

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

HOWARD LEE GORRELL)
)
 Plaintiff,)
)
 v.)
) **Civil Action No. _____**
)
 MARTIN O’MALLEY,)
 in his Official Capacity as)
 Governor of the State of Maryland)
)
 Defendant.)
)

**COMPLAINT FOR INJUNCTIVE AND DECLARATORY
RELIEF FOR REDISTRICTING OF THE MARYLAND DISTRICTS
OF THE UNITED STATES HOUSE OF REPRESENTATIVES**

This is an action for a declaratory judgment and for injunctive relief, involving the rights of the plaintiff under the U.S. Constitution and the now legislatively-mandated configuration of the eight congressional districts in the State of Maryland for 2012 and beyond. These districts, established by the state legislature in legislation adopted on October 19, 2011, to be signed by the Governor on October 20, 2011, are unconstitutional.

This case arises under the U.S. Constitution, Article I, Section 2, and the First and Fourteenth Amendments, under 42 U.S.C. §§ 1983 and 1988. The *pro se* Plaintiff Howard Lee Gorrell (hereinafter “Gorrell”) files it as of right under Rule 7, Fed. R. Civ. P.

JURISDICTION & VENUE

1. This Court has original jurisdiction pursuant to 28 U.S.C. §1331; 28 U.S.C. §1343(a)(3) and (4); 28 U.S.C. §§2201 and 2202; and 42 U.S.C. §§1983 and 1988. Venue is proper in the District of Maryland pursuant to 28 U.S.C. 1391. Gorrell resides in the District of Maryland.

THE PARTIES

2. Plaintiff HOWARD LEE GORRELL is a Caucasian registered voter in the State of Maryland, who resides at 13306 Edgmont Road, Smithsburg MD in Washington County, and is characterized as Deaf American, uncategorized group by Bureau of Census standards. Gorrell resides in Maryland's Sixth Congressional District under current district alignment. He is not affected by Section 2 of the Voting Rights Act of 1965, 42 U.S.C. § 1973 (2010).

3. Defendant MARTIN O'MALLERY (hereinafter "Governor") is sued in his official capacity as Governor of the State of Maryland. He is the Chief Executive Officer of the State of Maryland.

FACTUAL ALLEGATIONS

4. Every ten years, the United States Census Bureau conducts a census throughout the United States pursuant to Article I, Section 2 of the Constitution of the United States. Census data were delivered to Maryland on February 9, 2011.

5. Since the 2000 census, the population of the State of Maryland has grown, changed in demographics and shifted in locations.

6. Determined by the 2010 Census, the adjusted population of Maryland was 5,772,231. As a result, Maryland was assigned eight seats in the United States House of Representatives, the same number as it had based on the 2000 Census. Thus, the adjusted ideal congressional district would now contain 721,529 people.

7. The Maryland Code requires the Maryland General Assembly to draw the congressional district boundaries after each decennial census. See Md. Election Law Code Ann. § 8-701(2011).

8. No Maryland statute imposes a particular deadline for drawing congressional

lines, though candidates must file for congressional primary elections by January 11, 2012. Md. Code, Election Law, § 5-303(a). Neither the Maryland Constitution nor Maryland statute say anything about congressional redistricting.

9. The United States Constitution requires that congressional districts be reapportioned according to the principle of “one person, one vote.” *Baker v. Carr*, 369 U.S. 186 (1962) and U.S. Constitution Amendment XIV, §2. This principle requires that each congressional district have substantially the same population. *Wesberry v. Sanders*, 376 U.S. 1 (1964) and *Anne Arundel County Republican Central Comm. v. State Administrative Bd. of Election Laws*, 781 F. Supp. 394 (Md. 1991). Based on these principles each voter, including Gorrell, have the right to have their votes remain equally weighted and undiluted.

10. After receiving the results of the 2010 decennial census, Governor undertook to develop a redistricting plan setting forth the boundaries of the congressional districts.

11. To assist him with this constitutional responsibility, the Governor appointed a five-member Governor’s Redistricting Advisory Committee (hereinafter "GRAC") on July 4, 2011. The GRAC held its organizational meeting on July 6, 2011.

