet again, that we will have another status report. By that time, you would have the recommendations or suggestions on dealing with the incumbency issue. And we could then also print maps out again for the continued review of the members, and we would then set at the 1:00, we would set a meeting at 3:00 to come back to, in fact, make any suggestions from the commission to you and your work.

Dr. Douglas Johnson [00:13:21] Correct, if that, I know it's not the full 90 minutes, but the suggestion would be that we give you kind of our working, working status at 2:00 for you to review and be ready to give us direction on it at you're, at a meeting at 3:00, if that's comfortable with, if that works for the commission.

Co-Chair Senator Vernon Sykes [00:13:39] But the commission members will have access to the unified map right now. Yes.

Dr. Douglas Johnson [00:13:45] Yes.

Co-Chair Senator Vernon Sykes [00:13:45] Okay. All right.

Co-Chair Speaker Bob Cupp [00:13:47] So, so are we coming back at 2:00? Or are we getting a map at-

Co-Chair Senator Vernon Sykes [00:13:51] 2:00.

Co-Chair Speaker Bob Cupp [00:13:51] 2:00.

Co-Chair Senator Vernon Sykes [00:13:53] And we can come back at 3:00.

Co-Chair Speaker Bob Cupp [00:13:57] And we come back at 3:00. And and not at 1:00?

Co-Chair Senator Vernon Sykes [00:13:59] Not at 1:00.

Co-Chair Speaker Bob Cupp [00:14:03] And we're able to get a current, get a map of the current progress now-.

Co-Chair Senator Vernon Sykes [00:14:09] Yes.

Co-Chair Speaker Bob Cupp [00:14:09] To get familiar with it. OK.

Co-Chair Senator Vernon Sykes [00:14:14] Any questions? Leader Russo.

House Minority Leader Allison Russo [00:14:17] Thank you, Mr. Co-Chair. You know, I just wanted to say that I commend these map makers. They have made significant progress even since our late meeting last night, and it's been very helpful to go in and talk with you and sort of see, and I know some commission members have been down, you know, asking if there are, some of their suggestions are possible. So I appreciate that and I would encourage all the commissioners if you haven't been doing that to continue to do that because I think that that is probably the fastest way to really get feedback on what you're thinking or your suggestion may or may not be possible and present any issues. And I appreciate both of the mapmakers for being very accommodating to that.

Co-Chair Senator Vernon Sykes [00:15:10] Can you just review with us just a brief description of the map, the unified map, right now, the proportionality, the symmetry and the compactness as best you can, so we understand where we stand right now.

Dr. Michael McDonald [00:15:28] Yes, so most of the map is the, again, we're actually, Dr. Johnson, I have randomly been choosing approaches. We've been collaborating all along, but this unified map, given the preferences that were stated by the commission, is basically the one I've been working on. So it made it easy for us to move over to a unified map. So that's the map. We've discussed it previously. It's proportional, both in the House and the Senate. In the House, the proportionality, the symmetry issue is that there are three competitive leaning Republican districts in that 48 to 52 partisan index range, and then are three Democratic. So it has a three and three on the symmetry that the court has identified. And then in the Senate, there's two Democratic competitive and zero Republican competitive. But we've looked at this hard and I don't think we're going to be able to improve upon that and keep proportionality.

Co-Chair Senator Vernon Sykes [00:16:44] Are there any other questions or comments from the members of the commission?

House Minority Leader Allison Russo [00:16:48] I have a question.

Co-Chair Senator Vernon Sykes [00:16:49] Leader Russo.

House Minority Leader Allison Russo [00:16:50] Thank you, Mr. Co-Chair. Just to the mapmakers, because I know that you now have the incumbent data that you're incorporating. Do you have a way of knowing which ones, for example, of the Senate, are midterm versus up or not in that situation? Because I know that that was one of the

discussion points and in providing the data to you, I just don't know if that distinction has been made between those that are midterm and have to be assigned to a district versus those that are not.

Dr. Douglas Johnson [00:17:28] So we do not. The list we received, I believe, has just all 33 senators on it. Oh, minus the term, minus term limited ones? Sorry, 28. Sorry, all 28 that are not term limited.

Dr. Michael McDonald [00:17:43] We're going to rely upon staff to give us that direction as to which are the non term-limited, the.

House Minority Leader Allison Russo [00:17:56] Midterm.

[00:17:56] Midterm senators, yes. So that was just an agreement that we had and expedite the production of the data for us.

House Minority Leader Allison Russo [00:18:04] OK, thank you.

Co-Chair Senator Vernon Sykes [00:18:09] Any additional questions or comments? We stand in recess.

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Ohio Redistricting Commission - 3-28-2022 part 2

Co-chair Senator Vernon Sykes [00:00:00] Have a presentation by the independent map drawn.

Dr. Doug Johnson [00:00:10] Co-chairs and members of the commission. We have an update for you, obviously. So we have been working through the challenges of the pairings first with the House and doing some geographic cleanup of county splits and compactness and things like that as much as we can, as we as we make those changes. At this point we have gone through, I believe, the entire state, except for the seven counties in the Northeast and made all of the House side improvements that we believe we can make in terms of avoiding pairings. And we have the proposal that everyone has for how to handle the seven counties that we've been looking through that and seeing what we're what we think works and doesn't work for us in that proposal. We've not yet implemented that. But but we're close (inaudible). And so we have not yet tackled the Senate issues to the degree possible. We've tried to keep those in mind as we work on the house, but we have not done any in-depth Senate work yet.

Dr. Michael McDonald [00:01:27] And I would just add that this has been a good exercise, not just for resolving incumbent bearings, but this has forced us to take another look at the map. And as we are resolving these incumbency pairings, I would say my impression is is that the overall character of the map is that is now splitting fewer counties, fewer local jurisdictions and is more compact. And its character

Dr. Doug Johnson [00:01:57] In to Sen. Huffman's point the other day, and I believe others are made it that Ohio has the most, some of the most complicated geographic challenges, certainly the most strict geographic rules and also the most complicated Senate rules for how this process is handled. So we are getting through this as fast as we can, but it is a slow process.

Co-chair Senator Vernon Sykes [00:02:22] What is your, what is your expectation to complete the incumbency issues in the House and the Senate?

Dr. Doug Johnson [00:02:35] It's probably still a couple of hours, at least. To the Senate, the Senate has (inaudible) having many fewer individuals that we need to address. But in addition to avoiding pairings, we also have the very tough issue of the percentage of the district triggering the assignment of numbers issue, which greatly complicates the process. And we won't know how much of a challenge we have there until we can run that analysis for the first time. So we're certainly a couple of hours away if it goes smoothly.

Co-chair Senator Vernon Sykes [00:03:16] Are there any questions or comments from members of the commission or any other additional suggestions at this particular time? We have a unified map that we are making adjustments to, edits to, suggestions and input from the commission as we move forward to our and to cross the finish line here. Yes, Senator Huffman.

Senate President Matt Huffman [00:03:39] Thank you, Mr. Co-Chair. So again, my job, I guess as the Senate caucus Republican caucus designee is to look at this from the Senate perspective. And I I think you just said what I'm about to say, but I have not seen what I'm going to say as a final Senate map, and there is no such animal at the moment, right?

Co-chair House Speaker Bob Cupp [00:41:51] Well, sometimes health concerns get in the way of things we want to do.

Co-chair Senator Vernon Sykes [00:41:55] So just making a suggestion.

Co-chair House Speaker Bob Cupp [00:41:59] I got you , but it may not be possible.

Co-chair Senator Vernon Sykes [00:42:02] Yes.

Senate President Matt Huffman [00:42:03] Yeah, I have. I I don't know if Mr. McDonald needs to leave. I have a few questions here. If you need to leave, that's fine.

Dr. Michael McDonald [00:42:12] You need to wait. So I do deeply apologize for that. And I'd be happy to speak with you via phone if you have questions, further questions for me.

Senate President Matt Huffman [00:42:24] All right.

Dr. Michael McDonald [00:42:24] So I apologize. And I do appreciate I do appreciate all the work of the staff here. I know we've argued sometimes, we're actually friends, so you know. And so I appreciate the work that Doug has done and I certainly appreciate the hard task that you, the commissioners have been given. And I know I wish we could accomplish everything, but unfortunately we're given a limited amount of time. And and so we are where we are, and hopefully it'll be a product that the you will find acceptable and the court will find acceptable.

Co-chair Senator Vernon Sykes [00:43:01] Thank you very much for your service, and we'll be in touch.

Senate President Matt Huffman [00:43:06] Thank you. Mr. co-chair.

Co-chair Senator Vernon Sykes [00:43:17] Yes.

Senate President Matt Huffman [00:43:18] If I could. Yes, yes. And I just. Mr. DeRossi is not doing well. And I asked him kind of had to make him leave last night. And he is. He's at the BWC building, is able to work on computer maps and things like that. But he's wearing a mask and I don't.

Co-chair Senator Vernon Sykes [00:43:41] Is he ok?

Senate President Matt Huffman [00:43:41] Will not well. Well, in my view, he's not OK, but he's also seems to be superhuman when, at budget time and drawing map time, he sleeps about three hours a night, so he's not going to be able to be in the room. And that's that's not a good idea. But Mr. Springhetti is around. And so. And I just Auditor Faber indicated his staffer was there most of the day also. So I don't. I was down there to ask for some specific things and talk about this section five thing. So I don't know who has been in and out, but I just I want to make that clear that this isn't a situation where we're not fully participating, in fact. And I think that we are. I did want to talk a little bit about our timing. Leader russo brought up the and so the court order requires that we have this final product to the Secretary of State today, March 28th, which, if we want to give ourselves a little leeway, means 11:30. In case something happens, someone trips going up the stairs or whatever it may be. There are a series of things that need to be done by the commission, by their staff. In order to send it to the secretary of state once we have adopted a map and

I'm just going to run through those real quick, we have to do a block assignment file for house districts, which includes an Excel spreadsheet, block assignment files for Senate districts, an Excel spreadsheet. Statewide House district map. Statewide Senate district map. District statistics and Senate assignments or groupings. That's that Section five business we talked about, and finally shape files for House and Senate districts. I am told that that takes our staff once the commission says we have a map that takes about an hour to prepare all of that. So our goal is to get it to the secretary of state by 11:30. We have to pass in that by 10:30. Now, and I'm perfectly willing to work till 10:30 or 12 or 1:00 or whatever, but we're not going to comply with the court's order. If if we're working here at one o'clock in the morning, that's past. And obviously the court is serious about the deadline. And you know, everyone else is, of course, waiting for us to get the work done. I just wanted to comment. So as of five o'clock today, well before I do that, I just want to say I think that Mr. McDonald and Mr. Johnson have done extraordinary work in five days, as have the staff and frankly, as has the commission in multiple meetings, not only these meetings, but phone conversations back and forth. And I particularly the co-chairs with all of the process and all of that. So that's been extraordinary. Perhaps the map, the commission mapmakers would not have been as readily able to sign on if they knew the fact that Ohio has one of the most complex political geographies in the country, even if we're only the thirty fifth largest state and we have the most, I think I've been told the most complex redistricting rules of of any state. That's why these things take longer than five days. One of you remarked in the last few days, if we simply would have been able to take the Republican version in the Senate version or Democratic version and merge those, we could have gone off to a better start. But the of course, the court required that there be an entirely new map started so that that made it difficult. So you're taking a process that the under the Constitution typically would take seven to eight to 10 weeks in trying to do that in five days. And I think that's a nearly impossible feat. Well as of five o'clock, we do not have a Senate map to consider. And you're nodding. Mr. Johnson, I want to make sure I got that right. As of five o'clock, we cannot confirm that we have a constitutional house map with maybe five hours or so to go in our process. One of the staffers pointed out to me that Knox County, which is a small county of about 60,000 people, is actually split in three ways. I don't think any of maps submitted by the public or any of the commission members did that. You know, we have the where feasible language. No county should be split more than once and why small counties split three times. There's probably a reason and all the machinations. So given that I also want to say, obviously, the court is very, very serious about getting these maps, getting a map to them on time. And I'm concerned based on on the description of the process that that's going to happen. So I think we need a failsafe. I think we need something else for the commission to be able to vote on. And so I'm going to move Mr. Co-Chair that the Commission mapmakers be directed to work individually or jointly. It may be individually at this point since Mr. McDonald isn't on staff but work individually or jointly with the staff of all the commissioners who choose to participate to draft constitutional changes to the map passed by the Commission on February 24th. Such such changes shall be done in a manner to make the February 24th map plan more closely comport with the decisions of the Supreme Court. We don't want you to stop working on this, but we have to have a product to vote on and further, my motion will say the changes shall be given to this commission by 7:00 p.m. tonight for review and we want to be able to review it. Debated it, vote on it. And that's my motion, Mr. Co-Chair.

House Minority Leader Allison Russo [00:50:08] Objection.

Co-chair House Speaker Bob Cupp [00:50:12] I'll second it.

Co-chair Senator Vernon Sykes [00:50:16] Discussion. First, I'll start out with that is ridiculous. Yeah, all the time, money and resources we've put into coming up with a constitutional map. We have independent mapmakers. Each of them have drawn separate and apart constitutional maps that comply with the court order. They've put together a unified map that just need edits that we can make in this time period to comply with the requirements. To distract us, the staff and the independent map drawer to divert to some other tasks is ridiculous, contrary to the directive, contrary to the spirit and the direction of the court. Other comments.

House Minority Leader Allison Russo [00:51:35] Mr Co-chair.

Co-chair Senator Vernon Sykes [00:51:35] Leader Russo,

House Minority Leader Allison Russo [00:51:37] Thank you, Mr Co-Chair, I strongly object to this. I mean, this is a classic. Keep a map in the can and bring it out at the last minute. This is so disingenuous of members of this commission to even suggest that this would be the the process that we would use moving forward. The court has ordered us to create a map as a commission starting from scratch, and that is what we have done, and we have brought in these outside independent app makers who has spent an enormous amount of time, we as a commission and our staff to totally undercut that at this point, no one is, I think, again, a slap in the face to Ohio voters and completely disregarding the court order. And I will tell you that we can work as long as we need to. The court would much rather us work and finish this job than to again submit another unconstitutional map that is not drawn by the entire commission and or submit nothing. So I would encourage that we let our map maker and that makers and our staff continue working. This is an achievable thing that can be done. If you're telling me that you suddenly can whip up a map and make changes by seven o'clock, certainly these map makers can get done what they need to do before we need to meet at 10:30, if we need to be it later than that than we should, if we even have to go past midnight. I bet the court will be OK if we are a few hours late as long as we get this job done. Otherwise, we will be in contempt again or possibly held in contempt of not following the court's order.

Senate President Matt Huffman [00:53:21] Mr. co-chair.

Co-chair Senator Vernon Sykes [00:53:22] Secretary LaRose

Secretary of State Frank LaRose [00:53:25] Yeah, just a practical consideration, and I think going back to last year even reminded all of us continuously about the logistics of elections administration and some of the timelines we operate under. I think it's clear to all involved that have been following this process. At this point, any map passed by this commission is not possible to put on a May 3rd ballot. The time has already passed for that to be accomplished. And so depending on what the desire is of the General Assembly as it relates to election dates, or potentially if the federal court changed it, I suppose would be an option as well. But whatever was passed from this commission, the fewer changes that are made, the more likely it is that we can implement them sooner. And so it's just something to think about. If there are, if there is a desire to look at the February 24th map and modify off of that, the fewer changes made would be the sooner that we could implement it as far as reprogramming voter registration systems at County Board of Elections and that kind of thing.

House Minority Leader Allison Russo [00:54:34] Mr. Co-Chair.

Co-chair Senator Vernon Sykes [00:54:34] Yes.

House Minority Leader Allison Russo [00:54:34] I will note again that in previous decisions by the court, this commission has been criticized for starting with the false premise of starting from an unconstitutional map, which is what two of my fellow commissioners are now asking that this commission do. The court has specifically, I think it was in the second decision, has specifically said that that is a faulty promise to start from an unconstitutional map. So again, here we are again, time number four, starting from an unconstitutional map. If this is the route that we go this evening, I also believe that in our commission rules that we establish in the beginning of this process that this commission does not agree we should go to mediation. And so I would like for us not to vote on this motion until we go to mediation, and we should allow our mapmaker to continue his work.

Senate President Matt Huffman [00:55:36] Mr. co-chair?

Co-chair Senator Vernon Sykes [00:55:36] Yes.

Senate President Matt Huffman [00:55:36] Yeah. Just a couple responses first. Your statement that these matchmakers have come up with a constitutional map and then they put them together. Well, I I don't know that that's true and I'm not sure how you know it's true because we never saw that. These map makers again doing a tremendous job in a very short period of time that was dictated by the court have not produced a Senate map and are not able to confirm that they have provided a constitutional House map. And if the. And what I'm simply saying is we have a deadline today, it may be that Leader Russo knows what the Supreme Court is thinking. But the order says today is the day and we know the court means that today is the day and that we have to do it by today. So I mean, that's simply what the order is. If somehow some way the map maker is able to produce a constitutional map. That four members of the commission will support, and that is all done by 10:30, then maybe. But it doesn't appear that that's going to happen. So we have to have something that we can provide to the court today. And I'm suggesting that this is drafting that is going to take place in public, in the room. Mr. Johnson can continue to work on the things that he is working on. He can give suggestions back and forth, and it'll all be very transparent right there, right there in the room. So we're not going to be able to, you know, if we if we sit here till 10:30 tonight and say, well, we don't have a map, then what do we do? Well, we violated the court's order. So I think and I appreciate Leader Russo's comments about mediation. And you know, this was originally her idea and we did try to mediate it. Originally wanted to talk about the incumbent issue on Saturday and that leaked into yesterday. Some of the other issues that were sent to mediation we never even talked about. I'm not sure why, but frankly, taking time away from trying to make decisions in the next few hours is not really what I don't think it's it's going to be productive in trying to get to a map tonight, which is what we're ordered to do.

Co-chair Senator Vernon Sykes [00:58:26] It seems to be no end to the arrogance of the super majority. Any other comment. Yes. We'll take a 10 minute recess.

EXHIBIT I

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Ohio Redistricting Commission - 3-28-2022 part 3

Co-chair Senator Vernon Sykes [00:00:02] We have a motion on the floor. Is there any further discussion and questions about the motion.

House Minority Leader Allison Russo [00:00:14] Mr. Co-Chair.

Co-chair Senator Vernon Sykes [00:00:15] Leader Russo. I would just like to say one thing that in talking with our legal counsel, it is clear that the Supreme Court cannot hold us in contempt at two o'clock, one o'clock in the morning. So I again reiterate that we should continue to have our independent matchmaker who is working for the commission and move forward in creating a map that we can consider as a commission instead of going to the alternative that has been proposed by Senator Huffman.

Senate President Matt Huffman [00:00:52] Mr. Co-chair.

Co-chair Senator Vernon Sykes [00:00:52] Yes.

Senate President Matt Huffman [00:00:53] Yeah. To make it clear, the motion includes moving forward, the Independent or the commission's map maker continuing to work on this very complex problem as I described at the moment, no Senate map has been produced and no confirmation of a constitutional House map Move forward. If that, if they can, the caucus map makers, won't be. Mr. DeRossi, unfortunately, can suggest it changes to the so. So I think we can do these both of these paths. And I don't know when the Supreme Court would hold it in contempt. It's not going to be right after midnight, but at some point in the future, if we don't produce a map tonight, potentially at least there was a there was a suggestion of that. We never got that far with it. So I think the longer we sit here and debate about it, the harder it is to get anything done in the next few hours.

Co-chair Senator Vernon Sykes [00:01:53] One consideration, hopefully a friendly amendment if we allow the independent map drawer to continue to work. We had indicated that we needed both of them in the room at the same time. So that would be acceptable, consider it a friendly amendment.

Senate President Matt Huffman [00:02:10] Yeah, I think Mr. Co-Chair and I appreciate the friendly amendment that that's the expected. These folks are all going to be working feverishly over the next few hours and there has to be a product for the commission to to vote out today. And that's why I've suggested this path.

Co-chair Senator Vernon Sykes [00:02:29] Another suggested friendly amendment is that the commission would ask the Attorney General's Office to actually make a request to the Supreme Court for an extension of time of one day.

Senate President Matt Huffman [00:02:42] Well, Mr. Co-chair, that's not part of my amendment. One if if someone wants to ask the Attorney General, we can debate that as a separate question, that's not part of my amendment. And you may recall that the Supreme Court specifically stated in their last order, there will be no extensions. And so again, I'm trying to deal with a problem that frankly, is not the creation of anyone in this room and maybe not any any individual or group of individuals in particular is under the circumstances. We need some sort of safety valve here. And, you know, if we're not going to land the plane as it's said, it would be nice to have a parachute. And that's that's what the motion is intended to do. If you want to make that motion and debate separately, I

don't think it's specifically said that the Supreme Court has said no extensions. It has to be done today.

Co-chair Senator Vernon Sykes [00:03:47] Secretary LaRose,

Secretary of State Frank LaRose [00:03:50] Appreciate it, President, President Huffman aviation reference, because I was thinking along the same lines here that, you know, it's only prudent to have a backup plan in place and we have a looming deadline tonight. I'll be voting in favor of the president's motion here because I think that what we should continue pursuing this track of the independent mapmaker and that would be the plan A in my mind, it would be unwise of us to not be prepared with a Plan B and therefore find ourselves at risk of being in violation of the court's order after midnight tonight.

Co-chair Senator Vernon Sykes [00:04:25] Mr. Co-chair.

