

IN THE SUPREME COURT OF KANSAS

SCOTT SCHWAB, Kansas Secretary)
of State, in his official capacity,)

and)

MICHAEL ABBOTT, Wyandotte)
County Election Commissioner,)
in his official capacity,)

Petitioners,)

v.)

Case No. 124849
(Original Action)

THE HONORABLE BILL KLAPPER,)
in his official capacity as a District)
Court Judge, Twenty-Ninth Judicial)
District,)

Respondent.)

-----)
FAITH RIVERA, DIOSSELYN TOT-)
VELASQUEZ, KIMBERLY WEAVER,)
PARIS RAITE, DONNAVAN DILLON,)
and LOUD LIGHT,)

Plaintiffs in Wyandotte)
County District Court Case)
2022-CV-89 and Respondents)
under Kansas Supreme Court)
Rule 9.01(a)(1),)

and)

TOM ALONZO, SHARON AL-UQDAH,)
AMY CARTER, CONNIE BROWN)
COLLINS, SHEYVETTE DINKENS,)
MELINDA LAVON, ANA MARCELA)
MALDONADO MORALES, LIZ)
MEITL, RICHARD NOBLES, ROSE)
SCHWAB, and ANNA WHITE,)

Plaintiffs in Wyandotte)
County District Court Case)
2022-CV-90 and Respondents)
under Kansas Supreme Court)
Rule 9.01(a)(1).)
_____)

MOTION FOR A STAY OF DISTRICT COURT PROCEEDINGS

Petitioners Kansas Secretary of State Scott Schwab and Wyandotte County Election Commissioner Michael Abbott respectfully move this Court for an order staying district court proceedings in *Rivera v. Schwab*, 22-CV-89 (Wyandotte County D. Ct.), and *Alonzo v. Schwab*, 22-CV-90 (Wyandotte County D. Ct.). The petitions filed in those cases, which are attached to the petition in this case as Exhibits C and D, ask the district court to consider the validity of Kansas’s recently enacted congressional redistricting map. There is no precedent for Kansas state court review of congressional redistricting. The petitions primarily ask the district court to recognize that several provisions of the Kansas Constitution prohibit partisan gerrymandering. The petitions also allege that the Kansas Constitution prohibits racial gerrymandering and that the map enacted by the Kansas Legislature dilutes the voting power of certain minority groups. The legal foundations of the petitions—which have never been established by this Court—are presented in this mandamus and quo warranto action.

This Court should exercise mandamus and quo warranto jurisdiction over this proceeding and stay the district court proceedings because this Court possesses the inherent power to “protect its own jurisdiction, its own process, its own

proceedings, its own orders, and its own judgments; and for this purpose it may, when necessary, prohibit or restrain the performance of any act which might interfere with the proper exercise of its rightful jurisdiction in cases pending before it.” *Chicago, K. & W. Rld. Co. v. Comm’rs of Chase Co.*, 42 Kan. 223, 225, 21 P. 1071 (1889). A stay would prevent the inefficient use of judicial resources that would result from concurrently litigating the same legal issues here and in the district court.

The petitions raise novel claims of political and racial gerrymandering under the Kansas Constitution only a few months before the deadline for candidates for national offices to file the necessary paperwork for primary elections. *See* K.S.A. 25-205(a), (h). The United States Supreme Court has held that partisan gerrymandering claims present political questions beyond the reach of federal courts. *Rucho v. Common Cause*, 139 S. Ct. 2484 (2019). As explained in Petitioners’ Memorandum in Support of Petition in Mandamus and Quo Warranto, this Court’s exercise of its original jurisdiction is the most appropriate and efficient means for resolving these issues of statewide importance. *See, e.g., Harris v. Anderson*, 194 Kan. 302, 400 P.2d 25 (1965). Petitioners also explain in their memorandum why (1) the district court lacks the authority to adjudicate the validity of a congressional redistricting map; (2) partisan gerrymandering claims are not justiciable under the Kansas Constitution; and (3) the petitions fail to make a facial claim of purposeful racial vote dilution.

Since this Court is the ultimate arbiter of whether the Kansas Constitution permits claims of partisan gerrymandering and the constitutional standard for judging claims of racial gerrymandering, time spent litigating these important legal issues in the district court would be wasted resolving issues that should be promptly decided by this Court. To that end, Petitioners are contemporaneously filing a motion to expedite this proceeding.

For these reasons, Petitioners respectfully request that this Court stay the district court proceedings in *Rivera v. Schwab*, 22-CV-89 (Wyandotte County D. Ct.), and *Alonzo v. Schwab*, 22-CV-90 (Wyandotte County D. Ct.).

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on February 18, 2022, a true and correct copy of the above and foregoing was served as per Kan. Sup. Ct. R. 1.11(a) and K.S.A. 60-205(b)(2)(C) by depositing a copy in the U.S. mail to the following mailing addresses, and electronic copies were also sent to the following email addresses:

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