12. Between July 23, and September 12, 2011, the GRAC held 12 public meetings that would help inform the GRAC as it drafts a recommended plan for the Congressional redistricting, each advertised in advance in newspapers and on the websites of the Maryland Department of Planning and the General Assembly, as well as at various locations throughout the state.

13. Citizens were invited to attend these public meetings. In fact, more than five hundred citizens attended the meetings, nearly 175 actually testified in person, 331 comments

were sent to the GRAC, and members of the public submitted seven third party plans for congressional districts to the GRAC.

14. Gorrell was the only Maryland citizen (other than the GRAC committee Members) to have attended every GRAC hearing. Gorrell found himself the first witness at the first hearing July 23, 2011 in Hancock, the closest to his home in Smithsburg, Washington County. At the final hearing in Randallstown on September 12, 2011, the GRAC Chair Jeannie Hitchcock told the audience that Gorrell had attended all 12 hearings and thanked him “for his citizen participation.” The Chair let Gorrell be the last speaker. (At each hearing, two interpreters for the deaf were provided by the GRAC in compliance with Title II of the Americans with Disabilities Act).

15. At all hearings, the GRAC Chair told the audience that citizens could present third party plans according to guidelines that was posted on the Maryland Department of Planning website. The official title of these guidelines is “Guidelines for Third Party Plan Proposals” (hereinafter “Guidelines”).

16. On September 19, 2011, Gorrell timely submitted his third party plan proposal (hereinafter “Gorrell Plan”) to the GRAC by electronic mail. Two days later on September 21, 2011, the GRAC passed the Third Party Plan Criteria on the Gorrell Plan and posted the Gorrell Plan on the website of the Maryland Department of Planning (hereinafter “Department”) for public inspection. The Department is the repository of Reapportionment and Redistricting maps and data products.

17. The Gorrell Plan was fairly simple: No gerrymandering. No drawing of lines for political gain. Election districts should be compact, and they should follow geographic and natural boundaries. Counties should be kept whole and not cut up. And when parts of other

counties must be added to make the population equal, Gorrell proposed adding clusters of high schools and their feeder schools.

18. The GRAC released its preliminary recommendations as to the boundaries of Maryland's congressional districts on October 6, 2011. But these recommendations did not list the population deviation.

19. On October 9, 2011, Gorrell attended at one Maryland senator's annual family picnic, which was exactly a fund-raising event. The Senator showed to his supporters and friends the graphic map of the entire Congressional Districts at the GRAC recommendations. The map listed the population deviation.

20. On the following evening on October 9, 2012, Gorrell found out that the GRAC in 1991 and 2001 had developed the "Legal Standards for Plan Development" (hereinafter "Legal Standards"), but he had not found the Legal Standards for the 2011 GRAC. So he emailed to the GRAC and asked whether the GRAC had posted the 2011 Legal Standards for Plan Development in the Department website. As of filing, he has not received a response.

21. On the following day on October 10, 2011, Gorrell emailed to the GRAC and asked where to find the population deviation on the Department website. As of filing, Gorrell has not received a response.

22. On the same day, Gorrell found the link in the Department website. It is a 2007 Table on the Number of Farms [in Maryland] so he emailed to the GRAC and asked if the GRAC could break this information down according to the Congressional Districts recommended by the GRAC. On the following day on October 10, 2011, the GRAC emailed back to Gorrell that the GRAC "was not able to tailor statistical and legal analysis for individual testimony."

23. On the same day, Gorrell received from Executive Secretary of Maryland FFA Association the “2011 Maryland FFA Membership Counts” in order to determine whether the GRAC recommendation could produce dilution of farm votes. The National FFA Organization is an American youth organization known as a Career and Technical Student Organization, based on middle and high school classes that promote and support agricultural Education. The FFA Organization is also known as the Future Farmers of America (FFA).

24. After making few changes to the GRAC's preliminary recommendations, the Governor unveiled his own map (hereinafter “State’s Plan”) to the media on Saturday, October 15, 2011.