[00:04:26] Yes,

Speaker 5 [00:04:27] I have pulled up the opinion from the court and paragraph 47. It says specifically, no request for stipulation for extension of time shall be filed, and the clerk of this court shall refuse to file any requests or stipulations for extension of time. I think that's pretty clear.

Co-chair Senator Vernon Sykes [00:04:48] Are there any additional additional comments or questions Leader Russo.

House Minority Leader Allison Russo [00:04:59] Mr. Co-chair, I would just like to again re-emphasize that I have full confidence that our independent mapmaker will be able to complete this task by midnight. So I would like to reiterate that that I have full confidence that that is possible.

Co-chair Senator Vernon Sykes [00:05:21] Auditor Faber,

Auditor of State Keith Faber [00:05:22] yeah, sticking with our aviation examples, I hope we don't run out of gas as as we approach a runway. And so for that reason, I am all for having an alternative parachute if necessary. But I would just reiterate this is supposed to be a map that we draw. And so far, other than looking at various things, I still haven't seen a final version that I can draft amendments to for on the on the map drawers product. We haven't seen a Senate map, and there are certainly going to be some suggestions of things that I would think that we may want to amend as we go forward. And I just will reiterate that my staff has been working in and out of the room all day, all week with the map drawers to try and find areas that we can make of compromise and concessions to address some of the issues. But it continues to be a we haven't seen it, so it's tough to tough to move past it.

Senate President Matt Huffman [00:06:33] Mr. Co-Chair Yeah, I would also ask that the Democratic mapmaker, the caucus map maker or the staff and this actually goes for the staff of everyone else. Get your suggestions together. It may be that the changes to the third map and again, only changes that will allow the motion said this, if it comes to this, will more closely comport or get closer to what the Supreme Court wants. So hopefully everyone will, will and perhaps they can get together and talk about it among themselves. And you know, it is possible to Russo said that our map maker will be able to solve. All of

these problems in the next three or four hours. But it's it we, as I said, there should be a safety valve of some kind.

Co-chair Senator Vernon Sykes [00:07:32] All right. Will the staff please call the roll

Clerk [00:07:39] Co-Chair Speaker Cupp.

Co-chair House Speaker Bob Cupp [00:07:40] Yes.

Clerk [00:07:40] Co-chair Senator Sykes.

Co-chair Senator Vernon Sykes [00:07:42] No.

Clerk [00:07:42] Governor DeWine.

Governor Mike DeWine [00:07:44] Yes.

Clerk [00:07:45] Auditor Faber.

Auditor of State Keith Faber [00:07:45] Yes.

Clerk [00:07:46] President Huffman.

Senate President Matt Huffman [00:07:47] Yes.

Clerk [00:07:47] Secretary LaRose.

Secretary of State Frank LaRose [00:07:48] Yes.

Clerk [00:07:49] Leader Russo.

House Minority Leader Allison Russo [00:07:50] No.

Clerk [00:07:52] Mr. Co-Chair, 5-2.

Co-chair Senator Vernon Sykes [00:07:54] The motion is approved and so ordered. Why don't we take a recess for for just an update at nine o'clock. An update at 9.

Co-chair House Speaker Bob Cupp [00:08:06] Return at 9 for an update?

Co-chair Senator Vernon Sykes [00:08:07] Rreturn at 9 for an update.

EXHIBIT J

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Ohio Redistricting Commission - 3-28-2022 part 4

Co-chair Senator Vernon Sykes [00:00:02] Call the commission, the Ohio Redistricting Commission meeting to order. First Order of business is an update from our independent map drawer.

Dr. Doug Johnson [00:00:19] Are we ready?

Co-chair Senator Vernon Sykes [00:00:20] Yes.

Dr. Doug Johnson [00:00:22] So co-chairs members of the commission, as you've hopefully seen throughout an hour, I guess about two hours ago now we did finish a full house map and distributed that and have moved on to the Senate map. As you know, the Senate rules are extremely complex, so we have taken a first pass kind of hit the expected roadblocks. And just about 20 minutes ago, we hit the expected roadblocks and jump back to the House plan to try to clear those roadblocks so that a Senate map can be drawn that will work. We do not yet have a Senate map, put together a full Senate map to show you. But we are making progress as fast as humanly possible and effort to get this done this evening. But so we do have a house map. It will need some changes, mostly in the northwest. We believe, well, we know there are some changes in the northwest. Dr. McDonald is gone, so I guess I don't have to keep saying we believe that's the primary area that needs to be redrawn on the house side. But but I haven't finished the map, so I can never say for sure. And just an update. I have been talking to Dr. McDonald on the phone twice already, actually, and in about an hour and a half, you'll land and so I can check in with him again. So he's still staying in touch. But but we're making progress, unfortunately, do not have a map, a Senate map to show you at this time.

Co-chair Senator Vernon Sykes [00:02:03] What is your estimated time for the Senate map?

Dr. Doug Johnson [00:02:09] You know, if we can make these House changes and then make and then the Senate map proceeds as we think it will where we don't run into any more roadblocks. I would say forty five minutes or so optimistically, but it's very hard to predict. The Senate maps can fall into place. The first one, the first one I did seems very long ago now actually fell into place on the first pass, but it can also take two or three passes to get the two maps working together, and they're related. It's just hard to say, but hopefully if things fall into place, it's forty five minutes or an hour.

Co-chair Senator Vernon Sykes [00:03:02] Are there any questions? Senator Huffman.

Senate President Matt Huffman [00:03:09] Thank you, co-chair Sykes, could you describe the issues in northwest Ohio? We heard that the changes that have to be made. Well before that, this is to the, I guess, the map that was filed at 7:57 p.m. A eight o'clock map. Exactly. Yes. And could you describe the changes in northwest Ohio that need to be made?

Dr. Doug Johnson [00:03:33] Sure. The northwest, the state kind of gets divided, I think in the is getting divided by a diagonal line from from Cuyahoga down to Hamilton, you know, Cuyahoga, Franklin, Hamilton. There's a lot of rules in each of those areas that lock in the Senate seats around them. And so the hope is that then when we apply the rules to the northwest and to the southeast, the two will end up linking up properly. But what can happen and what did happen is that the common, the combining of the House seats

together create walls. And if something links Richland to Delaware, you know, if Morrow gets locked in and there's only one path from the northwest to the south, to the southeast, and then when when I guess it was Clark got locked in as he were preparing the House seat under the under their constitutional rules about counties that were one House seat counties or one plus House seats. Eventually, the Northwest got locked into where there were two House seats that were all alone and nothing with nothing to connect to. And so then we have to go back to the house maps and remove those blocks so that they would go back to the Senate maps and get through those two corridors.

Senate President Matt Huffman [00:04:58] OK. Our one of our folks reviewed the eight o'clock map and found some other constitutional infirmities included, including the and I could describe him if we need to. But there's there's in this, of course, is the house map. We don't have a Senate map at the moment. The Cleveland Heights in Cleveland are both split in the same house district, and that's significant because we've had this problem before in the last several months doing it, because when you fix that by taking one out, it's going to cause a district to be more than five percent under the population requirement, which. And when you do that, it has rippling effects throughout the rest of that northeast area. And again, there are some others splits. So I guess. Did you not catch that or did not because you only mentioned the northwest?

Dr. Doug Johnson [00:06:08] Right, so correct that the reference to Northwest was where the attempt to draw a Senate map from the House maps ran into what we call what I call a brick wall. We can't solve it. You have to go back to the house map to fix it. We have there are reports we can run and the computer too to look for all the city splits and city pairings that we can then go through and just verify and catch things like what you describe and those reports in those reviews take time. And so we've been trying to race through and get a map. That is ready for us to run those reports. If your team have has those lists, we can certainly try to address them or put them in a list that we would address at the end. But yes, that is that is one of the steps. And I'm not to that step yet.

Senate President Matt Huffman [00:07:01] So is it fair to say that with the northwest changes to deal with the brick wall that you ran into, and at least with this change, there's there's some other ones which I think probably can be solved. I don't know. We you first have to draw a new house map and then go back to the Senate map so that you can see that you're going to have a House map, I guess. Or at least that's kind of the way that you're approaching this.

Dr. Doug Johnson [00:07:31] Well, now we're at the stage of jumping now. I keep saying, we have it now, I'm at the stage of jumping back and forth between the two maps. So when we're not in the process of needing to start back from scratch and build a new Senate map from scratch to address issues like that, almost all those that we run into over the last, I believe it's been almost a week now we can resolve regionally. And so they don't disrupt the whole map, but we never know, of course, until we fix them. But but that, like Cleveland, Cleveland Heights should be able to fix just with some regional intra regional edits that would not impact a Senate map.

Senate President Matt Huffman [00:08:14] What if members of the commission have amendments to the House map that you have?

Dr. Doug Johnson [00:08:22] If the, if you have suggestions, I'm sorry if you have amendments that would resolve the issues you found. I 100 percent welcome those and would love love those. I do have some edits that the auditor has asked for that are more

fundamental, larger scale changes. And as I told him and make every effort humanly possible to get this map done and then make those edits, I think those maps that don't fit into the map that we have now, for example, that address fairly fundamental concerns that the Auditor is raised with the map. I don't there's no way I'm going to be able to get to those before midnight. OK. But if you but if there are edits that fit into the current kind of map schema, please send those down because if you can fix those edits, I'm happy to make them.

Senate President Matt Huffman [00:09:12] Very good. Thank you,.

House Minority Leader Allison Russo [00:09:13] Mr. Co-Chair.

Co-chair Senator Vernon Sykes [00:09:14] Yes.

House Minority Leader Allison Russo [00:09:16] Can I make a suggestion that we dismiss Mr. Johnson, at least from this part of the hearing tonight since he's given us an update so that he can be allowed to continue working and finish this map. It seems like he's indicated a 30 to 45 minutes. I'm sure there are other things this commission will talk about. Presumably, the Republicans now have a map as well that they would like to explain, but I'd like Mr. Johnson to have the opportunity to finish his work.

Co-chair Senator Vernon Sykes [00:09:51] No objections. Dr. Johnson, would you please continue?

Dr. Doug Johnson [00:09:58] Will do thank you very much.

Co-chair Senator Vernon Sykes [00:10:05] My suggestion that we recess for one hour. Yes.

Senate President Matt Huffman [00:10:17] Yeah, I guess, Mr Co-Chair, I know that there is a another working document that Mr Springhetti's been working on in the speaker's been working on. I think that the commission and the commissioners are entitled to be able to see maps and amend them. Auditor Faber has some amendments and apparently those aren't going to be available or aren't aren't going to be able to be incorporated, at least tonight, as Mr Johnson has indicated. So I don't, you know, I, as I've said, a lot of folks have done tremendous work over the last five days, but this is not a five day job, so I think we should move on with our parachute.

House Minority Leader Allison Russo [00:11:04] Mr Co-Chair, may I ask with this map that is being passed out that I'm just now seeing for the first time, are we going to be provided the opportunity to make amendments and suggested amendments as well?

Co-chair Senator Vernon Sykes [00:11:27] I think that would be the prerogative of the body to do that.

Co-chair House Speaker Bob Cupp [00:13:40] Mr. Co-Chair.

Co-chair Senator Vernon Sykes [00:13:40] Yes.

Co-chair Senator Vernon Sykes [00:13:40] I in spite of all the work that's been done and I know that the consultants came in and they worked extremely hard, I think it is not feasible to expect that we're going to have a complete plan in which we're going to be able

to look at all of those items that need to be looked at to ensure that it's a constitutional plan with all of the the the. And I think in particular, the problem now is in the in the Senate area where it has complex rules due in part to the four year terms of the members of the Senate there. We're not going to have that in time to be uploaded to the Secretary of State's Office in compliance with the court's order. So I would just say what I'm going to do is to move, I guess, what has been referred to by the upload as a 3-28 Cupp plan and move that the commission adopt that plan.

House Minority Leader Allison Russo [00:14:51] Objection.

Senate President Matt Huffman [00:14:52] Second motion.

Co-chair House Speaker Bob Cupp [00:14:56] And if I might, I will explain what's what's in the plan, at least briefly. The before I do that, I wanted to say that this commission moved fairly quickly to comply with the latest decision of the sharply divided Supreme Court. We started meetings, started meetings within a very short time period after the decision of the court, to which came down two hours to midnight on Wednesday, March the 16th of 2022 to the commission moved to adopt a schedule of meetings through the period of days allotted by the court. The commission heeded the call of the Supreme Court to hire independent map, drawing experts as quickly as possible, given given the circumstances as you recall. We were reading on Saturday evening trying to figure out who the experts could be and come on such very short order. But I believe by by late Sunday or Monday, we had to accomplish that purpose. We actually hired two persons with expertise in redistricting, which is a change from prior efforts when the maps were drawn by House staff and a consultant hired by the Democrat members. In contrast to what had occurred before and again in compliance with the strong suggestion or referred to as a requirement or suggestion of the court that the map drawing was done in public, it was conducted in full public view both visual and audio on a live stream from....from the drawing room and broadcast by Ohio Government Television.

Co-chair Senator Vernon Sykes [00:17:05] Order, please, please.

Co-chair House Speaker Bob Cupp [00:17:10] So this was the best that could be done at a time that was allotted by the Supreme Court had been more than 10 days. Perhaps some different result would have occurred. We have followed the Supreme Court's process directions that time requirements, and they have led us to to this this moment. So at this late hour, we have to comply, I think is best that we can. The plan that that I have moved had been seconded improves the symmetry measures in both the House and the Senate plan by shifting to House districts from asymmetrical to Democrat leaning and one Senate district from asymmetrical to Democrat leaning. Modifications were made in six House districts within three counties. Franklin, Clark, Stark and Columbiana and two Senate districts in Franklin County. The plan splits less communities than the independent map that we've seen so far and is comprised of more compact districts. The plan moves us closer to comporting with the court's order, and given the timeline, I recommend that we adopt the plan.

House Minority Leader Allison Russo [00:18:34] Mr. Co-Chair

Co-chair Senator Vernon Sykes [00:18:37] Leader Russo,

House Minority Leader Allison Russo [00:18:39] Thank you, Mr. Co-Chair. I would just like to say that this process is and this motion in this map has been put before us as a

complete farce. I literally have been handed spreadsheets that have population deviations on them. Nothing about partisan lean, nothing about symmetry. And this is useless information. It gives me population and deviations and a PDF that you can't see the the districts or the details of the districts. I'm going to read from the court's opinion, the last court opinion, just to point out how, just how far off this process is now that these maps have been introduced and given to us at the last minute, and make no mistake about it, they've been entirely drawn by one party. Just as this from paragraph 30 just as in League One and League Two, the one sided process is evidence of an intent to draw a plan that favors the Republican Party at the expense of the Democratic Party. The commission should retain an independent matter who answers to all commission members, not only to the Republican legislative leaders to draft a plan through a transparent process. There's been absolutely nothing transparent about this set of maps in this motion at all. In three of our opinions, in these cases we have identified a flight. This is from paragraph 31. We have identified a flawed process in which the General Assembly District Plan adopted by the commission has been the product of just one political party. In paragraph 32, the evidence shows the map drawing process for all three districting plans. Now, the fourth we have reviewed will be controlled by the Republican Party or has been controlled by the Republican Party. The evidence shows that the individuals who controlled the map drawing process exercised that control with the overriding intent to maintain as much of an advantage as possible for members of their political party. This is exactly repeating what the court has already told us that we should not do. We have an independent map maker. He has asked for some additional time this evening. We should continue to give that to him. To have this commission adopt a map, which, by the way, I'd like to ask some questions of the map drawer. Mr. Springhetti, if he is available or any of the commissioners about this map because we've been given no information about it, the process has not been shared with the public. Mr. Springhetti sat in the map room for about 45 minutes, clicked his mouse around a few times and called that public and transparency. That's not public and transparency. This map was drawn long before this evening. I guarantee it. So I opposed this. This, again, is an absolute slap in the face of our voters, of our constitution and of the court, and I am just embarrassed that this is what this commission is about to do again for a fourth time.

Co-chair Senator Vernon Sykes [00:22:16] Order, please.

Co-chair House Speaker Bob Cupp [00:22:23] Well, Mr. Co-chair, let me just say, in terms of the assertion that this plan was drafted a long time ago, that is not accurate, Mr. Springhetti went to the map room. He took the map that that was before this commission multiple weeks ago and made adjustments to it to comply to get closer to the court's requirement as best they could. And he did that live in the map room this afternoon.

Co-chair Senator Vernon Sykes [00:23:05] It is, you know, really important when we set the ground rules that the staffs, when we put a lot of emphasis on our staffs, the four map drawers that we have on staff and the other staffs to guide and help and provide resources to the independent map drawers. And it was and we have not received much input from the from the majority staff to help put this together. In fact, in this last day, they have not been really present to assist and help in this process. And so instead of of passing or adopting a motion to turn their attention away from the independent map drawers and trying to assist and make sure that we comply with all of the requirements of the Constitution, you know, they withdraw the the majority has just hijacked this whole process and withdrawn from helping us to get across the finish line. And what we have noticed all along in this whole process is not that we don't have the ability to produce these maps. Again here in just a few hours, according to the majority, they produce maps. We just have

not had the will to produce constitutional maps that comply with the court order. And I think this is and again, another insult and disappointment to not just the commission and the court, but to the people of Ohio.

Co-chair Senator Vernon Sykes [00:25:11] Mr Co-chair? Yeah, I guess I'm going to point out, I guess what I think might be some spaces in your your rendition of what, what has happened. So when I spoke to the map makers and for whatever reason, I think it's kind of found maps are drawn typically in Ohio, the House House goes first and then they try to figure out the Senate map and that that's just must be the way map makers want to do that. But I spent some time yesterday with the map makers explaining the Section five rules and how those are applied. In fact, one of the map makers said, Well, when I asked them why, why haven't they? Why hasn't the Senate map have numbers on it? And they said, Well, we're just going to let the computer do that later. And I explained to them the problem with doing that. And that's the problem. I think that these map makers are have run up and that Mr. Johnson is talking about right now. So we have been trying to explain this. The the fundamental problem here is simply the combinations of this extraordinary political geography over almost 3000, more than 3000 political jurisdictions in Ohio. Like, I think it's something like five or six times as many as the state of New York, which is a bigger population, states. We've got that. We also have the most complex redistricting rules, and these gentlemen had five days to do it. It's just going to be very difficult to do that. So. And there were some issues, I think that could have been resolved early on like this issue regarding incumbents, which I raised Saturday and we chose not to deal with that night and and decided to do it on Sunday. And I know we had initial problems with with picking mapmakers. The attorney general suggested two gentlemen who had worked well together in Virginia. On Saturday, nine days ago, Leader Russo objected because one of them had been involved in this litigation in a minor way before and on Sunday. I know that you and Leader Russo had a telephone interview with those folks, as did Speaker Cupp and I. And you wanted to hire them. But then by Monday, you chose not to. So there's been a lot of backing and forth in a lot of decision making by all of us. And the reason is we had, you know, essentially 12 days to hire experts, get them in and for them to understand the rules, to work with the staff and all of that. And you know, to the to the suggestion that that the Republican staff hasn't been engaged, you know, Mr. DeRossi was in his office last night with a bloody nose and not really able to stand up on his own, and I told him to go home for the night. And he's he's not on site because he's sick and I don't want him to be around other people. But having said all of that, I think there's a lot of folks who put in extraordinary hours, and this is just a matter of a task being given that couldn't be completed within that time frame.

House Minority Leader Allison Russo [00:28:43] Mr. Co-Chair.

Co-chair Senator Vernon Sykes [00:28:43] Leader Russo.

House Minority Leader Allison Russo [00:28:45] Thank you. I would like to ask, I mean, either Senator Huffman. Speaker Cupp or Mr. Spring Getty, the Republican that draw some questions about the map that has been put before us.

Co-chair House Speaker Bob Cupp [00:29:04] Yes.

House Minority Leader Allison Russo [00:29:04] Yes. OK, OK. Can I ask a question first? When did the mapmakers, the Republican map makers, start drawing these working on these maps?

Co-chair House Speaker Bob Cupp [00:29:23] This afternoon, when he was in the the room 16,

House Minority Leader Allison Russo [00:29:29] When was the mapmaker directed to start working on the maps and by whom?/

Co-chair House Speaker Bob Cupp [00:29:36] The staff this afternoon when it became obvious, I think earlier in the day that it was going to be extremely unlikely that the independent mapmakers would have a map that could be presented, vetted and debated and adopted before the court's deadline.

House Minority Leader Allison Russo [00:29:59] And is my assumption correct that the map did not start from scratch, that it is in fact it started with the unconstitutional map that was thrown out by the courts, the February 24th that was declared unconstitutional and thrown out by the court?

Co-chair House Speaker Bob Cupp [00:30:13] in order to have a map in time. You couldn't do it from scratch. That is absolutely correct, as I think we've all seen during the week how much time that takes. And so it was a modification of the map before to move closer as much as possible within the time frame to the the the constitutional requirements and the court's determination.

House Minority Leader Allison Russo [00:30:41] Were any of these maps or any earlier versions of these maps shown to any other commissioners before this meeting?

Co-chair House Speaker Bob Cupp [00:30:50] That I don't know. I think the answer is no.

House Minority Leader Allison Russo [00:30:59] Do you have any information showing the partisan breakdown, competitive districts, compactness, evaluation or any other useful metrics? Because all I've received in this handout is population deviation.

Co-chair House Speaker Bob Cupp [00:31:20] Yes, I don't have a list of the partisan change with me and I don't know just it's just different. It's the show. It has 50, 54, 54 Republican leaning districts. Forty five Democrat leaning districts. There are still some asymmetrical districts in the House map, but they are less than was in the map the commission adopted some time ago. There are still, there is one fewer asymmetrical district in the Senate map.

