To: Jonathan Cervas, Ph.D. & Bernard Grofman, Ph.D.

From: Scott Matsuda

Date: 10/3/2022

Case Briefing

**[Miscellaneous Pending Cases: AR, FL, KY, NM, OH, UT]**

**ARKANSAS**

(Note: *Suttlar v. Thurston* was, in fact, about racial gerrymandering, and not partisan gerrymandering. As to the categorization of Arkansas as a partisan gerrymandering-litigation state, the Brennan Center’s *Redistricting Litigation Roundup* noted a separate federal case, *Simpson v. Hutchinson*, No. 4:22-CV-213 (E.D. Ark. Mar. 7 2022), which alleged partisan gerrymandering in violation of the First Amendment of the U.S. Constitution.)

* *Suttlar v. Thurston*, No. 60CV-22-1849 (Ark. Cir. Ct. Pulaski Cty. Mar. 21, 2022).
  + Plaintiffs Springer et al. filed a complaint alleging that the splitting of Pulaski County “interferes with and impairs the free exercise of suffrage by Black voters in Arkansas . . . by diluting, impairing, and undermining their ability to elect their candidates of choice.”
  + Plaintiffs requested that the court “enter an Order declaring the 2021 Map unconstitutional; enjoining Defendants from any implementation of the 2021 Map; and compelling the adoption of a valid congressional map that does not unconstitutionally dilute Black voting power or target Black voters in deprivation of their rights guaranteed by the Arkansas Constitution.”
  + Plaintiffs argue that the “2021 Map violates the Free and Equal Elections Clause of the Arkansas Constitution, which guarantees that ‘[e]lections shall be free and equal,’ and that ‘[n]o power, civil or military, shall ever interfere to prevent the free exercise of the right of suffrage; nor shall any law be enacted whereby such right shall be impaired or forfeited,’ Ark. Const. art. 3, § 2, as well as the Equal Protection Clause, which further guarantees that ‘[t]he equality of all persons before the law’ and ‘shall ever remain inviolate,’ id. art. 2, § 3.”

**FLORIDA**

* *Black Voters Matter Capacity Building Inst., Inc. v. Lee*, No. 2022-ca-000666 (Fla. Cir. Ct. Apr. 22, 2022).
  + Plaintiffs BVM et al. filed a complaint alleging that Governor Ron DeSantis “hijacked” the redistricting process, by “unilaterally declar[ing] the Fair Districts Amendment unconstitutional” and by vetoing the Legislature’s congressional plan and “conven[ing] a special legislative session, leaving the Legislature little choice but to consider and pass his own redistricting scheme.”
    - Plaintiffs also allege that the DeSantis Plan “intentionally favors the Republican Party at nearly every turn, eliminating three Democratic seats and transforming competitive seats into Republican-leaning ones. And in so doing, it needlessly produces noncompact districts that split geographic and political boundaries.”
  + Plaintiffs requested that the court, among other things, declare that “the DeSantis Plan and/or individual districts in the DeSantis Plan violate Article III, Section 20 of the Florida Constitution,” enjoinment of the Defendants “from implementing enforcing, or giving any effect to the DeSantis Plan,” and an order or adoption of “a new congressional districting plan that complies with Article III, Section 20 of the Florida Constitution.”
  + Plaintiffs argue that the DeSantis Plan violates Article III, § 20 of the Fla. Constitution by diminishing minorities’ ability to elect, intentionally abridging and diminishing minority voting strength, intentionally favoring/disfavoring a political party, and violating traditional districting principles such as compactness, and political and geographical boundary splits.

**KENTUCKY**

* *Graham v. Adams*, No. 22-CI-00047 (Ky. Cir. Ct. Jan. 20, 2022).
  + Plaintiffs Graham et al. filed a complaint alleging that the Ky. General Assembly engaged in excessive county splitting and partisan gerrymandering.
  + Plaintiffs requested that the court declare the maps unconstitutional in violation of Section 33 of the Ky. Constitution and sought “immediate injunctive relief to prevent the conduct of the May 2022 primary election based on the House districts created by HB 2 and Congressional districts created by SB 3, including any additional relief necessary to make such relief meaningful, such as the extension of filing deadlines for candidates seeking election in those districts.”
  + Plaintiffs argued that (1) the “extreme partisan gerrymandering” of the maps, “violates Sections 1, 2, 3, and 6 of the Kentucky Constitution by arbitrarily denying the citizens of the Commonwealth the rights to a free and equal election, free expression, and free association”; and (2) that the “mapmakers’ violat[ed] . . . Section 33 of the Kentucky Constitution by excessively and unnecessarily splitting counties into multiple districts without a legitimate purpose, and impermissibly attaching portions of split counties to others more times than is necessary to achieve districts of roughly equal size.”
  + On 2/17/2022, the Franklin Cir. Ct. denied the Plaintiffs’ motion for temporary injunction, citing that (1) the equities did not favor awarding a temporary injunction, (2) the status quo is the districts created by HB 2 and SB 3, (3) a temporary injunction will unjustly harm Secretary Adams and election officials, (4) a temporary injunction is not in the public’s interest, and (5) the Plaintiffs’ late filing of their injunction makes it irrelevant to consider whether Plaintiffs’ presented a substantial question on the merits or whether they will suffer irreparable injury.