25. Two days later on Monday, October 17, 2011, the Governor submitted the plan to the President of the Senate and to the Speaker of the House of Delegates. On the same day, they introduced it on the first day of the General Assembly special session, as Senate Bill 1 and House Bill 1.

26. Before the joint hearing of the Maryland General Assembly's Senate Committee on Reapportionment and Redistricting and House Committee on Rules and Executive Nominations on the same day at 1 pm, Gorrell testified via an interpreter for the deaf , “With the exception of the Gorrell Plan, all plans [including the State’s Plan] do not include the breakdowns of the voting precincts with population figures”. He paused, “The Gorrell Plan is 41 pages long. It included all breakdowns. What a dirty work I had for the Marylanders”.

27. Senate Bill 1 entitled “Congressional Districting Plan” was 43 pages long, but it did not list population deviations.

28. On Tuesday, October 18, 2011, the Senate passed SB 1 and sent it to the House of

Delegates, which passed this legislation with technical changes on the following day on Wednesday, October 19, 2011. On next day, October 20, 2011, the Senate took a final vote to correct about 24 typographical errors in the legislation.

29. On the same afternoon, the State's plan submitted by the Governor became law, Chapter 1 of the Act of the Special Session of October, 2011.

30. Gorrell challenges the Constitutionality of the 2011 Congressional Redistricting Plan alleging that (1) the plan led to the dilution of the voting power of the agriculture-related electorates; and (2) the legislature gerrymandered the congressional districts to favor Governor's political party, thereby violating the rights of voters of other political parties, including independents.

FIRST CLAIM FOR RELIEF

Congressional Districts Fail to Preserve Communities of Interest

31. Gorrell incorporates and realleges the allegations in paragraphs 1-30 above.

32. Preserving communities of interest is a legitimate and traditional goal in drawing congressional districts. *Bush v. Vera*, 517 U.S. 952, 977 (1996).

33. The 2002 Legal Standards state:

H. Communities of Interest

To the extent permitted by federal case law, the recommended plan should be cognizant of, and give consideration to, preserving identifiable communities of interest.

34. During the last two weeks prior to the passage of the State's Plan on October 20, 2011, the media have published many reports about voting dilutions of black and Hispanic voters, but the reports, except in the *Frederick News-Post*, are silent about farm voters.

35. The Department has provided a “2007 Table on the Number of Farms [in Maryland]” in its website so Gorrell emailed to the GRAC and asked if the GRAC could break this information down according to the Congressional Districts recommended by the GRAC. On the following day on October 10, 2011, the GRAC emailed back to Gorrell that the GRAC “was not able to tailor statistical and legal analysis for individual testimony.”

36. To determine whether the GRAC recommendation could produce dilution of farm votes, Gorrell, as a son of the Chapter Advisor of Future Farmers of America (FFA), Farmersville, Ohio in the 1950’s, used the 2011 Maryland FFA Membership Counts (2090 members), which was provided by the Maryland FFA Association.

37. Using the Department’s Interactive Map to see the district it's in under the State’s Plan, Gorrell had completed the below result.

2002 Congressional Redistricting

2011 Congressional Redistricting

Number of Members	PCT	Congressional District	Number of Members	PCT
270	13.3	First – 1st	500	24.6
40	01.9	Second – 2nd	0	00.0
1	00.4	Third – 3 rd	1	00.4
0	00.0	Fourth – 4th	0	00.0
48	02.3	Fifth – 5th	48	02.3
1670	82.3	Sixth – 6th	568	28.0
0	00.0	Seventh – 7th	162	07.9
0	00.0	Eighth – 8th	750	36.9
2090		Total	2090	

38. Reading this chart made one Maryland delegate to say “It would mean that the urban areas of Maryland will be choosing representatives for the rural areas of Maryland.”

39. Gorrell and many Maryland agriculture-related electorates will suffer dilution of their votes in congressional elections held in 2012 if the new Congressional Districts are not be

speedily re-drawn.

40. Under the Gorrell Plan, the Sixth Congressional District would have 1427 FFA members or 70.3% of the statewide count of 2029 members, while the Eighth Congressional District would have no FFA member.