House Minority Leader Allison Russo [00:32:14] So there were 19 that were in the last map between 50 and 52 percent in the house maps and zero on the Republican, between 48 and 50 percent. What is that breakdown now?

Co-chair House Speaker Bob Cupp [00:32:28] 17 asymmetrical districts in the house map that you say, down from nineteen and seven asymmetrical districts in the Senate map, down from from eight in the prior map.

[00:32:42] And still zero for the Republican. And both of those are still zero from 48 to 50 to zero seats. Republicans say it's between 40 and 50 percent.

Co-chair House Speaker Bob Cupp [00:32:55] Yes, that's correct.

Co-chair Senator Vernon Sykes [00:53:02] A continuation or to restart?

Co-chair Senator Vernon Sykes [00:53:04] Restart.

House Minority Leader Allison Russo [00:53:04] Mr Co-Chair.

Co-chair Senator Vernon Sykes [00:53:05] Yes.

House Minority Leader Allison Russo [00:53:06] Can I please request a recess even if it's not a formal motion? I am requesting a recess of 30 minutes so that commission members have an opportunity to review the information about the maps that we are now being asked to vote on.

Co-chair Senator Vernon Sykes [00:53:23] Mr Co-chair, I object. In order to comply with the court's timeline. We need to pass this map. It needs to go to the, you know, we need to prepare all the documents that have to go to the secretary of State, as we explained earlier today.

House Minority Leader Allison Russo [00:53:39] Mr Co-chair, it is 10:17. And I believe the cut off point that you gave earlier, Senator, President Huffman was 10:30. I'm sure we can spare an additional 15 minutes.

Senate President Matt Huffman [00:53:52] There are other items, too, that we have to do, including the 8C2 statement. I don't know if there be a discussion or argument about that.

Co-chair Senator Vernon Sykes [00:54:03] Will staff call the roll

Staff [00:54:06] co-chair speaker Cupp.

Co-chair House Speaker Bob Cupp [00:54:08] Yes.

Staff [00:54:09] Co-Chair Senator Sykes.

Co-chair Senator Vernon Sykes [00:54:10] No.

Staff [00:54:11] Governor DeWine.

Governor Mike DeWine [00:54:14] Yes.

Staff [00:54:14] Auditor Faber.

Audior of State Keith Faber [00:54:14] No.

Staff [00:54:14] President Huffman.

Senate President Matt Huffman [00:54:18] Yes.

Staff [00:54:18] Secretary LaRose.

Secretary of State Frank LaRose [00:54:20] Yes.

Staff [00:54:20] Leader Russo.

House Minority Leader Allison Russo [00:54:24] No.

Staff [00:54:24] With the four yays, three days the commission has approved 3-28 Cupp revised map.

Senate President Matt Huffman [00:54:34] Mr. Co-chair,

Co-chair Senator Vernon Sykes [00:54:35] I would like to ask for a recess has been asked for a recess and that with the motion pending and now we can deal with that issue of the recess.

Senate President Matt Huffman [00:54:48] Well, Mr. Co-chair? That's fine. I guess we have this 8C2 two motion that the Constitution requires us to adopt. And I think the staff is going to hand it out. Is that right? So I guess I'd like to have at least have that handed out to the members of the commission. So, Mr. Mr. Co-Chair, the this statement, which is, as I said, constitutionally required. I'm going to spare the commission, the live reading of that. It's it's there for everybody to review. I'm going to move that to the statement be adopted. Obviously, commission members may want to take some time to review that. So now that they have it. If we want to take a recess and come back to adopt the statement. But again, if if we can do that so that we can get busy on the work, getting the information to the Secretary of State.

Co-chair Senator Vernon Sykes [00:56:11] Then I would. I will say we we need to prepare a statement as well. During this time period. So let's take a half hour, half hour recess. Hearing no objections, we recessed for half hour.

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EXHIBIT K

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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL GONIDAKIS et al.,

Plaintiffs,

THE OHIO ORGANIZING
COLLABORATIVE, COUNCIL ON
AMERICAN-ISLAMIC RELATIONS, OHIO,
OHIO ENVIRONMENTAL COUNCIL,
SAMUEL GRESHAM JR., AHMAD
ABOUKAR, MIKAYLA LEE, PRENTISS
HANEY, PIERRETTE TALLEY, and
CRYSTAL BRYANT,

Intervenor-Plaintiffs,

v.

FRANK LAROSE, in his official capacity,

Defendant.

Case No. 2:22-cv-00773

Circuit Judge Amul R. Thapar
Chief Judge Algenon L. Marbley
Judge Benjamin J. Beaton
Magistrate Judge Elizabeth Preston Deavers

DECLARATION OF PROFESSOR MICHAEL S. LATNER

BACKGROUND & QUALIFICATIONS

1. I am a Professor in the Political Science Department at California Polytechnic State University. I have a PhD in Political Science from the University of California at Irvine, and my research focuses on representation, electoral system design, and statistical methods in elections and in designing electoral districts. I have extensive experience with redistricting and have specialized in analyzing electoral district maps for compliance with constitutional and statutory requirements, which includes analysis of partisan advantage present in district maps. Over the past two decades, I have analyzed the properties of various types of electoral systems across the globe, the impact of the 2011 redistricting cycle on representation in Congress, the causes and consequences of redistricting across state legislatures, and have conducted numerous analyses of the ways that electoral rules have shaped electoral outcomes in state and local elections in the United States. A copy of my curriculum vitae is attached as **Exhibit 1**.

2. I teach courses in Voting Rights and Representation; Campaigns and Elections; Political Participation; Democracy, Design and Public Policy; and Quantitative Methods in Political Analysis. I also serve as a voting rights Senior Fellow at the Union of Concerned Scientists' Center for Science and Democracy, one of the nation's largest non-partisan science advocacy organizations. In the last ten years I have given dozens of speeches, interviews, and presentations on quantitative political analysis of electoral districts and how to analyze partisan advantage. I have also written and contributed to peer reviewed papers and books on the topic of electoral district maps, a list of which is included in my curriculum vitae.

3. I have been invited as an expert to speak at several universities on the topic of redistricting and gerrymandering, including the University of California Hastings School of Law and Emory University School of Law. My first co-authored book on the topic, *Gerrymandering in America*, which has received over 100 academic citations, was also cited for our measures of

the magnitude of partisan bias produced in the 2011 redistricting cycle in an amicus brief by political science professors submitted to the United States Supreme Court in *Gill v. Whitford*, 138 S. Ct. 1916 (2018). *See* Brief for Political Science Professors as Amici Curiae 3. This portion of the amicus brief was cited by Justice Elena Kagan in her concurrence. *See* 138 S. Ct. at 1941.

4. I am familiar with and have studied Article XI of the Ohio Constitution. I am also familiar with recent opinions of the Ohio Supreme Court regarding the drawing of an Ohio General Assembly district plan for the 2020 redistricting cycle: *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, No. 2021-1193 (Ohio Sept. 23, 2021), Slip Opinion No. 2022-Ohio-65, Slip Opinion No. 2022-Ohio-342, and Slip Opinion No. 2022-Ohio-789.

5. I have previously been asked by Intervenor-Plaintiffs in litigation before the Ohio Supreme Court to analyze four General Assembly District plans enacted by the Ohio Redistricting Commission (“Commission”) for the 2020 redistricting cycle. That assignment required me to determine whether each of those plans are proportional and whether they primarily favor or disfavor a political party, as defined respectively in Sections 6(B) and 6(A) of Article XI of the Ohio Constitution. The Ohio Supreme Court has relied upon my expert analysis of those plans in concluding that they violate both Section 6(B), *see League of Women Voters of Ohio v. Ohio Redistricting Comm.*, No. 2021-1193 (Ohio Sept. 23, 2021), Slip Opinion No. 2022-Ohio-65 ¶¶ 121–12 (first Commission map); Slip Opinion No. 2022-Ohio-789 ¶ 41 (third Commission map), and Section 6(A), *see* Slip Opinion No. 2022-Ohio-342 ¶¶ 32, 42 (second Commission map); Slip Opinion No. 2022-Ohio-789 ¶ 33 (third Commission map).¹

¹ Objections to the Commission’s fourth plan are pending before the Ohio Supreme Court. *See* No. 2021-1210 (Ohio Sept. 27, 2021), Pets.’ Objs. (Apr. 1, 2022).

6. I am receiving compensation for my study and testimony at an hourly rate of \$250 per hour. My compensation is in no way dependent on the outcome of the dispute.

DOCUMENTS REVIEWED

7. As part of my work, I reviewed the Intervenor-Plaintiffs' Complaint in this matter, Article XI of the Ohio Constitution, statements and dissents released by the Ohio Redistricting Commission pursuant to Section 8(C)(2) of Article XI of the Ohio Constitution at the time it enacted each General Assembly district plan, and the three above-cited opinions of the Ohio Supreme Court regarding the drawing of an Ohio General Assembly district plan for the 2020 redistricting cycle: Slip Opinion No. 2022-Ohio-65, Slip Opinion No. 2022-Ohio-342, and Slip Opinion No. 2022-Ohio-789.

ASSIGNMENT & SUMMARY OF OPINIONS

8. I have been asked by the Intervenor-Plaintiffs to analyze a number of proposed and enacted General Assembly District plans for the 2020 redistricting cycle. I have been asked to determine whether each plan is proportional and whether each plan primarily favors or disfavors a political party, as defined respectively in Sections 6(B) and 6(A) of Article XI of the Ohio Constitution as these provisions have been interpreted by the Ohio Supreme Court in the cases cited above.

9. I have been asked to analyze two of the four General Assembly district plans that have been passed by the Ohio Redistricting Commission (the "Commission") for the 2020 redistricting cycle: 1) a revised plan adopted on February 24, 2022 (the "Third Commission Plan"), and 4) a revised plan adopted on March 28, 2022 (the "Fourth Commission Plan").² I have also been asked to analyze the General Assembly district plan adopted during the previous

² These plans both include maps for the state House and Senate. References below to these individual maps will retain this nomenclature, e.g., "Third Commission House".

redistricting cycle by the Ohio Apportionment Board, which was “the body then responsible for drawing Ohio’s legislative-district maps[.]”³ on September 30, 2011 (“2011 Plan”), for compliance with Sections 6(A) and 6(B) of Article XI if used during the 2022 elections. Finally, I have been asked to analyze: 1) a plan submitted to the Commission on March 28, 2022 by two independent map drawers hired by the Commission, Douglas Johnson and Michael McDonald (“Johnson/McDonald Plan”); 2) a revised version of the Johnson/McDonald Plan, which was modified by Dr. Megan Gall to address some minor technical issues (“Revised Johnson/McDonald Plan”), and 3) a plan submitted to the Commission on February 15, 2022 by Ms. Bria Bennett, one of the named petitioners in *Bennett, et al. v. Ohio Redistricting Commission, et al.*, No. 2021-1198 (Ohio Sept. 24, 2021), which was the third plan prepared by Dr. Jonathan Rodden for the associated state redistricting litigation (“Rodden III Plan”).⁴

10. To conduct this analysis, I rely on total population data from the 2010 and 2020 Decennial Census and 2016-2020 election data from the Voting and Election Science Team (VEST) datahub, unless otherwise noted.⁵ These data, including shapefile data, are publicly available through several repositories and mapping projects.⁶ Each of the plans passed by the Commission, as well as the Johnson/McDonald Plan and the Rodden III plan are available for download on the Ohio Redistricting Commission’s website.⁷ To analyze the 2011 Plan, I used 2020 Census population data and overlaid the 2020 state legislative House plan TIGRIS

³ Slip Opinion No. 2022-Ohio-65, ¶ 340.

⁴ In a letter to the Ohio Redistricting Commission dated February 15, 2022, counsel for the petitioners in *Bennett and League of Women Voters* stated that the Rodden III plan “fully complies” with Article XI, Section 3’s line-drawing requirements and Article XI, Section 5’s requirements for the numbering of state Senate districts. I have also independently reviewed the Rodden III plan for constitutional compliance. I have not identified any deviations from these line-drawing and numbering requirements.

⁵ <https://dataverse.harvard.edu/dataverse/electionscience>.

⁶ I obtained data from the following:

Redistricting Data Hub: <https://redistrictingdatahub.org/data/about-our-data/#pl>.

Dave’s Redistricting App: <https://davesredistricting.org/>.

⁷ <https://www.redistricting.ohio.gov/maps>.

redistricting files provided by the U.S. Census, i.e., last decade's House plan that was used in the 2020 election.

11. The Third and Fourth Commission Plans, as well as the 2011 Plan, systematically disfavor Democratic voters by drawing the boundaries for House and Senate districts in an asymmetric manner that minimizes the number of legislative seats that Democrats can win with a given percentage of statewide votes, while retaining a larger number of seats that Republican can reliably win with the same percentage of statewide votes. If adopted for the 2022 election, each of these plans would give Ohio voters highly unequal ability to alter or reform their government by electing candidates who support their policy positions, based on their political party association. Put simply, each of these plans have the effect of giving Republican voters substantially more weight and thus more power to elect candidates and influence policy than they provide to Democratic voters. The bias observed in these plans is not an inevitability of political geography or constitutional constraints. The availability of fully compliant but unbiased maps suggest that the 2011, Third Commission, and Fourth Commission Plans are intentionally drawn to maximize partisan advantage over fairness.

12. The 2011 Plan and Third and Fourth Commission Plans also run afoul of the Ohio's constitution's proportionality requirement. If the 2011 Plan were used with the 2022 population currently in place, Democratic voters are expected to win, at most, 35 percent of House seats, while Republicans are likely to win approximately 64 percent of statewide seats with 54 percent of the vote. That outcome reflects an extraordinary 12 percent disproportionality in the House. The 2011 Senate Plan would currently produce a Senate disproportionality of approximately 16 percent. Unfortunately, the Third and Fourth Commission Plans do not perform any better and would perform substantially worse under slightly more favorable

circumstances for Republicans. The Third and Fourth House Plans would produce respective disproportionalities of approximately 12 and 13 percent, and the Third and Fourth Senate Plans would produce disproportionalities of 13 and 18 percent. Moreover, with just a 2-point swing in favor of the Republican Party, the Third and Fourth Commission Plans would yield 17-19 additional Republican House seats and 6-8 additional Senate seats, while a 2-point swing favoring Democrats would yield *zero* additional seats in their favor.

13. By contrast, the Johnson/McDonald, Revised Johnson/McDonald, and Rodden III plans each achieve substantially greater proportionality and partisan symmetry than any of the Commission plans or the 2011 Plan. With respect to partisan symmetry, only one of these maps (the Rodden III Senate) exhibits any statistically significant bias. And in that map, the observed bias is below the 10 percent mark that my previous research has used to distinguish “extreme” from “moderate” partisan gerrymanders. The Johnson/McDonald, Revised Johnson/McDonald, and Rodden III plans are also visibly less skewed to favor either political party, exhibiting seats/votes curves that are far more symmetric than alternatives in terms of votes/seats ratios.

14. With respect to proportionality, the seats/votes curves also show that the Johnson/McDonald, Revised Johnson/McDonald, and Rodden III Plans correspond more closely to voter preferences across a wide range of possible party vote shares. Whereas the 2011, Third Commission, and Fourth Commission Plans all exhibit disproportionality in the double digits (12 to 18 percent), disproportionality in the Johnson/McDonald, Revised Johnson/McDonald, and Rodden III Plans ranges from 1 to 7 percent. Moreover, these plans are more responsive to swings in party support, rewarding both parties for comparable swings in support, which is a necessary condition of fair districting practices.

* * *

15. The remainder of this report discusses my general understanding of the background in this matter, the research I conducted, and provides a detailed discussion of the results of my analyses.

OVERVIEW OF PARTISAN GERRYMANDERING

16. Partisan gerrymandering occurs when members of a political party in control of redistricting manipulate the geographic boundaries of electoral districts in a manner that systemically advantages their party. The goal of partisan gerrymandering is to secure an advantage in future elections in good and bad election cycles alike. Effectively gerrymandered districts can give one party control of a state legislature or a congressional delegation for a full decade, even in swing states that have a closely split electorate, where both parties can win statewide depending on the political climate.

17. There are two main techniques employed in gerrymandering: “packing,” which wastes votes by unnecessarily concentrating the constituents of the disfavored party into a small handful of districts, and “cracking,” which splits constituents of the disfavored party across several districts where they cannot form an electoral majority.⁸ In both instances, the votes for the disfavored party are wasted and the votes for the favored party are strategically distributed to create seemingly close contests in a large number of districts that nonetheless have been drawn to produce reliable electoral majorities.⁹

18. A partisan gerrymander generates what is called “partisan bias.” Partisan bias is measured by reviewing the difference between the share of seats that a party receives for a given vote share, and the seat share that the other party would receive for the same votes. A biased map

⁸ Bernard Grofman and Cervas, Jonathan, (2020), “The Terminology of Districting”. Available at SSRN: <https://ssrn.com/abstract=3540444>, p.14.

⁹ *Ibid.*

enables the advantaged party to win seats in the legislature with a smaller vote share than that required by the disadvantaged party.

19. Political geography, or the geographic dispersion of Democratic and Republican voters, can constrain districting options, but the actual drawing of districts is always a political choice. For example, in a state where Democratic voters are heavily concentrated into dense urban populations, it may not be possible to draw a districting plan that is strongly biased in favor of Democrats. However, even if geographic considerations constrain the range of districting possibilities, there is strong evidence that it is nearly always possible to create approximately unbiased districting plans, even in states with much higher partisan voter concentrations than in Ohio.¹⁰

20. The harms caused by partisan gerrymandering are well documented. Recent research provides empirical evidence that voters' associational rights are diminished: partisan bias in districting plans is associated with the disfavored party contesting fewer districts, with candidates for the disadvantaged party having weaker resumés, and with lower donor support.¹¹ Conversely, the favored party need not put resources into contesting packed districts, allowing for more efficient political expenditures.

21. Partisan bias also has negative policy and social consequences. When the ideological representation of individual districts is distorted, that distortion shapes the composition of legislatures and the policies that they produce.¹² In turn, research has shown that

¹⁰ McGann, Anthony j., Smith, Charles A., Latner, Michael, and Keena, Alex, "Geography and Gerrymandering: Political Choice under Demographic Constraints" PSA papers; <https://www.psa.ac.uk/sites/default/files/conference/papers/2017/PSA%20Compactness%20Bias%20paper.pdf>

¹¹ Stephanopoulos, Nicholas and Warshaw, Chris, (2019). "The Impact of Partisan Gerrymandering on Political Parties" Available at SSRN: <https://ssrn.com/abstract=3330695> or <http://dx.doi.org/10.2139/ssrn.3330695>

¹² Caughey, Devin, Chris Tausanovitch, and Christopher Warshaw. (2017) "Partisan Gerrymandering and the Political Process: Effects on Roll-Call Voting and State Policies." *Election Law Journal: Rules, Politics, and Policy* 16, no. 4 (December 2017): 453–469.

social policy and health outcomes are impacted by legislative bias, with biased legislatures exhibiting less responsiveness to the health needs of statewide constituencies.¹³ Because government policies typically apply statewide, it is the entire population that is potentially harmed by partisan bias. For example, biased state legislatures have gone further in enacting restrictive election laws that potentially impact all voters within a state, and they were less likely to expand voting opportunities amid the COVID-19 pandemic.¹⁴

22. Partisan gerrymandering is a fundamental assault on the principle of democracy. It replaces rule by the people with rule by entrenched partisan interests that choose district boundaries and empower certain constituencies at the expense of others. In other words, it gives unequal voting power to voters based on party association and preference. Partisan gerrymandering can effectively determine electoral outcomes, in spite of changes in voter support and variable turnout. In addition to the harms it causes to democracy, partisan gerrymandering causes direct, material harm to voters in the form of distorted policy outcomes. Finally, by protecting politicians from accountability, partisan bias contributes to the erosion of support for democratic government and the rule of law, fueling the rise of authoritarianism.¹⁵ Accordingly, the overwhelming—if not unanimous—consensus among political scientists is that a system that provides for minority rule or creates unequal voting rights is no longer a democracy or a government instituted for the equal protection and benefit of its citizens.

ANALYSIS AND OPINIONS

¹³ *Gerrymandering the States*, Ch.6.

¹⁴ *Ibid.*

¹⁵ Ozan O. Varol, (2015). “Stealth Authoritarianism”, 100 *Iowa L. Rev.* 1673; <https://ilr.law.uiowa.edu/print/volume-100-issue-4/stealth-authoritarianism/>.