**NEW MEXICO**

* *Republican Party of New Mexico* v. Oliver, No. D-506-CV-202200041 (N.M. D. Ct. Jan. 21, 2022).
  + Plaintiffs RPNM et al. filed a complaint alleging that “Senate Bill 1 . . . redraws New Mexico’s three congressional districts in contravention of traditional redistricting principles endorsed by the State Legislature and the New Mexico Supreme Court in order to accomplish a political gerrymander that unconstitutionally dilutes the votes of residents of southeastern New Mexico in order to achieve partisan advantage.”
  + Plaintiffs requested, among other things, for final Judgment against Defendants, a declaration that Senate Bill 1 violates the New Mexico Constitution, and the adoption of a partisan-neutral congressional map consistent with Congressional Concept E (Justice Chávez’s map).
  + Plaintiffs argued that SB1 is a political gerrymander in violation of Equal Protection, N.M. Const. art. II, § 18.

**OHIO**

* *Adams v. DeWine*, No. 2021–1428 (Ohio Dec. 2, 2021).
  + Plaintiffs Adams et al. filed a complaint alleging that the “General Assembly and the Governor blatantly disregarded that, in 2018, Ohioans voted three to one to amend the Ohio Constitution to eliminate the pernicious gerrymandering of Ohio’s congressional districts” by once again enacting “a rank partisan gerrymander—one that violates both the letter and the spirit of the 2018 reforms.”
  + Plaintiffs requested that the court “declare that the apportionment plan adopted by Respondents . . . invalid for failure to comply with Article XIX of the Ohio Constitution”; issue a permanent injunction and judgment; hold hearings, consider briefing and evidence; and to retain jurisdiction of the action.
  + Plaintiffs argued that 2021 Congressional Plan violated of Article XIX, Section 1(C)(3)(a) of the Ohio Constitution, which prohibits any plan “that unduly favors or disfavors a political party or its incumbents” and that the 2021 Congressional Plan violated Article XIX, Section 1(C)(3)(b) of the Ohio Constitution, which states that the “general assembly shall not unduly split governmental units, giving preference to keeping whole, in the order named, counties, then townships and municipal corporations.”

**UTAH**

* *League of Women Voters of Utah v. Utah State Legislature*, No. 220901712 (Utah D. Ct. Mar. 17, 2022).
  + LWVU Plaintiffs et al. filed a complaint alleging that (1) the Utah Legislature’s 2021 Congressional Plan “violates multiple provisions of the Utah Constitution, including the Free Elections Clause, the Uniform Operation of Laws Clause, protections of free speech and association, and the right to vote; and (2) that “the Legislature’s repeal of Proposition 4 [a bipartisan citizen initiative that prohibited partisan gerrymandering] violated the people’s constitutionally guaranteed lawmaking power and right to alter and reform their government.”
  + Plaintiffs requested that the 2021 Congressional Plan be declared unconstitutional in violation of the Utah Constitution, to enjoin the Defendants from using the Plan, to compel Defendants to perform their redistricting duties in a manner that comports with the UT Constitution, to set a new deadline by which new maps would be due, to declare the 2020 repeal of Proposition 4 of the Utah Independent Redistricting Commission and Standards Act unconstitutional, and to retain jurisdiction.
  + Plaintiffs argued that the Plan was a Partisan Gerrymander in Violation of the Utah Constitution’s:
    - Free Elections Clause, Article I, Section 17;
    - Equal Protection Rights, Article I, Sections 2 and 24;
    - Free Speech & Association Rights — Article I, Sections 1 and 15;
    - Affirmative Right to Vote Protections — Article IV, Section 2;
  + Plaintiffs also argued that the unauthorized repeal of Proposition 4 was in violation of the Utah Constitution’s Citizen Lawmaking Authority to Alter or Reform Government, Article I, Section 2; Article VI, Section 1.