SECOND CLAIM FOR RELIEF

Congressional Districts Constitute Unconstitutional Gerrymandering

41. Gorrell incorporates and realleges the allegations in paragraphs 1-40 above.

42. The Equal Protection Clause and the First Amendment require that all citizens have an equally effective opportunity to elect their representatives and prohibit vote dilution in the form of partisan gerrymandering that substantially disadvantages voters of one party in their opportunity to influence the political process.

43. Western Maryland is the portion of the State of Maryland that consists of Allegany, Carroll, Frederick, Garrett, and Washington counties. Carroll County is the home of Western Maryland College (which has been renamed to McDaniel College in 2002).

44. Western Maryland has a heavily agricultural economy and has a large number of dairy cattle farms. According to the above-mentioned 2011 Maryland FFA Membership Counts, the Western Maryland region has 1392 FFA members or 68.6% of the state-wide count of 2029.

45. The Congressman representing the existed Sixth Congressional District has been awarded the American Farm Bureau Federation's "Friend of Farm Bureau" Award five times since the 104th Congress (from January 3, 1995 to January 3, 1997). The legislator representing the existed Eighth Congressional District received none.

46. Since the first federal census and the Second Congress, which convened in 1791, the communities of western Maryland have always had an elected official in the Maryland

congressional delegation (whether as a congressman or a U.S. senator). Gorrell and many Maryland agriculture-related voters have feared that winning candidates of the 6th and 8th Congressional Districts contests in the General Election in November 2012 might be originated from Montgomery County, which has the highest percentage (29.2%) of residents over 25 years of age who hold post-graduate degrees as well as being the second richest county in terms of per capita income in the State of Maryland.

47. The term "gerrymandering" has been defined as "[t]he practice of dividing a geographical area into electoral districts, often of highly irregular shape, to give one political party an unfair advantage by diluting the opposition's voting strength." Black's Law Dictionary 696 (7th ed. 1999), *In re Legislative Districting*, 805 A.2d 292 (2002).

48. The test for plaintiffs' partisan gerrymandering claims is unsettled. See *Vieth v. Jubelirer*, 541 U.S. 267 (2004).

49. The Congressional Districts created by the legislature impermissibly divide communities of interest:

- a. **Frederick County:** The State's Plan unnecessarily splits the Frederick County between the 6th and 8th Congressional District by shifting four of County's nine FFA chapters (Catoctin High School, Linganore High School, Middletown High School and Walkersville High School) to 8th Congressional District. Remaining in the 1st Congressional District are five FFA Chapters (Brunswick High School, Frederick High School, Frederick Career and Technical Center, Tucarora High School and Urbana High School).
- b. **Carroll County:** The State's Plan shifts the areas of Sykesville (covering

the FFA chapter of South Carroll High School), Eldersburg (covering the FFA chapter of Liberty High School), Westminster (covering two FFA chapters of Westminster High School and Winters Mill High School), Mount Airy (covering the FFA chapters of South Carroll High School and Linganore High School), New Windsor (covering the FFA chapter of Frederick Scott Key High School) and much of Union Bridge (covering the FFA chapter of Frederick Scott Key High School) to the 8th Congressional District.

Two chapters of North Carroll High School and Manchester Valley High School in the rest of Carroll County, including Taneytown, Silver Run, Manchester, Lineboro, Hampstead, Finksburg and Gamber, become part of the 1st Congressional District, which includes northern Baltimore County, much of Harford County and all of the Eastern Shore reaching to Ocean City.

- c. **Montgomery County:** The only one FFA chapter in Montgomery County was recommended by the GRAC to be shifted to 8th Congressional District, but Governor moved the area of Damascus High School back to 6th Congressional District for the State's Plan.

50. On October 8, 2011, the *Frederick News-Post* reported, "Farmers fear the proposed redrawing of district lines that split Frederick County will leave them underrepresented by a more urban-minded voice in Congress."