I. Proportionality Analysis: Whether the Proportion of Districts that Favor Each Political Party Corresponds Closely With the Statewide Preferences of the Voters of Ohio

23. The people of Ohio have enshrined proportionality as a constitutional requirement for drawing assembly districts. As a general matter, the principle of proportionality means that the number of seats won by political parties in a parliament or assembly should correspond with or be broadly proportionate to the number of votes cast in support of those parties.¹⁶ Proportionality is a scientifically accepted concept that can be measured by the degree to which an electoral system or district scheme reflects the statewide preferences of voters.¹⁷

24. Broadly speaking, political scientists assess the proportionality of an electoral district map by comparing how the proportion of votes cast for a party relates to the proportion of seats that the party would be expected to win. A simple illustration demonstrates the principle of proportionality and how disproportionality can emerge in an election. Imagine a 5-seat state assembly, with 100 voters in each district and two parties (A and B) competing for seats. In an election, Party B wins narrow 51 percent/49 percent victories in districts 1, 2 and 3, but loses badly in districts 4 and 5, where Party A voters are heavily concentrated. Looking at the state as a whole, Party A is preferred by a 59 percent majority of voters, but Party B has won 60 percent of the assembly seats. See Table 1. Since the number of seats won by Party A does not correspond closely to the statewide voter preferences, the map is not proportional, and actually

¹⁶ Douglas Rae (1967) *The Political Consequences of Electoral Laws*. New Haven, CT/London: Yale University Press; Michael Gallagher, “Proportionality, Disproportionality, and Electoral Systems” *Electoral Studies*, (1991), 10, 1; Arend Lijphart (1994) *Electoral Systems and Party Systems. A Study of Twenty-Seven Democracies 1945–1990*. Oxford University Press; G. Bingham Powell (2000) *Elections as Instruments of Democracy: Majoritarian and Proportional Visions*. Yale University Press; David Farrell (2001) *Electoral Systems. A Comparative Introduction*. London: Palgrave.

¹⁷ Interest in the relationship between votes cast and seats won can be traced back to the origins of election science. See, for example, John Stuart Mill, “Of True and False Democracy: Representation of All and Representation of the Majority Only” in *Considerations on Representative Government* (1861). For a more recent treatment, see Matthew Shugart and Rein Taagepera, “The Number of Parties and Proportionality: Two Key Tools for Analysis” in *Votes from Seats: Logical Models of Electoral Systems*. (2017, Cambridge University Press).

violates the principle of majority rule in this case. The difference between the percentage of votes (41 percent) and the percentage of seats (60 percent) won by Party B is the level of disproportionality in this election: 19 points.

TABLE 1

How Disproportionality Emerges

Differences between the proportion of votes and seats won produce disproportionality.

SEATS	PARTY A VOTES	PARTY B VOTES	PARTY A SEATS	PARTY B SEATS
1	49	51	0	1
2	49	51	0	1
3	49	51	0	1
4	75	25	1	0
5	75	25	1	0
Statewide	59%	41%	40%	60%

Table 1. Disproportionality Illustration

25. Although there are various ways to measure proportionality,¹⁸ Section 6(B) of Article XI of the Ohio Constitution specifies a particular one. Under Section 6(B), the Commission must draw a map where “[t]he statewide proportion of districts whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party correspond[s] closely to the statewide preferences of the voters of Ohio.” In recent rulings interpreting Section 6(B), the Ohio Supreme Court has further directed that “[C]ompetitive districts . . . must either be excluded from the proportionality assessment or be allocated to each party in close proportion to its statewide vote share.” Slip Op. 2022-Ohio-342,

¹⁸ Taagepera, R. *Predicting Party Sizes: The Logic of Simple Electoral Systems*. (2007) Oxford University Press.

¶ 62; see also Slip Opinion No. 2022-Ohio-789, ¶ 38 (reaffirming this guidance). The Ohio Supreme Court has defined “competitive districts,” i.e., toss-ups, as those with a Democratic or Republican vote share in the range of 50 and 52 percent. Slip Opinion No. 2022-Ohio-789, ¶¶ 39-41. I accordingly tailored my proportionality analysis to conform with the provisions of Section 6(B).

26. My analysis proceeded in five steps. For each plan I first calculated the statewide preferences of the voters of Ohio, based on statewide state and federal partisan general election results during the last ten years. Second, I calculated the statewide proportion of districts whose voters favor each political party, as well as the proportion of toss-up districts, based on the same set of statewide elections. Third, pursuant to the Ohio Supreme Court’s guidance, I assessed proportionality in two ways: 1) excluding toss-ups that range between 48-52 percent (a 2-point advantage or less for either party), calculating the percentage of districts that favored Democratic and Republican voters, and 2) including toss-ups, allocating even very close seats to the party with the highest estimated vote share. Fourth, to determine whether the statewide election figures “correspond closely” to the partisan seat shares from a given plan, I calculated the difference between statewide vote shares and allocated seat shares for each party. Finally, I compared these differences among each of the plans I was evaluating. I evaluated both the House and Senate maps in each plan.

27. I start by calculating the statewide preferences of Ohio voters based on statewide state and federal partisan general election results during the last ten years. I find that the average results of statewide Democratic and Republican vote shares from 2012 through 2020 are 45.9 percent and 54.1 percent, respectively. See Table 2.

TABLE 2

Statewide Preferences of Ohio Voters

RACE	DEMOCRATIC VOTES	REPUBLICAN VOTES	DEMOCRATIC SHARE	REPUBLICAN SHARE
2012 Presidential	2,827,709	2,661,439	51.5%	48.5%
2012 Senate	2,762,766	2,435,744	53.1%	46.9%
2014 Governor	1,009,359	1,944,848	34.2%	65.8%
2014 Attorney General	1,178,426	1,882,048	38.5%	61.5%
2014 Auditor	1,149,305	1,711,927	40.2%	59.8%
2014 Secretary of State	1,074,475	1,811,020	37.2%	62.8%
2014 Treasurer	1,323,325	1,724,060	43.4%	56.6%
2016 Presidential	2,394,164	2,841,005	45.7%	54.3%
2016 Senate	1,996,908	3,118,567	39.0%	61.0%
2018 Governor	2,070,046	2,235,825	48.1%	51.9%
2018 Senate	2,358,508	2,057,559	53.4%	46.6%
2018 Attorney General	2,086,715	2,276,414	47.8%	52.2%
2018 Auditor	2,008,295	2,156,653	48.2%	51.8%
2018 Secretary of State	2,052,098	2,214,273	48.1%	51.9%
2018 Treasurer	2,024,194	2,308,425	46.7%	53.3%
2020 Presidential	2,679,165	3,154,834	45.9%	54.1%
Sum of votes	30,995,458	36,534,651	45.9%	54.1%
Divided by number of races	16	16	-	-
Composite (2012-2020)	1,937,216	2,283,416	45.9%	54.1%
Composite (2016-2020)	2,261,349	2,614,419	46.4%	53.6%

Table 2. Statewide Preferences of Ohio Voters

28. Next, using 2016-2020 precinct-level election data from the Voting and Election Science Team (VEST),¹⁹ (the only years for which I was able to obtain publicly available

¹⁹ VEST provides the most comprehensive, composite precinct-level data and is regularly used by social scientists and public mapping projects. While data on statewide voter preferences is available for the 2012, 2014, 2016, 2018, and 2020 elections, precinct-level VEST data is available only for the elections in 2016, 2018, and 2020. I am not aware of any other source for precinct-level data for the 2012 and 2014 elections. Due to these data limitations, I projected seats won based on data from 2016, 2018, and 2020, and I compared these seats won with statewide composite voter preferences drawn from the 2012, 2014, 2016, 2018, and 2020 elections.

precinct-level results), I determined the statewide composite for 2016-2020: 46.4 percent Democratic and 53.6 percent Republican.²⁰

29. For each plan, I then calculated the statewide proportion of districts whose voters favor each political party, as well as the total number of toss-ups. Under a normal distribution, about 7 percent of districts would fall into this “toss-up” range, *i.e.*, 7 House seats and 2 Senate seats. However, the Third and Fourth Commission Plans have a significant and unusually large numbers of House and Senate districts that lean Democratic by razor-thin margins.

30. My review of the Third and Fourth Commission Plans reveals that only a small number of district populations changed between those two Plans. Specifically, there was only a change of 451 census blocks out of 276,478 (0.0016 percent of census blocks), which impacts only 0.265 percent of the total population. Otherwise, the Third and Fourth Commission Plans are identical, which explains their similar performance.

a. Proportionality When Toss-Up Districts Are Excluded

31. Tables 3 and 4 display statewide vote share for each of the examined plans, in the House and Senate, respectively. The tables lay out the Democratic (DEM) and Republican (GOP) seats and seat share for each plan, as well as the toss-up districts that are estimated to yield vote shares from 48 to 52 percent for either party.

²⁰ This composite measure is calculated by treating each election as a sample. That is, instead of taking the total votes for both parties across elections and dividing Democratic votes by the total, I take the average of each estimated vote share across elections, so that each election has equal weight in determining the average estimate for each district.

TABLE 3

Proportionality of House Plans

PLAN	VOTE SHARE (DEM/GOP)	NUMBER OF SEATS (DEM/GOP/TOSS-UPS)	SEAT SHARE (DEM/GOP/ TOSS-UPS)	DEM/GOP SEAT SHARE (EXCLUDING TOSS-UPS)	DISPROPORTIONALITY (EXCLUDING TOSS- UPS)
Fourth Commission Plan	46%/54%	28/54/17	28%/55%/17%	34%/66%	12%
Third Commission	46%/54%	26/54/19	26%/55%/19%	33%/67%	13%
2011 Plan	46%/54%	31/59/9	31%/60%/9%	34%/66%	12%
Johnson/McDonald	46%/54%	42/51/6	42%/52%/6%	45%/55%	1%
Revised Johnson/McDonald	46%/54%	42/51/6	42%/52%/6%	45%/55%	1%
Rodden III	46%/54%	40/56/3	40%/57%/3%	41%/59%	5%

Table 3. Proportionality of House Plans

32. The Third and Fourth Commission House Plans perform similarly in how they generate extremely disproportional outcomes. Specifically, both plans create an unusually large number of toss-up districts: 19 in the Third House Plan, 17 in the Fourth House Plan. Because these toss-ups all barely lean Democratic, the reliably Democratic estimated seat shares fall to 26 and 28 percent, respectively, when those toss-up districts are removed. Recalculating proportionality without toss-ups yields respective seat shares of 33 and 34 percent. Compared to the 46 percent statewide vote share estimate for Democratic voters, those Democratic seat shares yield respective disproportionalities of 13 and 12 percent. That is, Democratic voters have a 12-13 percent deficit in seat shares relative to their vote share, while Republicans gain a 12-13 percent seat advantage relative to their 54 percent vote share.

33. The 2011 House Plan generates a similar 12 percentage point disproportionality, but does not rely solely on toss-up districts to mimic proportionality. Instead, the 2011 plan begins with a reliable Republican seat share advantage of 6 points (60 percent of seats with 54 percent of the statewide vote), and that seat advantage is then amplified once toss-ups are

accounted for. Previous research I have conducted also indicates that the 2011 House Plan was one of the most biased maps in the country last redistricting cycle.²¹

34. By contrast, the Johnson/McDonald, Revised Johnson/McDonald, and Rodden III House Plans exhibit less than half the disproportionality of the above plans, and the seat shares in these plans are not greatly impacted by the removal of toss-up districts. The Johnson/McDonald Plan and Revised Johnson/McDonald Plan both contain 42 Democratic leaning seats after removal of toss-ups, a 4 percent difference than the Democratic vote share. When disproportionality without toss-ups is calculated, that difference drops to a single percentage point. For the Rodden III House Plan, Democratic voters are estimated to hold majorities in 40 seats excluding toss-ups, compared to 56 seats for Republicans. Overall disproportionality after removing toss-ups yields a disproportionality of 5 percent, less than half the disproportionality observed in the Third and Fourth Commission Plans, or the 2011 House Plan.

35. The disproportionality of the Senate Plans largely mirrors what is observed in the House Plans. See Table 4. Both Commission-adopted Senate plans and the 2011 Plan exhibit large disproportionalities ranging from 13 to 18 percent, and in the Commission-adopted plans, the disproportionality is largely the result of toss-up districts that are attributed to the Democratic Party. The 2011 Plan, in contrast, is disproportional with or without toss-ups. And once again, the Johnson/McDonald, Revised Johnson/McDonald, and Rodden III plans are more proportional than the alternatives, with or without toss-ups excluded. Overall, the Third Commission Plan is the least proportional, and the plans that comes closest to achieving perfect proportionality are the Johnson/McDonald and Revised Johnson/McDonald Plans. The next section shows that the

²¹ *Gerrymandering in America*, pp. 88-94; *Gerrymandering the States*, pp. 191-207.

Johnson/McDonald and Revised Johnson/McDonald plans are also the fairest in responding to minor shifts in voter preferences.

TABLE 4

Proportionality of Senate Plans

PLAN	VOTE SHARE (DEM/GOP)	NUMBER OF SEATS (DEM/GOP/TOSS-UPS)	SEAT SHARE (DEM/GOP/ TOSS-UPS)	DEM/GOP SEAT SHARE (EXCLUDING TOSS-UPS)	DISPROPORTIONALITY (EXCLUDING TOSS- UPS)
Fourth Commission Plan	46%/54%	9/18/6	27%/55%/18%	33%/67%	13%
Third Commission	46%/54%	7/18/8	21%/55%/24%	28%/72%	18%
2011 Plan	46%/54%	9/21/3	27%/63%/9%	30%/70%	16%
Johnson/McDonald	46%/54%	13/18/2	42%/52%/6%	42%/58%	4%
Revised Johnson/McDonald	46%/54%	13/18/2	42%/55%/6%	42%/58%	4%
Rodden III	46%/54%	12/18/3	36%/55%/9%	39%/61%	7%

Table 4. Proportionality of Senate Plans

b. Proportionality When Toss-Up Districts Are Included

36. As noted above, the Third and Fourth Commission plans have an unusually large number of districts that lean Democratic by razor-thin margins. If the lean of the districts is unbiased, or randomly distributed between the two parties, it is reasonable to expect the parties to split these districts roughly 50/50 over the course of elections due to ebbs and flows in voter support. However, the design of the toss-up districts in the Third and Fourth Commission Plans looks anything but random.

37. Tables 5 and 6 display the results of my analysis when toss-up districts are allocated to each party, including the impact of minor (2 percent) uniform vote swings for the Fourth Commission Plan, Third Commission Plan, 2011 Plan, Johnson/McDonald Plan, Revised Johnson/McDonald Plan, and the Rodden III Plan.

TABLE 5

Swing Analysis of House Plans

PLAN	SEAT SHARES WITH TOSS-UPS (D/R)	TOSS-UPS (D/R)	+2% D SWING	SEAT SHARES WITH D SWING	+2% R SWING	SEAT SHARES WITH R SWING
Fourth Commission	45%/55%	17/0	no change	45%/55%	+6 GOP	23%/72%
Third Commission	45%/55%	19/0	no change	45%/55%	+19 GOP	26%/74%
2011 Plan	35%/64%	4/5	+5 DEM	40%/60%	+1 GOP	32%/68%
Johnson/McDonald	45%/55%	3/3	+3 DEM	49%/51%	+3 GOP	42%/58%
Revised Johnson/McDonald	45%/55%	3/3	+3 DEM	49%/51%	+3 GOP	42%/58%
Rodden III	43%/57%	2/1	+1 DEM	44%/56%	+2 GOP	41%/59%

Table 5. Swing Analysis of House Plans

TABLE 6

Swing Analysis of Senate Plans

PLAN	SEAT SHARES WITH TOSS-UPS (D/R)	TOSS-UPS (D/R)	+2% D SWING	SEAT SHARES WITH D SWING	+2% R SWING	SEAT SHARES WITH R SWING
Fourth Commission	45%/55%	6/0	no change	45%/55%	+6 GOP	27%/73%
Third Commission	45%/55%	8/0	no change	45%/55%	+8 GOP	21%/79%
2011 Plan	30%/70%	1/2	+2 DEM	36%/64%	+1 GOP	28%/72%
Johnson/McDonald	45%/55%	2/0	no change	45%/55%	+2 GOP	39%/61%
Revised Johnson/McDonald	45%/55%	2/0	no change	45%/55%	+2 GOP	39%/61%
Rodden III	42%/58%	2/1	+1 DEM	44%/56%	+2 GOP	41%/59%

Table 6. Swing Analysis of Senate Plans

38. The unusually large number of toss-up seats in the Third and Fourth Commission House plans create extreme seat share advantages favoring Republican voters with a minor, 2-point vote share swing in their favor. Specifically, because all toss-ups are already allocated to Democrats, and because there are no correspondingly close Republican districts (that range in value from 48-50 percent), a two-point statewide shift favoring Democrats yields *zero* additional Democratic seats. The same size swing (2-point) in favor of Republicans yields them a seat share advantage of 16 percentage points, or 72 percent of seats with 56 percent of the statewide vote.

39. As noted earlier, the 2011 House Plan does not rely heavily on toss-ups, but it is still disproportional because Democratic voters start at a major disadvantage in seat shares. Even though Democrats are estimated to gain 5 seats from a 2-point uniform vote swing in their favor, they would still win only 40 percent of House seats with 48 percent of the vote. By contrast, Republicans would build on their already solid advantage, winning an estimated 68 percent of House seats with 56 percent of the vote. Under the 2011 House Plan, a GOP supermajority is more or less baked into place.

40. Notably, under either the Johnson/McDonald, Revised Johnson/McDonald, or Rodden III plans, both parties would benefit from minor vote swings in their favor, as should be the case under a fair plan. Moreover, with fewer extremely close districts in play, minor shifts in voter preferences produce only minor shifts in seat changes. In a very close statewide election, small shifts may very well determine partisan control over the legislature, but neither of these plans would allow massive seat share advantages to accrue for a party from a minor shift in voter sentiment. Again, the magnitude of seat changes between parties is likely to be *proportional to changes in vote share*.

41. Accordingly, I conclude that the statewide proportion of districts allocated in the Third and Fourth Commission House maps, and the 2011 House map, do not correspond, much less correspond closely, to the statewide preferences of the voters of Ohio. By contrast, I conclude that the statewide proportion of districts in the Johnson/McDonald, Revised Johnson/McDonald, and Rodden III House Plans corresponds closely to the statewide preferences of the voters of Ohio, and will be proportionally responsive when those preferences change.

42. Similarly, I conclude that the statewide proportion of districts in the Third and Fourth Commission Senate maps, and the 2011 Senate map, do not correspond closely to the statewide preferences of the voters of Ohio. Overall, the performance of the maps are strikingly similar: either a large number of Democratic-leaning toss-ups provides a massive Republican seat bonus with a minor shift in voter preferences (the Third and Fourth Senate Plans), or the plan is strongly disproportional from the outset (the 2011 Senate Plan).

43. In addition, and again by contrast, I conclude that the statewide proportion of districts in the Johnson/McDonald, Revised Johnson/McDonald, and Rodden III Senate Plans correspond closely to the statewide preferences of the voters of Ohio.

II. Symmetry Analysis: Whether a Plan Favors Republican Voters and Disfavors Democratic Voters

44. The primary metric I adopt in this section is partisan symmetry, a broadly accepted metric used by political scientists to measure partisan bias.²² The principle of partisan symmetry requires that a districting system award the same number of seats to each party's candidates if they receive the same statewide vote share. Originally developed by Andrew Gelman and Gary King, the measure has a long history of peer-reviewed scientific application,²³ and it has been relied upon by the Ohio Supreme Court in assessing compliance with both

²² Barry Burden and Corwin Smidt, "Evaluating Legislative Districts Using Measures of Partisan Bias and Simulations," *Sage Open*, 10, 4, 2020; <https://doi.org/10.1177/2158244020981054>; Anthony J McGann, Charles Anthony Smith, Michael Latner, Alex Keena, "A Discernable and Manageable Standard for Partisan Gerrymandering" *Election Law Journal*, 14, 4, 2015; John F. Nagle, "Measures of Partisan Bias for Legislating Fair Elections", *Election Law Journal*: 2015. pp. 346-360.<http://doi.org/10.1089/elj.2015.0311>.

²³E.R.Tufte, (1973). "The relationship between seats and votes in two-party systems." Bernard Grofman and Gary King, "The Future of Partisan Symmetry as a Judicial Test for Partisan Gerrymandering after *LULAC v Perry*" *Election Law Journal*, 6,1,2007. Available at <https://gking.harvard.edu/files/jp.pdf>; *American Political Science Review*, 67, 540–554; Andrew Gelman and Gary King, "Estimating Incumbency Advantage Without Bias" *American Journal of Political Science*, Vol. 34, No. 4, pp. 1142-1164, November 1990, Available at SSRN: <https://ssrn.com/abstract=1084180>; Available at <https://gking.harvard.edu/files/jp.pdf> *American Political Science Review*, 67, 540–554.

Section 6(B), e.g. Slip Opinion No. 2022-Ohio-65 ¶ 122, and Section 6(A), e.g. Slip Opinion No. 2022-Ohio-789 ¶ 33.

45. Partisan symmetry differs from proportionality, which I discussed above, in fundamental ways. In a two-party system, the principle of partisan symmetry requires that the number of seats won by a party when it receives a certain percentage of the statewide vote will be the same for each party, while the principle of proportionality requires that the number of seats won by a party correspond with or be proportionate to the number of votes cast in support of that party. The question posed by a partisan symmetry analysis, in other words, is how many more (or fewer) seats does one party get for some share of the statewide vote as compared to what another party gets for that same statewide vote share.

46. Scientifically accepted measures of partisan symmetry follow logically from the principle that an electoral system should treat voters equally regardless of which party they choose to associate with, and that the party that wins the most votes should win the most seats.²⁴ I estimate symmetry in two ways: (1) a simple measure of skewness (S) that can be calculated by hand,²⁵ and (2) a computational model of symmetry with statistical confidence intervals. The computational symmetry models estimate symmetry in the seats-votes function across a range of vote shares, while S measures asymmetry or skewness in the distribution of support for parties across the districts.

47. To calculate the simple measure of symmetry (or skewness), S , I take the districts that are 5 percent above or below the statewide average of party support and determine what proportion of those districts favor Democrats and what proportion favor Republicans, relative to their statewide vote share. That is, a plan's bias under S equals the proportion of seats with

²⁴ McGann, et.al., "A Discernable and Manageable Standard for Partisan Gerrymandering".

