
IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Carol Ann Carter, Monica Parrilla, : **CASES CONSOLIDATED**
Rebecca Poyourow, William Tung, :
Roseanne Milazzo, Burt Siegel, Susan :
Cassanelli, Lee Cassanelli, Lynn :
Wachman, Michael Guttman, Maya :
Fonkeu, Brady Hill, Mary Ellen :
Balchunis, Tom DeWall, Stephanie :
McNulty and Janet Temin, :
Petitioners :

v. : No. 464 M.D. 2021

Veronica Degraffenreid, in her official :
capacity as the Acting Secretary of the :
Commonwealth of Pennsylvania; :
Jessica Mathis, in her official capacity :
as Director for the Pennsylvania :
Bureau of Election Services and :
Notaries, :
Respondents :

Philip T. Gressman; Ron Y. Donagi; :
Kristopher R. Tapp; Pamela Gorkin; :
David P. Marsh; James L. :
Rosenberger; Amy Myers; Eugene :
Boman; Gary Gordon; Liz McMahan; :
Timothy G. Feeman; and Garth Isaak, :
Petitioners :

v. : No. 465 M.D. 2021

Veronica Degraffenreid, in her official :
capacity as the Acting Secretary of the :
Commonwealth of Pennsylvania; :
Jessica Mathis, in her official capacity :
as Director for the Pennsylvania :
:

Bureau of Election Services and :
Notaries, :
Respondents

CARTER PETITIONERS’ RESPONSE TO THE APPLICATIONS TO INTERVENE FILED BY GUY RESCHENTHALER, JEFFREY VARNER, TOM MARINO, RYAN COSTELLO, AND BUD SHUSTER

Pursuant to this Court’s scheduling order, the *Carter* Petitioners hereby oppose the application to intervene filed by Guy Reschenthaler, Jeffrey Varner, Tom Marino, Ryan Costello, and Bud Shuster (“Proposed Intervenors”). Proposed Intervenors, who include one current and three former United States Representatives and one voter from Pennsylvania’s Tenth District, App. ¶¶ 11-15, seek to join the case as Petitioners alongside the *Carter* and *Gressman* Petitioners.

Proposed Intervenors’ interests in protecting their districts’ boundaries and their constituents’ voting strength are not legally cognizable. Rather, they are exactly the kind of cursory interests Pennsylvania courts have declined to recognize for the purpose of intervention in redistricting litigation. *Albert v. 2001 Legislative Reapportionment Commission* is a case in point. 567 Pa. 670 (2002). In *Albert*, a malapportionment challenge to Pennsylvania’s legislative districts, the Pennsylvania Supreme Court concluded that non-voting petitioners (in that case, Chairs of the Republican and Democratic Committees, Boards of Commissions, and Townships) did not have a direct interest in a redistricting challenge sufficient for standing. As the Court explained, the “subject matter of a reapportionment challenge” is “the right

to vote and the right to have one’s vote counted,” and thus, any non-voting entity or representative party lacked a direct interest in the outcome of the litigation. *Id.* at 678-79. This rule, moreover, was meant to vindicate the “personal and individual” voting rights at stake in the case. *See id.* at 679 (citing *Reynolds v. Sims*, 377 U.S. 533, 544-55, 561 (1964)). As in *Albert*, these Proposed Intervenors are not vindicating their personal and individual voting rights, but instead assert interests on behalf of their current and former constituents.

To the extent Proposed Intervenors (notably, Mr. Varner) assert interests as voters living in malapportioned districts themselves, they acknowledge that those interests are the same as those of the *Carter* and *Gressman* Petitioners, and they do not explain why the other parties and the Court do not adequately represent them. Under Rule 2329, a court may deny intervention if the party’s interests are already adequately represented in the litigation, or if the intervention would “unduly delay, embarrass or prejudice the trial or the adjudication of the rights of the parties.” Pa. R.C.P. 2329; *Wilson v. State Farm Mut. Auto. Ins. Co.*, 512 Pa. 486, 492, 517 A.2d 944, 947 (1986) (explaining, under Rules 2327 and 2329, “a mere prima facie basis for intervention is not enough . . .” and that Rule 2329 can otherwise preclude intervention to a party who has already shown a legally enforceable interest). Here, both are true. Proposed Intervenors’ primary interest is in gaining access to the remedial map-drawing process. *See App.* ¶ 52. Because of the sheer number of

intervenors, each with particular policy agendas, the risk that intervention would “unduly delay, embarrass or prejudice the trial or the adjudication of the rights of the parties” is high. *See E. Am. Transp. & Warehousing, Inc. v. Evans Conger Broussard & McCrea, Inc.*, No. 2187, 2002 WL 1803718, at *4 (Pa. Ct. Com. Pl. July 31, 2002) (denying intervention under Rule 2329(3) where there were already many parties in the case and allowing intervention “would unnecessarily delay and complicate” the case); *see also Erfer*, 568 Pa. at 132 (Pennsylvania Supreme Court ordered Commonwealth Court to hear redistricting claims on an expedited basis and produce findings of fact and conclusions of law within two weeks of the Court’s order).

Because Proposed Intervenors do not allege any valid interest that is not already represented by others in this case, and admission will only serve to delay proceedings, this Court should deny Proposed Intervenors’ application.

Dated: January 4, 2022

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I caused the foregoing Response to be served upon the following parties and in the manner indicated below, which service satisfies the requirements of Pa. R.A.P. 121:

By first class mail:

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By PACFile eService:

All counsel of record as set forth in the PACFile proof of service filed herewith

Dated: January 4, 2022

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