²⁵ This metric was first developed by Anthony McGann, during the writing of *Gerrymandering the States*, p. 30.

Democratic vote share above five percent of the Democratic average minus the proportion of seats with Republican vote share above five percent of the Republican average. Put simply, S tells you whether a districting plan creates more Republican or Democratic leaning districts relative to the parties' statewide vote shares. A negative value for S means Republicans are advantaged while a positive value means Democrats are advantaged. In this report, simple S is charted graphically in the form of histograms. See, e.g., Figure 1. A symmetrical plan would show similar distributions of districts on either side of the vertical line denoting the average vote share; an asymmetrical plan would give the favored party more districts past the line denoting the average vote share for the party.

48. For the computational models, I calculate partisan symmetry for the plans, but instead of assuming uniform vote swing across districts, I impute random "noise" (up to five points) in 1,000 simulations of district vote distributions to reflect the idiosyncrasies and perturbations that occur in real elections over time. The procedure also allows me to calculate confidence intervals to provide estimates of statistical significance. In this report, the computational model is charted as a seats/votes S-curve function. See, e.g., Figure 1.

49. Tables 7 and 8 summarize the results of the two symmetry measures for each of the plans I evaluated.²⁶ Among the possible House maps, I would consider the 2011 House Plan and both the Fourth and Third Commission House Plans to be "extreme" gerrymanders in the sense that they all exhibit more than a 10 percent seat share advantage for voters of one party (in this case, Republicans), compared to other voters. All three plans exhibit measures of S and (statistically significant) computational asymmetries greater than 10 percent. That is, when the

²⁶ I should note that the simple S and computational symmetry measures diverge somewhat because they are calculated using different metrics (the number of safe seats v change in the seats/votes curve as voter preferences change). The computational measure is superior in that it is a truly predictive estimate of future performance, and it is possible to estimate the statistical significance of differences across different plans.

statewide party votes range between 45 and 55 percent, as they have in actual elections over the last decade, Democratic voters can be expected to receive 11 to 14 percent fewer seats than Republicans for the same vote share.

50. The Johnson/McDonald, Revised Johnson/McDonald, and Rodden III House plans are more symmetric than any of the other plans at a statistically significant level. For example, if we compare the respective estimated House symmetry scores from those plans (-5.3, -5.2, and -8.4) to the symmetry scores for the Third (-11.6) or Fourth Commission (-11.3) plans, or the 2011 House Plan (-14.3), we can say with greater than 95 percent confidence that the Johnson/McDonald, Revised Johnson/McDonald, and Rodden III plans would produce lower asymmetries over the next decade. Moreover, there are no statistically significant asymmetries in either of the Johnson/McDonald designed maps or the Rodden III Senate plan. Among these plans, the Revised Johnson/McDonald House Plan is the most symmetric.

51. The Senate plans largely mirror the House plans in asymmetry scores. Whether calculated using skewness (S) in the distribution of partisan support across seats or the computational estimate, asymmetries are higher on average in the Third and Fourth Commission Plans and the 2011 Plan, compared to the Johnson/McDonald, Revised Johnson/McDonald, or Rodden III Senate plans. The one exception is that the Fourth Commission Senate Plan and the Rodden III Senate plan have the same S score, that is, in both plans, there are 15 districts where Republicans do at least 5 percent better than their statewide average, and 12 districts where Democrats do at least 5 percent better than their statewide average. In the Fourth Commission Senate Plan, two toss-up Democratic-leaning Senate seats between 51.5 and 51.9 are included in the 12 Democratic districts, but if they were excluded, it would yield an S measure of 30 percent (10 D seats) – 45 percent (15 R seats) = -15 percent. In the Rodden III Plan, counting only 52

percent or higher as the cut off would have no impact on the S score. While the S measure is simple to calculate, it can be quite sensitive to cut-off points (5 percent), which is why it is also important to consider the computational asymmetry measure, where I find no statistical asymmetry in the Rodden III Senate Plan. The difference between the Rodden III and Fourth Commission plans is also clearly observable in histograms that show the overall partisan distribution of seats.

TABLE 7

Asymmetry in House Plans

PLAN	SIMPLE S	ASYMMETRY	(95% CONFIDENCE)
Fourth Commission	-11	-11.3	(5.6)
Third Commission	-13	-11.6	(5.94)
2011 Plan	-14	-14.3	(6.09)
Johnson/Mc Donald	-4	-5.2	(5.63)
Revised Johnson/Mc Donald	-1	-5.3	(5.65)
Rodden III	-6	-8.4	(5.38)

Table 7. Asymmetry in House Plans

TABLE 8

Asymmetry in Senate Plans

PLAN	SIMPLE S	ASYMMETRY	(95% CONFIDENCE)
Fourth Commission	-9	-12.9	(10.6)
Third Commission	-12	-11.1	(10.2)
2011 Plan	-12	-14.6	(10.9)
Johnson/Mc Donald	2	-4.8	(10.6)
Revised Johnson/Mc Donald	2	-4.8	(10.6)
Rodden III	-9	-6.4	(9.89)

Table 8. Asymmetry in Senate Plans

52. The graphs below illustrate the two symmetry scores for each of the plans I evaluated, and provide a straightforward way of observing asymmetries in districting plans. The logic of symmetry requires that districting plans allocate district seats in equal numbers to parties with comparable levels of district-level support. That is, a histogram of a symmetric plan looks the same on both sides of the statewide party vote share average. In terms of a seats/votes function, the curve of seats won to votes won should intersect at the 50 percent point (50 percent of seats for 50 percent of votes).

53. Figure 1 provides a hypothetical example of what a perfectly symmetric (and because it is centered at 50 percent, proportional) districting plan looks like. In the figure, there are six competitive districts, with Party A winning between 45 and 55 percent of the vote. On either side of the six-seat column, there are five districts where Party A wins between 55 and 65 percent, and five districts where Party B wins between 55 and 65 percent, and so on. Both parties receive an equal share of districts (38 percent) 5 percent or more above their statewide average (50 percent). The symmetric distribution of districts necessarily produces a symmetric seats-votes function, as shown in the panel on the right. You can see that if Party A wins 60 percent of the vote, it receives 71 percent of the seats, but Party B also receives 71 percent of seats with 60 percent of the vote.²⁷

²⁷ Note also that the histogram need not be centered on 50 percent of the vote to be symmetric. The median district might have Party A winning, say, 70 percent of the vote (in a state dominated by Party A), but that would produce an identical seats-votes function: if there was a 20-point swing away from Party A and it only won 50 percent of the vote, it would still receive 50 percent of the seats.

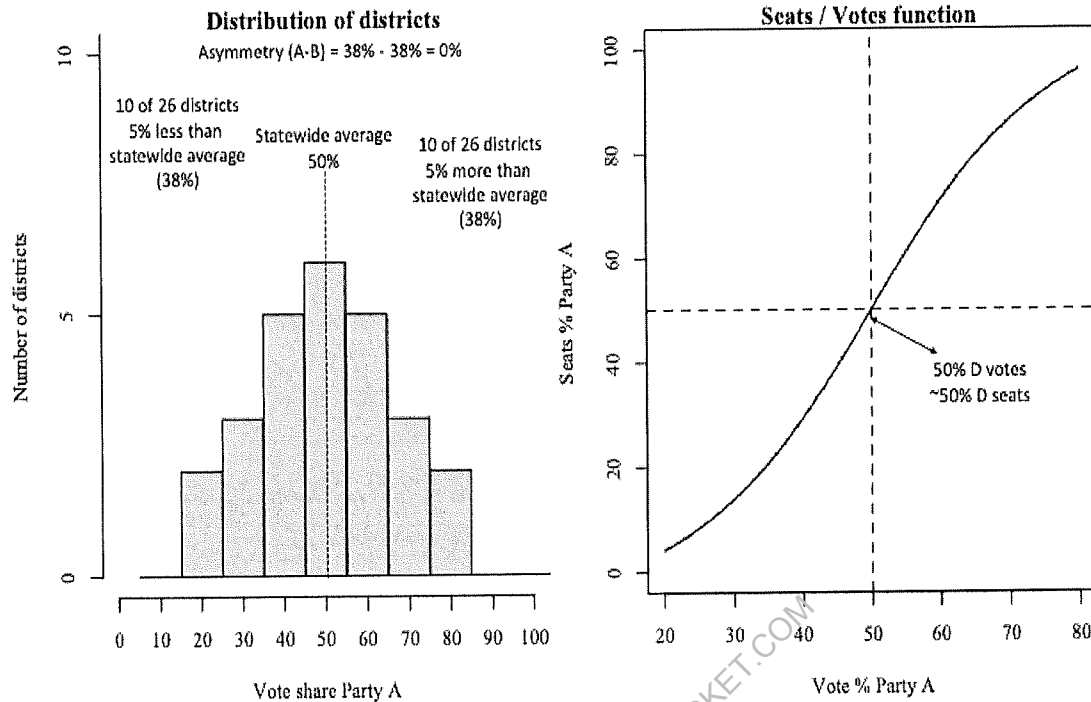


Figure 1: Illustrative Example of Perfect Symmetry

54. Applying this methodology, Figures 2-13 display a series of histograms of the allocation of seats for each of the plans I have been asked to evaluate, as well as the estimated seats/votes function. Figure 2 illustrates the distribution of House seats under the Fourth Commission Plan. From the skewed histogram, it is readily observable that Republicans pick up nearly half of House seats prior to the 50% vote mark on the x-axis. 46 seats are estimated to hold a higher percentage of Republicans than 5 percent or more of their statewide average (54 percent), compared to 35 seats where Democrats earn more than 51 percent vote share (5 percent above their statewide average of 46 percent). The seats/votes estimate shows that Democrats are expected to win 44 percent of seats with 50 percent of the statewide vote, while Republicans win 56 percent of seats with the same vote share.

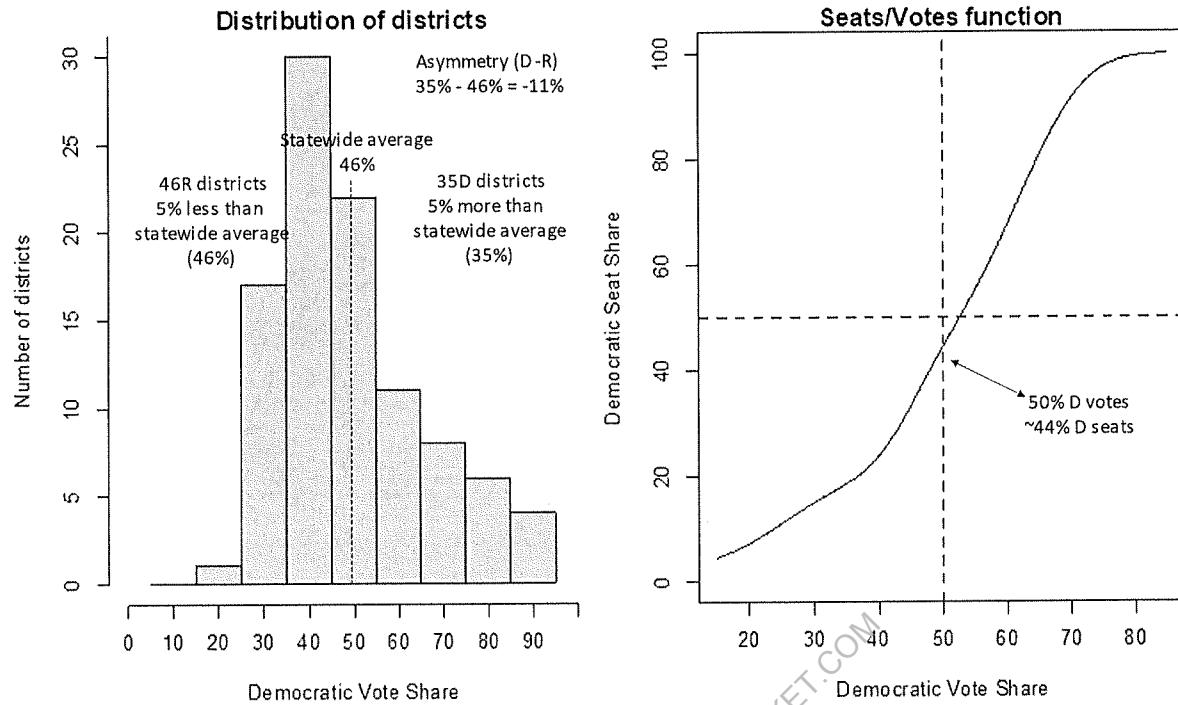


Figure 2: Fourth Commission House Plan

55. The Fourth Commission Senate Plan performs similarly, packing Democrats into uncompetitive districts (the far right of the histogram), so that they have 12 seats (36 percent) at 5 percent more than their statewide vote share, compared to 15 seats (45 percent) for Republicans. See Figure 3. Again, Democrats are projected to win 44 percent of seats with 50 percent of the statewide vote.

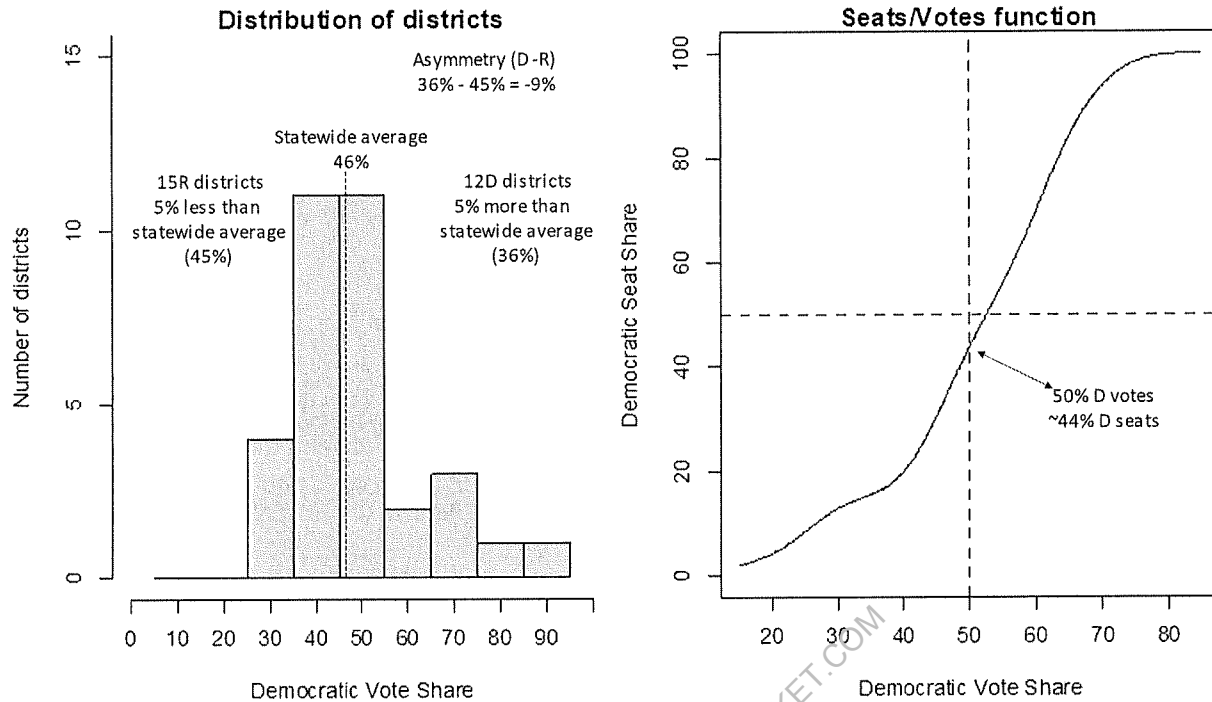


Figure 3: Fourth Commission Senate Plan

56. Figures 4 and 5 shows the histogram and seats/votes function for the Third Commission House and Senate Plan. The partisan distribution of House seats is nearly identical to the Fourth Commission Plan, but slightly worse on the S measure, given that Republicans have an additional seat advantage (and Democrats one less seat above 51 percent). The Third Commission Senate Plan is also similar to the Fourth, except that there is one less toss-up district above the 51 percent cut-off (though more toss-ups overall), increasing S from -9 percent to -12 percent.

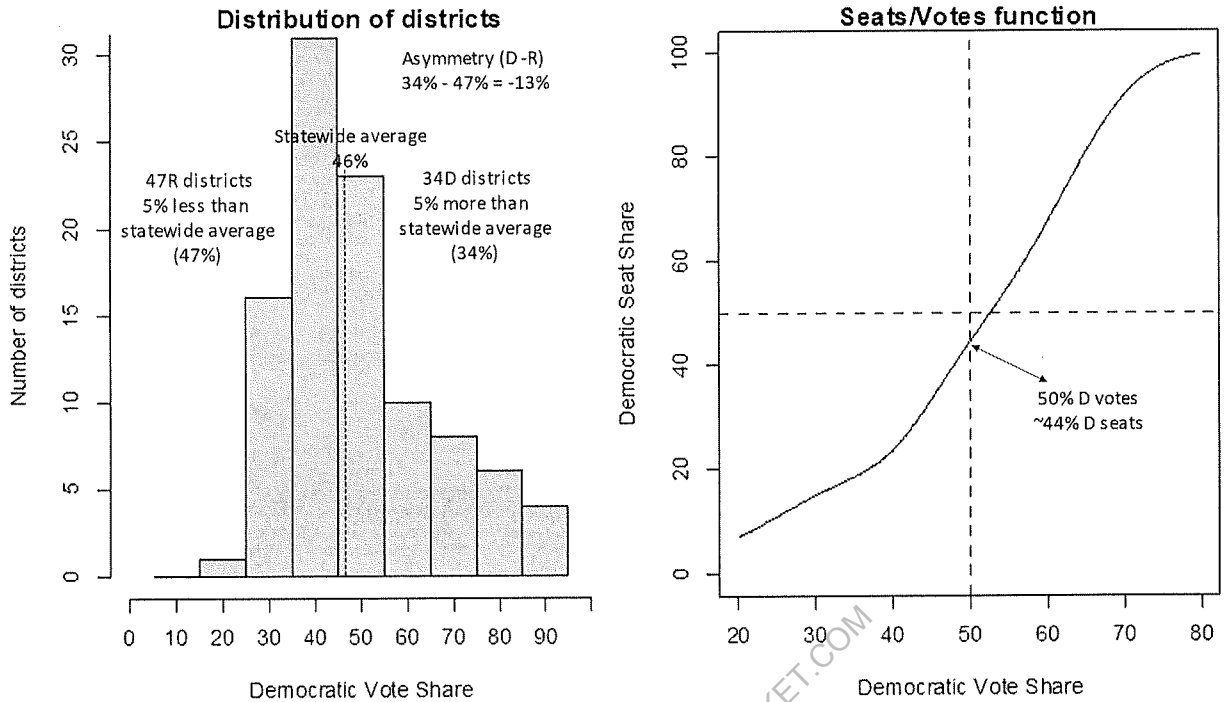


Figure 4: Third Commission House Plan

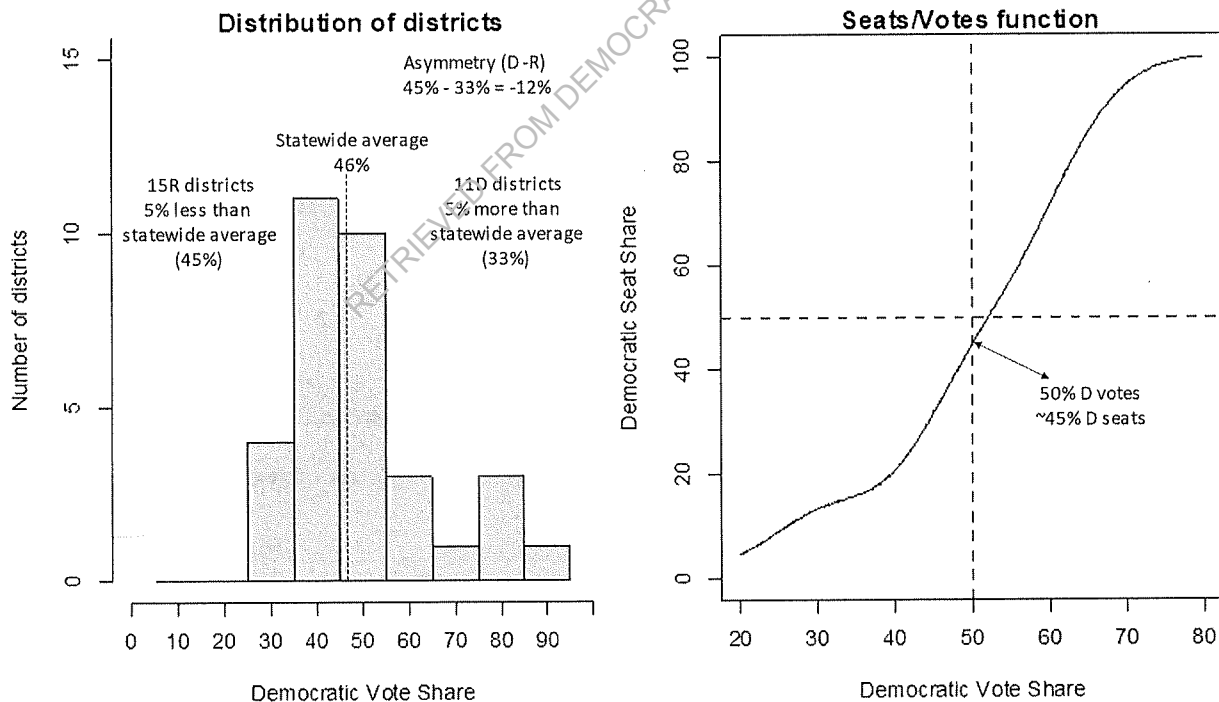


Figure 5: Third Commission Senate Plan

57. The 2011 House and Senate Plans show even greater skew and bias in the partisan distribution of districts. Figure 6 shows the distribution for the 2011 House Plan, with several heavily packed Democratic districts on the far right of the histogram. This classic packing strategy is projected to yield far fewer (33) seats where Democrats do better than their statewide average compared to Republicans (47 seats). Democrats are projected to win an average of 42 percent of House seats statewide with 50 percent of the vote. The 2011 Senate Plan looks similar to and performs similarly to the Third Commission Plan. See Figure 7. Under the 2011 Senate Plan Democrats are projected to win only 42 percent of Senate seats on average, with 50 percent of the statewide vote.

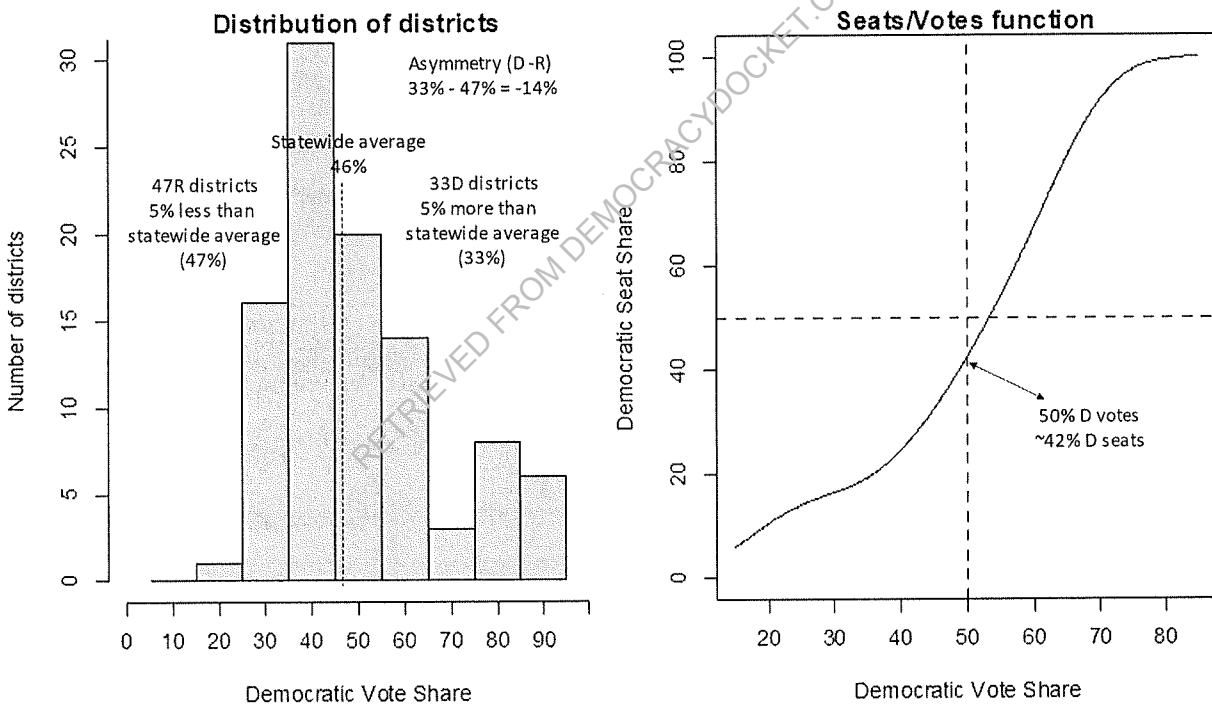


Figure 6: 2011 House Plan

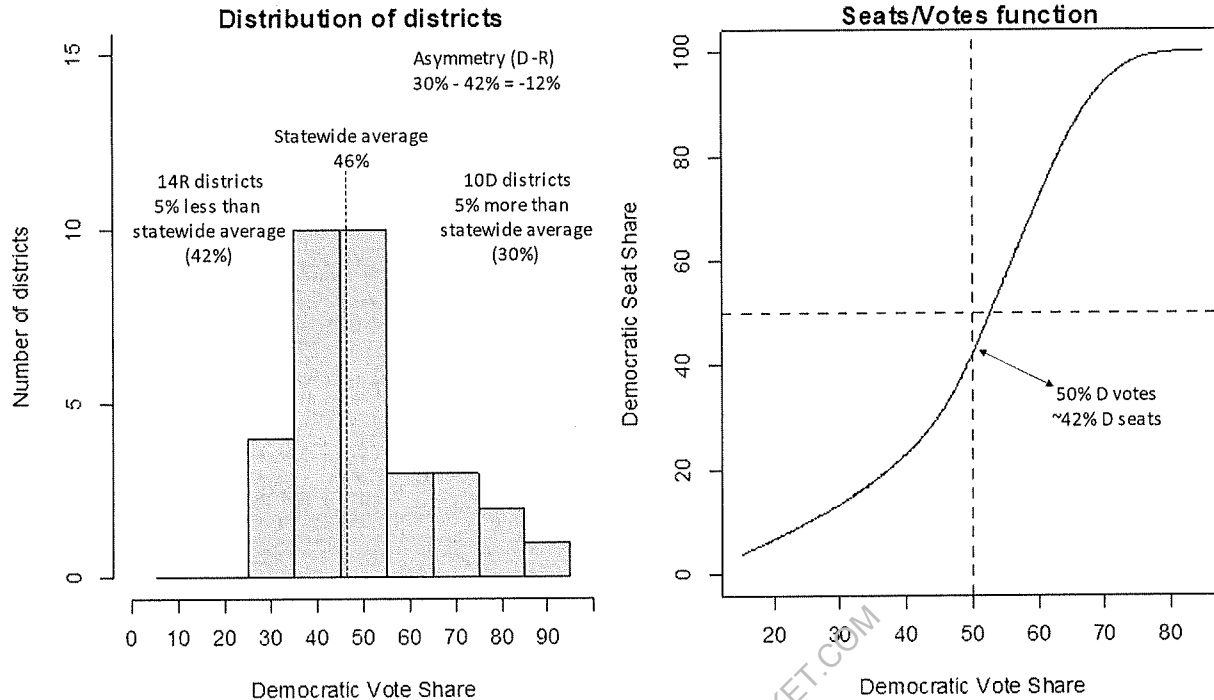


Figure 7: 2011 Senate Plan

58. Turning to the maps designed by Johnson/McDonald, the greater symmetry of the histograms is immediately observable in Figures 8-11. In the Revised Johnson/McDonald House Plan (Figure 8), there is a nearly equal number of House seats where Republicans (45) and Democrats (44) perform above their statewide vote shares, resulting in an *S* of 1. The original Johnson/McDonald House Plan is also visibly more symmetric (Figure 9). In the Johnson/McDonald and Revised Johnson/McDonald Senate Plans, Democrats have one more seat above their statewide vote share than Republicans. (Note that the original and revised Johnson/McDonald Senate Plans yield identical asymmetry results because House districts in both were combined to produce the same map. See Figures 10-11.) Overall, the Johnson/McDonald and Revised Johnson/McDonald Plans come closest to the conceptual and empirical ideals of proportionality and symmetry.

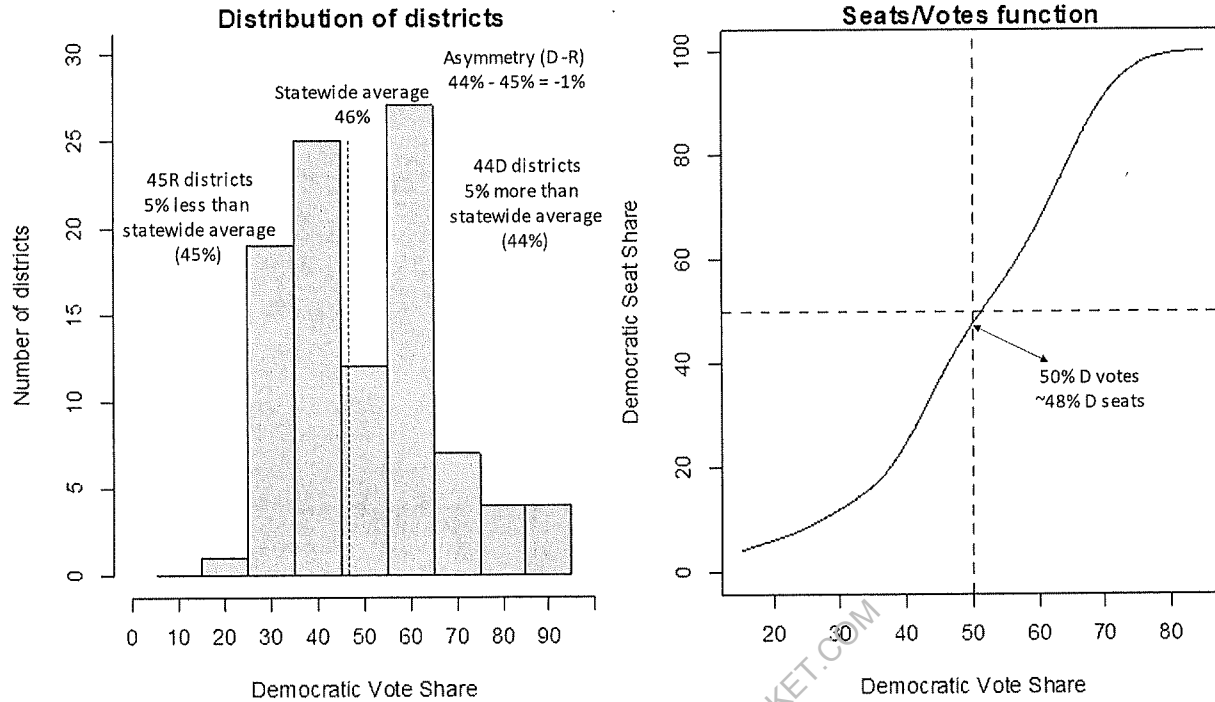


Figure 8: Revised Johnson-McDonald House Plan

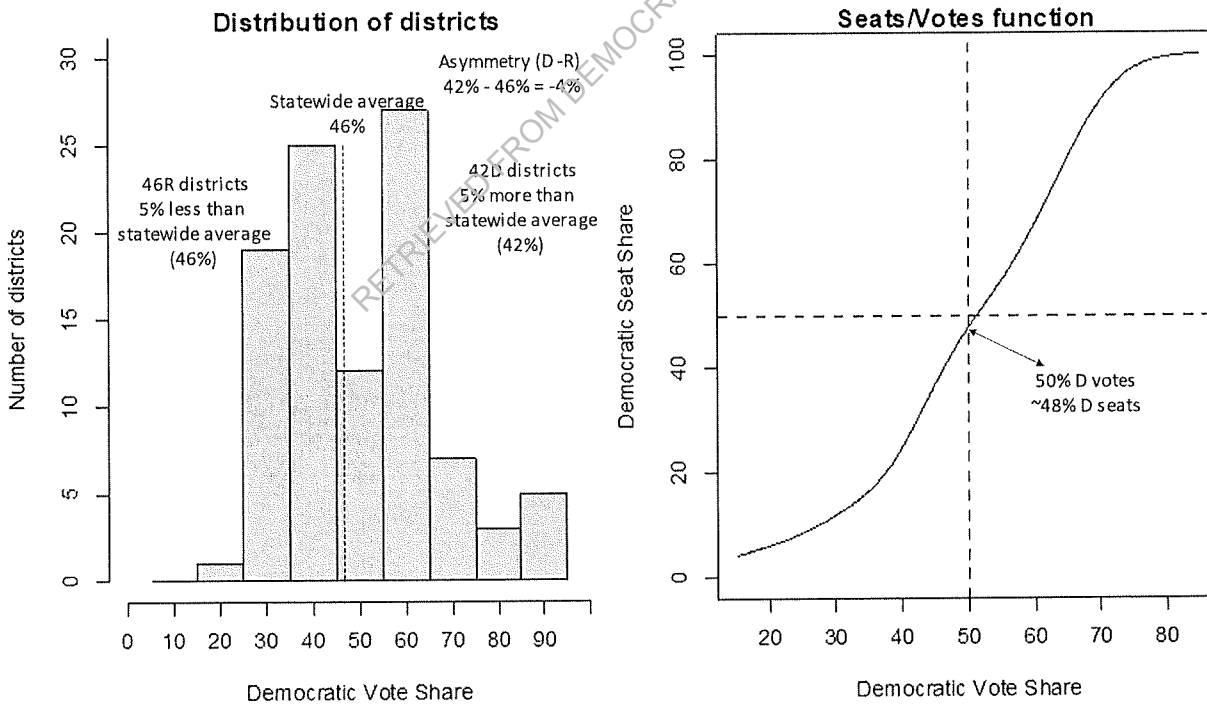


Figure 9: Johnson-McDonald House Plan

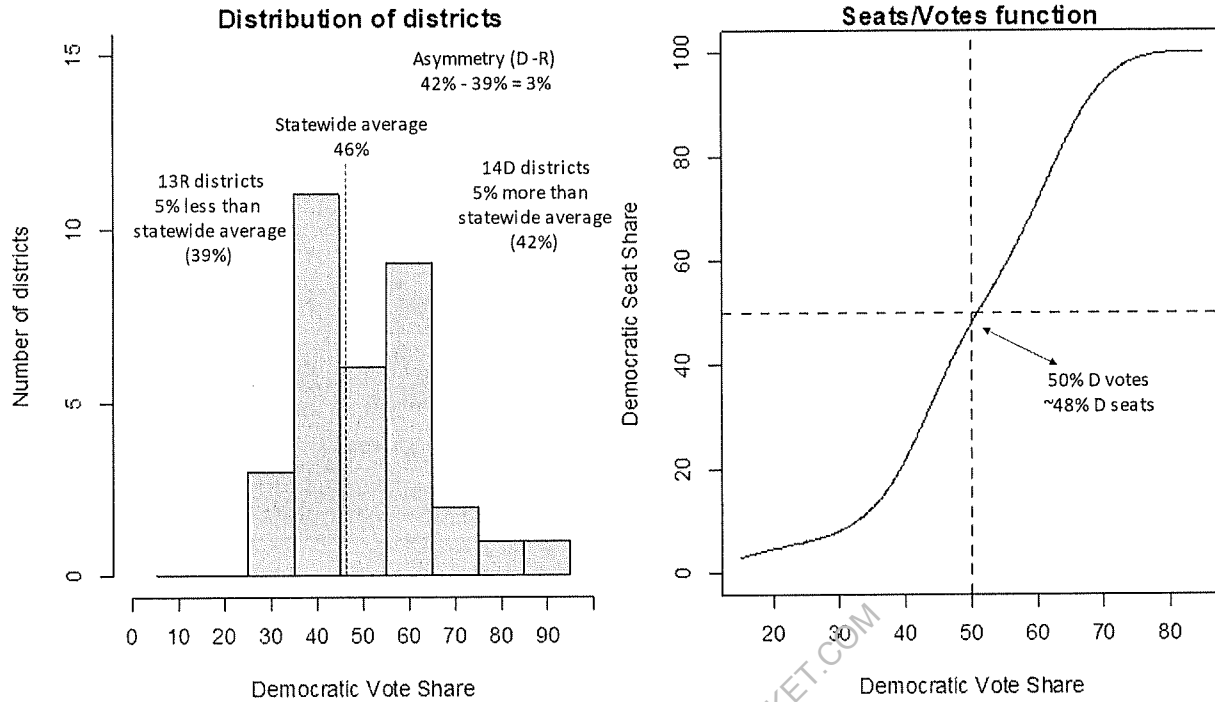


Figure 10: Revised Johnson/McDonald Senate Plan

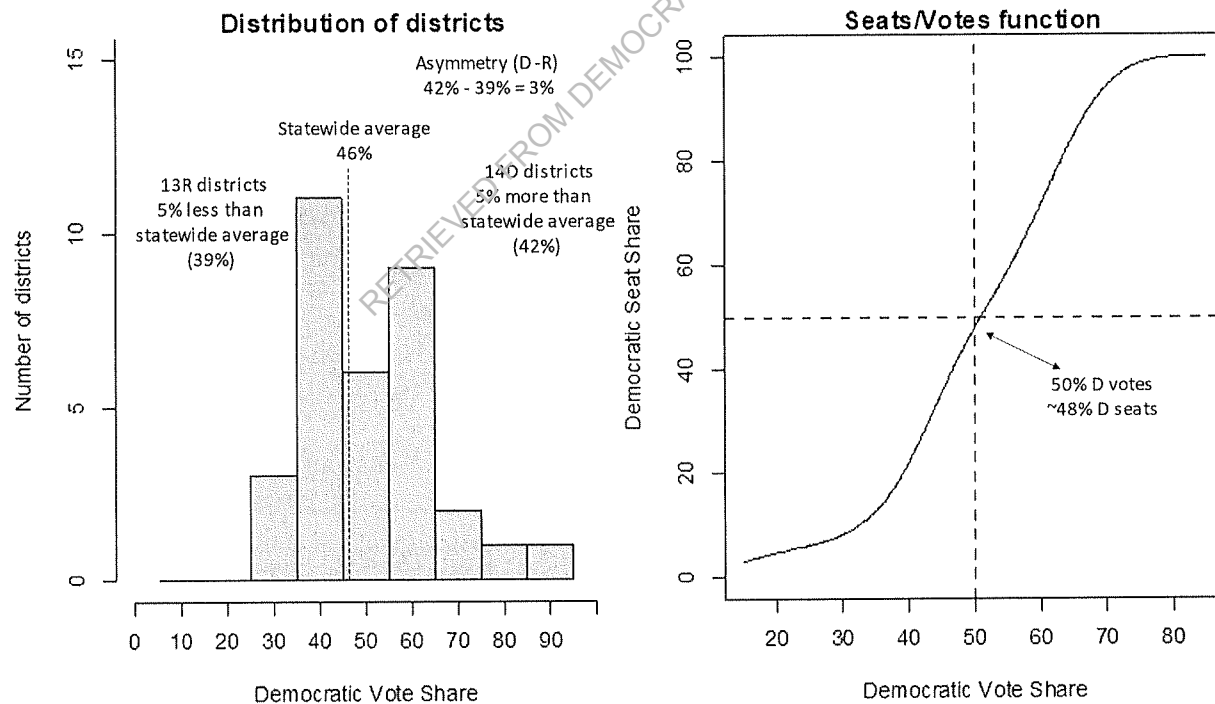


Figure 11: Johnson/McDonald Senate Plan

59. Similarly, the Rodden III House and Senate plans visibly outperform any of the Commission maps under consideration, as well as the 2011 Plan. See Figures 12-13. In both the House and Senate maps, the partisan distribution of districts is substantially more symmetric, and the projected vote shares for Democrats at the 50 percent vote share mark is closer to a 50 percent seat share than any of the other maps, save for the Johnson/McDonald-designed maps.

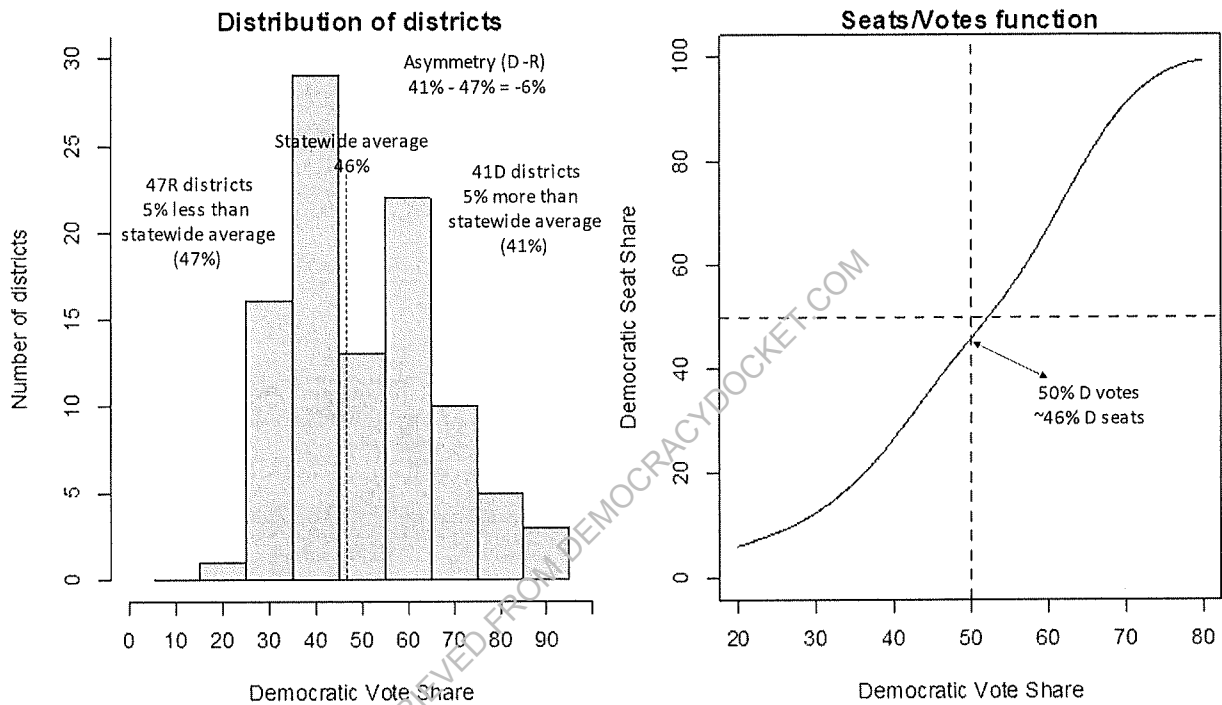


Figure 12: Rodden III House Plan

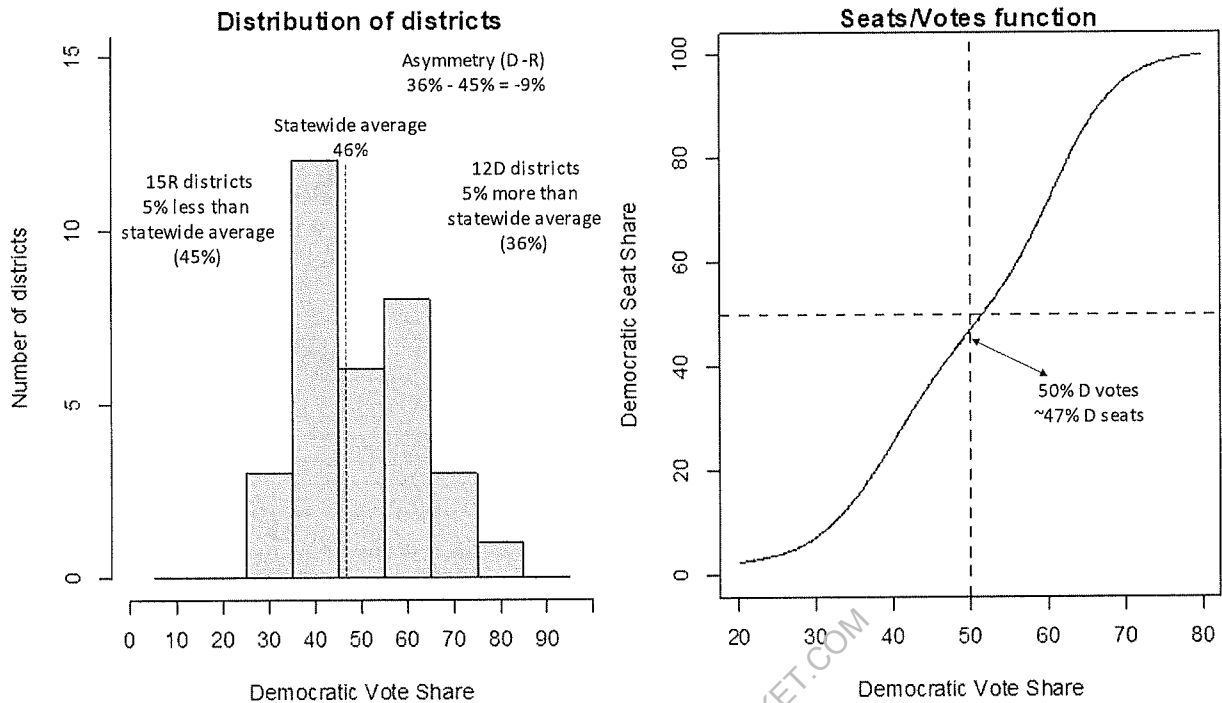


Figure 13: Rodden III Senate Plan

60. In conclusion, the histograms show that both the Johnson/McDonald, Revised Johnson/McDonald, and Rodden III Plans are visibly and statistically more symmetric than any the Commission's Plans or the 2011 Plan, with greater parity in the percentage of seats where each party wins more than its statewide average. Under the Johnson/McDonald, Revised Johnson/McDonald and Rodden III plans, Democrats and Republicans are expected to receive similar seat shares with 50 percent of votes, as the seats/votes curve is visibly closer to the 50 percent votes/seats intersection. Crucially, there are no statistically significant asymmetries in either of the Johnson/McDonald-designed maps or the Rodden III Senate plan.

CONCLUSIONS

61. I conducted a proportionality analysis of the Third and Fourth Commission Plans, the 2011 Plan, the Johnson/McDonald Plan, the Revised Johnson/McDonald Plan, and the

Rodden III Plan. The Commission's Plans and the 2011 Plan violate Section 6(B) of Article XI because the proportion of districts in the enacted plan that favor the Republican Party do not correspond closely with the statewide preferences of Ohio voters. As demonstrated by comparison to the Johnson/McDonald, Revised Johnson/McDonald, and Rodden III plans, the Commission could have—but chose not to—adopt a plan that complies with the proportionality requirements of the Ohio Constitution.

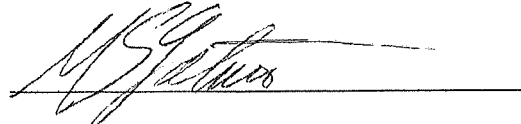
62. The proportionality in both of the Johnson/McDonald-designed plans, and the Rodden III Plan, come much closer to true proportionality as defined by the political science literature, and as required by the Ohio Constitution. Under these plans, seat shares for both political parties are expected to change proportional to change in voters' preferences across elections. In short, these plans are responsive, but not hyper-responsive, which meets the expectation of fairness.

63. I conducted an asymmetry analysis of the Third and Fourth Commission Plans, the 2011 Plan, the Johnson/McDonald and Revised Johnson/McDonald Plans, and the Rodden III Plan. The Commission's Plans and the 2011 Plan primarily favor and give disproportionate political control over the future of Ohio to one political party and its members, as demonstrated by the significant asymmetries in partisan support across districts in the Plans. Those asymmetries would allow a minority of Republican voters to elect a majority of seats in the General Assembly. Similarly, they would enable a narrow majority of Republican voters to elect a supermajority of seats in the General Assembly. By the same token, the Commission Plans and 2011 Plan greatly disadvantage and burden citizens who vote for Democratic candidates, as they cannot obtain the same level of political power as Republicans, even with the same number of votes.

64. In short, the Commission's Plans and 2011 Plan treats Ohio citizens differently based on their political party preference or political associations, and do not give their votes equal weight or representation, thereby violating the core principles of political equality and procedural justice. The Johnson/McDonald, Revised Johnson/McDonald, and Rodden III Plans perform exceptionally well in terms of not favoring either parties' voters, that is, treating voters equally regardless of which party they associate with. For both the House and Senate, these plans come closest to assuring that a majority of Ohio voters can elect a majority of representatives. Moreover, as voter preferences change over time, these plans are expected to reward voters with a proportional share of seats.

65. My opinions and conclusions as expressed in this report are to a reasonable degree of professional and scientific certainty. My conclusions have been reached through the proper application of statistical analysis, and using standard concepts and metrics relied upon by experts in the field of political science. My opinions will continue to be informed by any additional material that becomes available to me. I reserve the right to update and/or supplement my opinions if Intervenor-Plaintiffs provide additional information.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
April 6, 2022.



Michael S. Latner

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EXHIBIT 1

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Michael Steven Latner

mlatner@calpoly.edu, @mlatner, mikelatner.com

Appointments

Union of Concerned Scientists

2019- Senior Fellow

2018-2019 Kendall Science Fellow

California Polytechnic State University, San Luis Obispo

2019-Professor of Political Science

2014-2018 Associate Professor of Political Science

2008-2014 Assistant Professor of Political Science

2007-2008 Lecturer in Political Science

University of Southern California

2006-2007 Teaching Fellow

University of California, Irvine

2005-2007 Lecturer

Field Research Corporation

1996-2000 Project Manager, Senior Survey Supervisor

Education

Ph.D., Political Science, University of California at Irvine, 2008

M.A., Political Science, University of California at Irvine, 2004

B.A., Political Science, California State University Chico, 1995

A.A., Butte Community College, Oroville, CA, 1993

Books

Gerrymandering the States: Partisanship, Race, and the Transformation of American Federalism with Anthony J. McGann, Charles Anthony Smith, and Alex Keena., Cambridge University Press, 2021. <https://www.cambridge.org/core/books/gerrymandering-the-states/27FBE0280F339E739758A29DF7CD74A2#fndtn-information>

Gerrymandering in America: The House of Representatives, The Supreme Court, and the Future of Popular Sovereignty with Anthony J. McGann, Charles Anthony Smith, and Alex Keena., Cambridge University Press, 2016.

<https://www.cambridge.org/core/books/gerrymandering-in-america/C2A9A40879A353AC7484B49834CB54E4>

Peer-Reviewed Publications

"Common Forms of Gerrymandering in the United States" *Decisions*, (32) with Alex Keena, Anthony J. McGann, and Charles Anthony Smith. (2019)
<https://journals.kozminski.edu.pl/pub/5797>

Our Unhealthy Democracy: How Voting Restrictions Harm Public Health—and What We Can Do about It, policy paper published by Union of Concerned Scientists, Center for Science and Democracy, October 2019, <https://www.ucsusa.org/resources/our-unhealthy-democracy>

"Diagnosing Electoral Integrity" chapter in *Electoral Integrity in America: Securing Democracy*, Pippa Norris, Sarah Cameron and Thomas Wynter (eds.), Oxford University Press, 2018.
<https://www.electoralintegrityproject.com/electoral-integrity-in-america/>

Building a Healthier Democracy: The Link Between Voting Rights and Environmental Justice, Union of Concerned Scientists research report, September 2018
<https://www.ucsusa.org/sites/default/files/attach/2018/09/building-a-healthier-democracy-report.pdf>

“Measuring Legislative Behavior: An Exploration of Digitaldemocracy.org” with Alexander M., Dekhtyar, Foaad Khosmood, Nicole Angelini, and Andrew Voorhees, *California Journal of Politics and Policy*, vol 9, issue 3, 2017. <https://doi.org/10.5070/P2cjpp9336921>

“Darwinian Democracy? How evolutionary theory informs constitutional design” chapter in *Handbook of Biology and Politics*, Steven Peterson and Albert Somit (eds.), Edward Elgar Publishing, 2017.
<https://www.elgaronline.com/view/9781783476268.00037.xml>

“A Discernable and Manageable Standard for Partisan Gerrymandering” with Anthony J. McGann, Charles Anthony Smith, and Alex Keena. December, 2015., *Election Law Journal: Rules, Politics, and Policy*. 14(4): 295-311.
<https://doi.org/10.1089/elj.2015.0312>

“The Calculus of Consensus Democracy: Rethinking *Patterns of Democracy* without veto players” with Anthony J. McGann, *Comparative Political Studies*, 2013, Vol 46, pp. 823-850, <http://dx.doi.org/10.1177/0010414012463883>

“Mapping the Consequences of Electoral Reform” with Kyle Roach, in *California Journal of Politics and Policy*, 2011, vol 3, issue 1. <https://escholarship.org/uc/item/9mv9b480>

“Geographical Representation Under Proportional Representation: The Cases of Israel and The Netherlands,” with Anthony McGann, *Electoral Studies*, 2005, vol 24, issue 4.
<https://www.sciencedirect.com/science/article/pii/S0261379405000247>

Expert Witness Reports/ Testimony

Gonidakis v. LaRose, No. 2:22-cv-00773, Ohio April 06, 2022

League of Women Voters of Ohio v. Ohio Redistricting Comm., No. 2021-1193 (Ohio Sept. 23, 2021), Slip Opinion No. 2022-Ohio-65, Slip Opinion No. 2022-Ohio-342, and Slip Opinion No. 2022-Ohio-789.

SLO County Citizens for Good Government v. County of San Luis Obispo Board of Supervisors, Case No. 22CVP-0007, California, Feb. 09, 2022

Recent Technical/Research Consultation Papers

The 2020 Randolph W. Thrower Symposium, Emory School of Law, Panel III: Violations and Enforcement: Identifying and Rectifying Campaign and Election Violations:
<https://law.emory.edu/academics/journals/emory-law-journal-symposium.html>

Securing Fair Elections: Challenges to Voting in Georgia and the United States (2019), co-author, Scholars Strategy Network,
https://scholars.org/sites/scholars/files/12.10.19_Securing_Fair_Elections_Report_FINAL.p

df

“Possible Results of Proportional-voting Systems for Seattle Port Commission Elections” with Jack Santucci, June 30th 2018, prepared for More Equitable Democracy

City of Pismo Beach Digital Engagement Strategy, 2015, prepared for the City of Pismo Beach

“Building a Healthier Democracy” presentation at National Advisory Board meeting, Union of Concerned Scientists, New York, New York, September 2018

Guest, Data-Driven Strategies to Promote Youth Turnout, Massachusetts Institute of Technology, August 28-29, 2018

Census Counts 2020 Taskforce <https://censuscounts.org>

Presenter, Redistricting and Election Law Panel, American Political Science Association annual meeting, Boston, Massachusetts, August 2018

“Feminist Messaging in the 2018 Congressional Elections” presented at the Cal Poly Alumni retreat, Lair of the Golden Bear, June 2018

Presenter and Discussant, Voting in 2018 and Beyond: Ensuring Access and Accountability of the Ballot in America, Hastings Constitutional Law Quarterly 2018 Symposium

“Diagnosing Electoral Integrity” Electoral Integrity Project pre-APSA workshop, San Francisco, California, August 2017

“Will the Revolution be Digitized?” presented at the Cal Poly Alumni retreat, Lair of the Golden Bear, June 2017

Fellowships, Awards, and Professional Recognition

Senior Fellow (Voting Rights), Center for Science and Democracy, Union of Concerned Scientists, 2019-

Kendall Science Fellow (Voting Rights), Union of Concerned Scientists, 2018-2019

Faculty Scholar, Institute for Advanced Technology and Public Policy, 2015-present

Research Scholarship and Creative Activity Grant for California Redistricting Project, 2016

Common Cause Redistricting Research Competition, 3rd Place, 2015

Gold Medal, California Mid-State Fair Home Brewing Competition, Milk Stout, 2014

Wilma Rule Award, Californians for Electoral Reform, 2013

CA State Faculty Support Grant, 2009-10 (pre-doctoral)

2003 U.C. Regents Pre-Dissertation Fellowship
2003 Summer research award, School of Social Sciences
2001 Summer research fellowship for ICPSR, University of Michigan
2000-01 William Podlich Fellow, Center for the Study of Democracy, U.C. Irvine
1995 Charles McCall Award, California State University Social Science Research Council

Election Consulting/Management

Susan Funk for Atascadero City Council 2018
Jimmy Paulding for SLO County Supervisor 2018
Aaron Gomez for San Luis Obispo City Council 2016
Dawn Ortiz-Legg for State Assembly 2016
Eric Michielssen for SLO County Supervisor 2016
Len Colamarino for Atascadero City Council 2014
Jim Patterson for SLO County Supervisor 2012
Brian Sturtevant for Atascadero City Council 2010
John Graham for Congress, 2004
John McCain for President, 2000

Recent Non-peer reviewed professional publications/news articles/blogs

A compilation of my blog publications can be found at mikelatner.com

Current Teaching Rotation

POLS 590 MPP Graduate Writing Seminar (Fall section)
POLS 568 Democracy, Design and Public Policy
POLS 560 Quantitative Methods
POLS 470 Democracy: A Cookbook
POLS 445 Voting Rights and Representation
POLS 375 California Politics
POLS 317 Campaigns and Elections
POLS 316 Political Participation
POLS 112 American and California Government

Other Courses Taught

POLS 470 Evolutionary Perspectives in Political Science
Metropolitan Inequality (USC)
California Politics (UCI)
The American Political System (UCI)

University service

Quantitative Reasoning assessment committee, 2016-
Academic Senate Instruction Committee, 2014-2017
CLA Assessment Committee 2018
CLA Commencement, College Marshall, 2013-2016, 2018
POLS Phi Beta Kappa Supervisor, 2018-
POLS Curriculum Committee, 2011-2016
POLS MPP Committee, 2007-
POLS Assessment Committee, 2008, 2009, 2011-2016, 2018
POLS Alumni Advisory Board, 2007-

Political Science Club, 2009
POLS Paper Awards Committee, 2009, 2011, 2012
POLS Guest Speaker Committee 2007-2009

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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL GONIDAKIS et al.,

Plaintiffs,

THE OHIO ORGANIZING
COLLABORATIVE, COUNCIL ON
AMERICAN-ISLAMIC RELATIONS, OHIO,
OHIO ENVIRONMENTAL COUNCIL,
SAMUEL GRESHAM JR., AHMAD
ABOUKAR, MIKAYLA LEE, PRENTISS
HANEY, PIERRETTE TALLEY, and
CRYSTAL BRYANT,

Intervenor-Plaintiffs,

v.

FRANK LAROSE, in his official capacity,

Defendant.

Case No. 2:22-cv-00773

Circuit Judge Amul R. Thapar

Chief Judge Algenon L. Marbley

Judge Benjamin J. Beaton

Magistrate Judge Elizabeth Preston Deavers

DECLARATION OF MOLLY SHACK

Molly Shack, having been duly sworn, deposes and states as follows:

1. I am over the age of eighteen years and a resident of Columbus, Ohio. The matters set forth in this Declaration are based upon my personal knowledge.

2. I am a full-time employee and officer of The Ohio Organizing Collaborative (“OOC”), where I serve as Co-Executive Director.

3. The OOC is a nonprofit organization incorporated in Ohio with a multi-pronged mission of organizing everyday Ohioans to build transformative power for racial, social, and economic justice. It is organized and exists under Ohio law, with its principal place of business at 25 E Boardman St., Youngstown, OH 44503. The OOC is made up of four grassroots organizing membership projects and dozens of campaigns that represent underrepresented constituencies: Black, brown, and immigrant Ohioans; college students; people of faith, unemployed workers, care providers and the families they serve, and people working in the care economy. The OOC currently has five members on its Board of Directors, all of whom, on information and belief, are registered Ohio voters. It also has hundreds of members concentrated in Columbus, Cleveland, Dayton and Cincinnati, and thousands of supporters and volunteers in almost every metropolitan area across the state.

4. One of the OOC’s state and local priorities is structural democracy reform, which it pursues through grassroots community organizing, large-scale civic engagement, and strategic communication. Its non-partisan voter engagement program, for example, has helped register hundreds of thousands of Ohioans to vote. The OOC is especially focused on engaging young voters and voters of color in the civic process. And, over the last year, the OOC helped drive community organizing and public engagement strategies during the redistricting process to

ensure that Ohio would get a fair map outcome. The OOC convened a nonpartisan citizens commission which modeled a thorough and robust community engagement process to produce constitutional, fair, and proportional maps within deadlines set out in Ohio's constitution. During the community information gathering process, the Ohio Citizens' Redistricting Commission engaged with thousands of people, with a particular focus on uplifting the voices of Black, brown, and immigrant Ohioans. Members, officers, and volunteers of the OOC regularly engage with state lawmakers to advance their agenda of economic and racial justice and structural democracy reform.

5. During the past ten years working with the OOC, I have personally observed the ways in which the gerrymandered districts in the previous cycle's redistricting plan—the 2011 Plan—directly impair the OOC's mission of encouraging civic engagement and fair districts. I have seen that because the 2011 Plan gave disproportionate control over public policy to a single group, the Plan thereby deterred and discouraged OOC's members and partners, along with other Ohio voters, from engaging in the political process which, in turn, made it more difficult for the OOC to engage voters on issues. More broadly, in my experience, voters often become discouraged if they come to believe that their popular support for a policy is largely irrelevant if voters who live in other districts oppose it. Voter discouragement caused by gerrymandered districts hinders the OOC's large scale civil engagement and strategic communications work.

6. The 2011 Plan also hampered the OOC's ability to advance a legislative agenda focused on policies that help improve economic, social, educational, and health outcomes for its members. Since legislative districts were gerrymandered to amplify the voices of one group of voters, OOC needed to divert resources away from programs or policies that it favored in order

to respond to proposals that cater only to a minority of Ohio voters and had no chance of passing under a system in which representatives reflect majority opinion.

7. Earlier this year, for example, the state Senate proposed to eliminate Step Up To Quality, the State's standard-monitoring system and ranking method for licensed child care programs. Despite the broad bipartisan and popular support for Step Up To Quality, OOC had to divert resources to campaign for maintaining the State's system because, under the 2011 Plan, even widely unpopular proposals can be enacted into law since the Plan favors one group of voters over another. Diverting resources to defend and advocate for Step Up To Quality necessarily meant that OOC was not able to use those resources to advance other objectives.

8. As a second example, OOC supports commonsense, bipartisan reforms to criminal sentencing that work to ameliorate the impact of harsh drug possession laws and reduce the disparate impact that such laws have on Black communities in Ohio. OOC and others campaigned for and secured bipartisan support for Senate Bill 3, a sentencing reform bill that would reclassify low-level drug possession felonies as misdemeanors. Despite popular support for reducing the severe and inequitable impact of criminal drug possession laws, the state House Speaker declined to bring Senate Bill 3 to the floor for a vote. Thus, OOC was unable to translate popular support for a bipartisan position into public policy. As a gerrymandered map, the 2011 Plan effectively ensured that representatives need not be responsive to Ohio voters as a whole. Instead, under the 2011 Plan, representatives from the favored political party need only be responsive to favored voters, who wield disproportionate influence over Ohio law and policy.

9. As a third example, the 2011 Plan forced the OOC to spend time, energy, and resources opposing bills that are broadly unpopular and would not exist without the gerrymandered plan. Recently, the General Assembly pushed through a "Stand Your Ground"

law over the objections of organizations from a diverse set of interests and a wide breadth of political views, including police chiefs, the Ohio Prosecuting Attorney Association, gun control advocacy groups, and many organizations that represent communities of color. The law expands the situations in which Ohioans can use lethal force against one another. Rather than focusing on its core mission of helping communities, the OOC had to use resources to oppose a law that, but for gerrymandered districts that are unresponsive to majority opinion, likely would not have been enacted.

10. The OOC also runs a robust, nonpartisan civic engagement program to reach hundreds of thousands of voters through canvassing, community engagement, and phone and text banking. For example, leading up to the 2020 election, we sent more than one million text messages, made more than 410,000 phone calls, and registered about 10,000 people to vote. Our grassroots leaders made over 28,000 relational contacts – 65 percent of those were with Black voters and 60 percent of whom were young people between the ages of 18- and 39-years-old. Our goal is to register, educate, and engage new, Black, and/or young voters to engage in our democracy who are often left out of the political discussion. In our experience, gerrymandered districts like the 2011 Plan that make political outcomes virtually predetermined make it more difficult to convince these constituencies to register and participate in elections. This means we spend more time and resources on outreach and make our get-out-the-vote campaigns more challenging for elections at all levels.

11. If this Court leaves the 2011 Plan in place or otherwise adopts one of the Ohio Redistricting Commission's invalidated plans, which are also gerrymandered, OOC and its members will continue to suffer the costs and harms discussed above. Based on my personal experience and position at OOC, I can state that any gerrymandered plan will require the OOC to

dedicate additional staff and resources to advance its goals, to divert resources to issues that would not require resources under fair and constitutional maps, and to spend time and energy to counteract the discouraging effects of a system that tells some voters that their voices carry less weight than that of other voters.

12. The 2011 Plan would also harm the OOC and our members because the OOC worked to pass the 2015 amendment to Article XI of the Ohio Constitution and change the process for drawing General Assembly districts. Thanks to these changes encompassed by the amendment, we mobilized our membership this redistricting cycle and organized to influence the Ohio redistricting commission, working within a coalition of other grassroots organizations to submit testimony to gather community input, generate maps based on public testimony, and submit them to the Ohio Redistricting Commission so that it could pass a fair General Assembly district plan for the 2020 cycle.

13. The OOC devoted significant resources and staff time to this effort to ensure that the 2015 reforms would produce representational outcomes that better reflected Ohio's diverse communities and produce a plan that was not gerrymandered. In other words, our investment in redistricting was to ensure a complete departure from the abuse-prone system that generated the extremely gerrymandered 2011 Plan and led to the 2015 amendment.

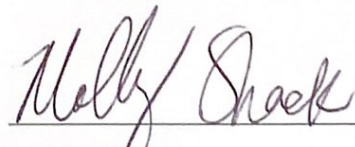
14. Unfortunately, the Ohio Redistricting Commission did not comply with the Ohio Constitution when it enacted a plan on September 16, 2021. Despite the changes in Ohio's constitution, the Commission's plan was designed to produce the same partisan supermajority. Our organization expended and continues to expend resources to challenge the Commission's illegal plan in the Ohio Supreme Court and to give effect to new redistricting safeguards. The

Ohio Supreme Court has issued three opinions that each protect our members' constitutional right to fair maps.

15. As a result of its campaign work in 2015, involvement in redistricting in 2021, and its ongoing state court litigation to enforce the Ohio Constitution, the OOC has significant interest in preventing the implementation of a General Assembly district plan that does not comply with the Ohio Constitution. Imposing the 2011 Plan would undermine the rulings of the Ohio Supreme Court that hold our members' have a right to fair maps, as well as all of the time and resources that OOC devoted to securing better representational outcomes for our members and constituencies.

16. Additionally, adoption of the 2011 Plan this cycle would injure OOC's members and constituents because its unequal districts due to population shifts further dilute our members' votes. When a district is overpopulated vis-à-vis another district, the votes of residents of the former district carry less weight than those of the latter district. Such malapportionment translates into unequal representation. Many of our members would be forced to vote in such overpopulated districts if this court were to implement the 2011 Plan. This would be particularly harmful to OOC given the growth of Ohio's communities of color and immigrant communities that form key constituencies for the OOC and inform much of the work that we do. Hence, the OOC has a significant interest in preventing the implementation of a General Assembly district plan that additionally does not comply with the U.S. Constitution.

17. I declare under penalty of perjury that the foregoing is true and correct.


Molly Shaek

Columbus, Ohio

April 6, 2022

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EXHIBIT M

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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL GONIDAKIS et al.,

Plaintiffs,

THE OHIO ORGANIZING
COLLABORATIVE, COUNCIL ON
AMERICAN-ISLAMIC RELATIONS, OHIO,
OHIO ENVIRONMENTAL COUNCIL,
SAMUEL GRESHAM JR., AHMAD
ABOUKAR, MIKAYLA LEE, PRENTISS
HANEY, PIERRETTE TALLEY, and
CRYSTAL BRYANT,

Intervenor-Plaintiffs,

v.

FRANK LAROSE, in his official capacity,

Defendant.

Case No. 2:22-cv-00773

Circuit Judge Amul R. Thapar

Chief Judge Algenon L. Marbley

Judge Benjamin J. Beaton

Magistrate Judge Elizabeth Preston Deavers

DECLARATION OF CHRIS TAVENOR

Chris Tavenor, having been duly sworn, deposes and states as follows:

1. I am over the age of eighteen years and a resident of Columbus, Ohio. The matters set forth in this Declaration are based upon my personal knowledge.
2. I am a full-time employee of The Ohio Environmental Council (“OEC”), where I serve as Staff Attorney.
3. The OEC is a nonpartisan, not-for-profit corporation organized and existing under Ohio law, with its principal place of business at 1145 Chesapeake Ave, Suite I, Columbus, OH 43212. The OEC is an environmental justice organization whose mission is to secure healthy air, land, and water for all who call Ohio home. The OEC works for pragmatic solutions to keep Ohio clean and beautiful, and its communities safe. It fights for clean air and water, clean energy, and protected public lands. It holds polluters accountable in court while working with communities and companies that want to invest in a clean, more sustainable direction. For more than 50 years, the OEC has led many of the major environmental policy wins in Ohio.
4. One of the four pillars of the OEC’s work is safeguarding the integrity and accessibility of Ohio’s democracy, recognizing that civic engagement is critical in securing long-term environmental protections. The OEC advocates on behalf of a healthy democracy, because without a healthy democracy, it cannot create policies that benefit the people of Ohio and ensure clean water, vibrant public lands, renewable energy, and a stable climate. In support of this mission, the OEC advocates for fair representation and fair maps in Ohio, which help to amplify the voices of Ohioans and secure a healthy environment for the State.

5. The OEC has over 100 environmental and conservation member organizations and over 3,100 individual members, who live in 84 of Ohio's 88 counties. In the past two years, more than 5,352 individuals across the State have voluntarily taken action in furtherance of the OEC's work through calling and writing decision-makers, volunteering to support an OEC event, and assisting with organizing community members. The OEC regularly activates its members and volunteers to participate in political processes, including submitting testimony and comments to government agencies, contacting decision-makers about environmental and democracy-related issues, and attending hearings. The OEC also regularly holds educational events to inform its memberships about environmental issues impacting Ohio, the United States, and the planet. The OEC's headquarters are in Columbus, but it has regional coordinators in Cleveland, Cincinnati, Toledo, and Youngstown. Upon information and belief, the vast majority of the OEC's members are registered voters in Ohio, and include Democrats, Republicans, and Independents.

6. The previous cycle's redistricting plan—the 2011 Plan—harms OEC's members and hinders its work by dividing many of Ohio's communities and targeting Democratic voters and diluting their votes by drawing them into packed and cracked districts for the purpose of maintaining a Republican advantage in the Ohio General Assembly. That gerrymander produced a General Assembly district plan that is not representative of the preferences of Ohio voters, that primarily advantaged the Republican Party, and that made the government less responsive to OEC's members and the public, including on issues of environmental justice. Thus, the 2011

Plan impacted the ability of OEC members to associate with other like-minded voters and to vote to alter and reform the government.

7. The 2011 Plan also directly affects the OEC's ability to educate its membership and activate them to improve Ohio's environment. Starting in 2019 and continuing through the present, the OEC has advocated for a stronger, more responsive democracy because a healthy environment is not possible without a healthy democracy, and when Ohio's districts are gerrymandered, it does not have a healthy democracy. Thus, the OEC has spent significant resources to educate its membership on the importance of voting rights and fair districts in response to gerrymandered districts. Since 2019, the OEC has funded voter registration efforts, held educational sessions on fair maps and redistricting, and educated membership and supporters directly about voting procedures for state legislative elections. Continued use of the 2011 Plan, or the implementation of another gerrymandered plan, would necessitate continued investment by the OEC in educational efforts regarding Ohio's democratic institutions.

8. Because the 2011 Plan encourages apathy and discourages voters from engaging in the democratic process, the OEC has had to expend resources encouraging its membership and supporters to engage in elections and other political activities and advocate for environmental issues. If the 2011 Plan or another gerrymandered plan is selected for the 2022 election cycle, the OEC will be forced to mobilize its membership and expend resources to advocate for fair redistricting once again.

9. Almost two-thirds of Ohio voters consistently support expanding investment in renewable energy and clean energy initiatives, according to widely available polling. In

particular, six out of ten Ohio voters say climate change is an urgent threat. Even though there is widespread support for policy designed to combat climate change and mitigate greenhouse gas emissions, since the creation of the 2011 Plan, no significant piece of legislation has been passed that addresses the anthropogenic causes of climate change. For example, the Ohio Clean Energy Jobs Act was a comprehensive legislative plan designed to advance renewable energy, increase economic development, and include cost efficient energy standards. However, despite popular support for cutting costs on energy bills and reducing the use of fossil fuels, the Clean Energy Jobs Act did not even proceed to the House Floor for a vote. Seeing this plan, and other similar legislation over the course of the past decade, stymied by the legislative process over the preferences of the voters has led active voters, including OEC members, to withdraw from the democratic process and become less engaged. And while Ohio voters have not seen legislation passed that is designed to combat climate change, they have seen many examples of legislation designed to reduce Ohio's ability to reduce greenhouse gas emissions, whether through bills designed to freeze or eliminate renewable portfolio standards or laws passed to restrict development of renewable energy. In the OEC's experience, voters become discouraged when majority support for an opinion does not translate into legislative change. Gerrymandered maps, like the 2011 Plan, create conditions under which minority opposition can defeat a majority position and representatives from "safe" districts need not listen or be responsive to what the Ohio voters want for the future of their State.

10. The 2011 Plan also forced the OEC to divert time and resources to opposing widely unpopular bills such as House Bill 6. House Bill 6 is a controversial \$1 billion "bailout"

for two of Ohio's nuclear plants and two coal plants. The bill also reduced energy efficiency and renewable energy standards. Despite broad majority opposition statewide, House Bill 6 was enacted. Journalists later uncovered and disclosed that the passage of House Bill 6 was tied to a massive bribery scandal resulting in the resignation of a number of officials. Energy firms were able to target certain legislators with bribes in part because the General Assembly district plan insulated them from the preferences of voters, such that voting for an unpopular bill would have no electoral consequence in their respective districts. The OEC is still fighting to overturn House Bill 6, and the majority of Ohio voters want to see it gone. Seven out of ten voters said they were likely to sign a petition to place House Bill 6 on the ballot for repeal if the Legislature did not repeal it themselves. However, the use of an anti-democratic gerrymandered district plan has hindered the OEC's attempts at successfully repealing or overturning House Bill 6 because voters are disaffected and disengaged with a process in which they feel their votes and advocacy does not affect legislative outcomes.

11. At its core, the OEC is an environmental organization. However, now the OEC must focus on changing its strategy to provide education centered around organizing, educating, and advocating for fair elections because without fair elections, voters cannot and do not want to participate in advocating for change. This pro-democracy work included supporting and advocating for the 2015 amendment that created a new process and new fairness requirements for the General Assembly redistricting process. The OEC devoted resources and time to ensuring that Issue 1 passed. In 2017 and 2018, the OEC also engaged significantly in efforts to amend the Ohio Constitution's congressional redistricting process.

12. Since passage, the OEC has worked to ensure that these new provisions would be fully implemented. Specifically, the OEC mobilized our membership to participate in redistricting. In my capacity as an OEC staff member, I served on the Ohio Citizens' Redistricting Commission, which submitted a General Assembly district plan for the Ohio Redistricting Commission's consideration. The OEC also submitted testimony to the Commission in favor of fair maps.

13. When the Commission failed to abide by the new constitutional provisions that required districts to correspond closely with the preferences of Ohio voters and once again drew maps that primarily favor one party over the other, the OEC joined other groups and individuals in petitioning the Ohio Supreme Court to compel the Commission to adopt fair maps. The Court issued such an order, holding that our members have a right to the enactment of such districts. In the wake of this holding, the Court has further rejected two revised General Assembly plans drawn by the Commission. Implementation of the 2011 Plan for this election cycle would undermine these rulings, as well as the significant amount of time and resources that OEC has poured into ensuring that Ohio received proportional and non-biased maps for the next ten years.

14. Moreover, implementation of the 2011 Plan this cycle would harm OEC's members

and constituents because it would force Ohioans to vote in unequally populated districts due to population shifts. Such shifts dilute our members' votes in a manner similar to the gerrymander produced by the 2011 Plan. When a district is overpopulated in relation to another district, the votes of residents of an overpopulated district carry less weight than those of an underpopulated district. Such malapportionment results in unequal representation. Many of our members would be compelled to vote in overpopulated districts if this court were to adopt the 2011 Plan. This would be particularly harmful to OEC and its members given that the current Ohio legislature refuses to meaningfully address the increasing harms of climate change. Hence, the OEC has a substantial interest in avoiding the use of a malapportioned General Assembly district plan in the 2022 election.

15. I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read 'Chris Tavenor', is written over a horizontal line.

Chris Tavenor

Columbus, Ohio

April 6, 2022

EXHIBIT N

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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL GONIDAKIS et al.,

Plaintiffs,

THE OHIO ORGANIZING
COLLABORATIVE, COUNCIL ON
AMERICAN-ISLAMIC RELATIONS, OHIO,
OHIO ENVIRONMENTAL COUNCIL,
SAMUEL GRESHAM JR., AHMAD
ABOUKAR, MIKAYLA LEE, PRENTISS
HANEY, PIERRETTE TALLEY, and
CRYSTAL BRYANT,

Intervenor-Plaintiffs,

v.

FRANK LAROSE, in his official capacity,

Defendant.

Case No. 2:22-cv-00773

Circuit Judge Amul R. Thapar

Chief Judge Algenon L. Marbley

Judge Benjamin J. Beaton

Magistrate Judge Elizabeth Preston Deavers

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DECLARATION OF MIKAYLA LEE

Mikayla Lee, having been duly sworn, deposes and states as follows:

1. I am over the age of eighteen years and reside in Columbus, Ohio, in House district 18 and Senate district 15 in the previous cycle's redistricting plan—the 2011 Plan. The matters set forth in this Declaration are based upon my personal knowledge.
2. I am an Ohio voter and registered to vote as a member of the Democratic Party. I am currently the Coordinated Campaign Operations Director for the Ohio Democratic Party. Previously, I worked for a nonpartisan and not-for-profit organization that helps young people, especially young Black Ohioans, run for office and served as the Vice President of the Ohio Young Black Democrats. I am active in my community, including engaging with voters and in other civic activities.
3. Based on my past and present political affiliations and activities, I plan to vote for and seek to elect Democratic candidates to state office in my district and throughout the State. I vote, campaign for, and support Democratic candidates because they are typically aligned with my policy preferences on a range of Ohio issues.
4. I have personally observed the ways in which the previous cycle's redistricting plan—the 2011 Plan's—gerrymandered districts directly impair the interests of Democratic voters like myself. The gerrymandered nature of the districts means that I, as a Democratic voter, would need to secure far more votes and support for my candidates and positions than a Republican voter would need to secure to alter or reform legislative policy. In short, by drawing maps to favor Republican candidates, the 2011 Plan gives greater value to a Republican vote than to my vote.

5. Additionally, the 2011 Plan has impaired my ability as a member of the Democratic Party to support a candidate by raising money, recruiting candidates, and mobilizing support. Part of my involvement in the political process in Ohio has involved engaging in efforts to recruit and aid young people to run for office as candidates. I have experienced difficulties in recruiting Democratic candidates because the 2011 Plan's gerrymander has dissuaded those individuals to run for office when there is a predetermined electoral outcome for their races or a Republican supermajority will not act on their proposed legislation. I have seen this issue particularly pronounced among people who associate and affiliate with the Ohio Democratic Party and who live in communities that generally share their values and policy interests, but who are drawn into General Assembly districts with a majority of Republican voters. Similarly, I have difficulty mobilizing fundraising and other support for Democratic candidates and the Democratic Party in such districts. I expect that these challenges will continue and be exacerbated under any other gerrymandered plan that this court adopts.

6. I have also observed that the 2011 Plan has made voters generally disaffected with and disengaged from the political process for the same reasons. I have observed an increase in political apathy among young voters and Democratic voters, who see that even when a majority of Ohio's voters support a policy position, that support does not result in legislative change. In my experience, voters become disaffected when they conclude that the electoral process systematically disfavors them.

7. When voters (and candidates) believe that map drawers have drawn district boundaries to disfavor Democratic candidates, their enthusiasm and willingness to spend time and money on electing Democratic candidates in disfavored districts is naturally diminished. By the same token, a Democrat running in "packed" district where his or her victory is assured may

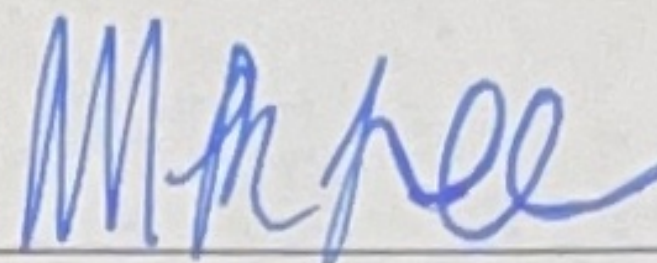
have difficulty generating a sense of urgency or enthusiasm. Thus, gerrymandered districts burden my right to vote on equal terms with other Ohioans and burdens my and my party's ability to recruit and elect candidates to state office and to come together to advance political and policy goals.

8. Regrettably, the Ohio Redistricting Commission did not comply with the Ohio Constitution when it adopted a plan on September 16, 2021. Despite the changes in Ohio's constitution, the Commission's plan was designed to produce the same partisan supermajority found in the 2011 Plan. I have expended substantial time and resources participating in a lawsuit before the Ohio Supreme Court challenging that unconstitutional plan and subsequent revisions to it. Implementing the 2011 Plan or some other similarly-gerrymandered plan—including one of the Commission plans invalidated by the Ohio Supreme Court—would undermine my efforts to guarantee that my vote counts as much as any other Ohioan's.

9. Furthermore, my state House and Senate districts under the 2011 Plan—18 and 15, respectively—are now overpopulated because of population shifts that occurred over the last decade. Hence, if I were forced to continue voting under the 2011 Plan, my vote would carry less weight than votes cast by Ohioans living in less populated districts. This malapportionment, like the 2011 Plan's gerrymander, therefore prevents me from receiving adequate representation before the General Assembly. As my testimony indicates, I have a significant interest in the

adoption of a General Assembly district plan that comports with the U.S. Constitution in addition to the Ohio Constitution.

10. I declare under penalty of perjury that the foregoing is true and correct.



Mikayla Lee

Columbus, Ohio

April 6, 2022

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EXHIBIT O

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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL GONIDAKIS et al.,

Plaintiffs,

THE OHIO ORGANIZING
COLLABORATIVE, COUNCIL ON
AMERICAN-ISLAMIC RELATIONS,
OHIO, OHIO ENVIRONMENTAL
COUNCIL, SAMUEL GRESHAM JR.,
AHMAD ABOUKAR, MIKAYLA LEE,
PRENTISS HANEY, PIERRETTE
TALLEY, and CRYSTAL BRYANT,

Intervenor-Plaintiffs,

v.

FRANK LAROSE, in his official capacity,

Defendant.

Case No. 2:22-cv-00773

Circuit Judge Amul R. Thapar
Chief Judge Algenon L. Marbley
Judge Benjamin J. Beaton
Magistrate Judge Elizabeth Preston Deavers

**[PROPOSED] ORDER GRANTING MOTION FOR PRELIMINARY
INJUNCTION BY INTERVENOR-PLAINTIFFS**

Pending before the Court is the motion for preliminary injunction of Intervenor-Plaintiffs the Ohio Organizing Collaborative, Council on American-Islamic Relations, Ohio, Ohio Environmental Council, Samuel Gresham, Jr., Ahmad Aboukar, Mikayla Lee, Prentiss Haney, Pierrette Tally, and Crystal Bryant (collectively, the “OOC Plaintiffs”). Having considered the arguments of the parties and the record before the Court, it is hereby **ORDERED** that the OOC Plaintiffs’ Motion is **GRANTED** for the reasons set forth below:

1. The OOC Plaintiffs have demonstrated that they are likely to prevail on the merits of their claims.

2. The OOC Plaintiffs have suffered, or are likely to suffer, irreparable harm without the requested relief.

3. The balance of hardships weighs in favor of the OCC Plaintiffs under the circumstances presented, and

4. The public interest favors the implementation of the Revised Johnson/McDonald Plan for the 2022 General Assembly primary and general election in the event that there is no operative map in effect on April 20, 2022.

SO ORDERED.

Date: _____

Honorable Algenon L. Marbley
United States District Court Judge

Date: _____

Honorable Benjamin J. Beaton
United States District Court Judge

Date: _____

Circuit Judge Amul R. Thapar
United States Circuit Court Judge