51. Gorrell points that, according to the Press Release titled "GRAC Submits Recommended Congressional Redistricting Plan to Governor" on October 4, 2011, the GRAC

had gerrymandered all eight congressional districts based on the I-270 corridor, BRAC (Base Realignment and Closure) corridor district, and federal facilities. Gorrell asks this Honorable Court if the GRAC recommendations could meet the district population requirements of the “one person, one vote” principle since, in 1964, the United States Supreme Court remarked, “Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests.” *Reynolds v. Sims*, 377 U.S. 533 (1964), *Hughes v. Maryland Committee for Fair Representation*, 217 A.2d 273 (1966).

52. Maryland Congressional Districts, any elections conducted under the State’s Plan, will deprive Gorrell and Maryland agriculture-related electorates of their civil rights in violation of the Fourteen Amendment of the United States Constitution.

53. Under the Gorrell Plan, the Sixth Congressional District would have the 2010 Adjusted Total Population of 715,155, which has a deviation of -6374 or -0.88%, while the Eighth Congressional District would have the 2010 Adjusted Total Population of 722,852, which has a deviation of +1323 or +0.18%,.

THIRD CLAIM FOR RELIEF

The State’s Plan Fails to comply with the Guidelines

54. Gorrell incorporates and realleges the allegations in paragraphs 1-53 above.

55. On September 30, 2011, the *Washington Post* newspaper reported that the newspaper obtained maps of two options that Governor and several lawmakers of his own political party were secretly negotiating to draw up. The combination of the partial Option 1 map and the partial Option 2 map is similar to the State’s Plan. The date of September 30 was 11 days after the deadline of submitting a third party plan proposal to the GRAC, and only 6 days before the GRAC released its recommendations.

56. Gorrell objects and feels that these persons involving in drawing these two options should violate the Guidelines, which state:

Procedures for the Submission of Third Party Plan Proposals:

1. Congressional and Legislative Third Party Plan proposals should be submitted on or before Monday, September 19, 2011 (Congressional) and on or before Monday, October 31, 2011 (Legislative). Plan proposals submitted after these deadlines may not be reviewed by the Governor's Redistricting Advisory Committee.

57. Gorrell points that Governor's own political party had not yet submitted any third party plan proposal to the GRAC.

58. Gorrell strongly believes that the Gorrell Plan might be the only one among seven third party plans to meet all Guidelines' criteria in accordance to the Department's website.

FOURTH CLAIM FOR RELIEF

The State's Plan Has Rigid Equal Population Rules

59. Gorrell incorporates and realleges the allegations in paragraphs 1-58 above.

60. There is no Maryland statute or guidelines on a zero-deviation for congressional redistricting.

61. The State's Plan has split 91 of 1849 precincts by census tracts and then blocks in order to meet a zero-deviation goal.

62. Gorrell selected 42 precincts whose the number of the subtotal is under 75 persons for this Court's review on his argument. He had completed the below result.

63. Gorrell has no idea on why Governor put zero population on 16 precincts whose the number of the subtotal shows zero.

Precinct	Total Adj Pop	C.D.	Total Adj Pop	C.D.
Anne Arundel Co. Precinct 04-006	0	4th	4739	3rd
Baltimore City Precinct 27-019	0	3rd	1061	7th
Baltimore County Precinct 03-001	0	2nd	4519	7th
Baltimore County Precinct 08-004	0	1st	3081	2nd
Baltimore County Precinct 08-014	0	7th	2422	2nd
Baltimore County Precinct 14-004	0	3rd	436	2nd
Frederick Precinct 20-001	0	6th	3117	8th
Harford Precinct 01-009	0	2nd	3647	1st
Harford Precinct 01-010	0	1st	5100	2nd
Montgomery Precinct 04-009	0	6th	2413	8th
Montgomery Precinct 04-018	0	6th	4316	8th
Montgomery Precinct 05-007	0	8th	1366	3rd
Prince George's Precinct 09-009	0	4th	2000	5th
Prince George's Precinct 15-002	0	5th	2559	4th
Prince George's Precinct 15-005	0	5th	8384	4th
Prince George's Precinct 16-003	0	4th	5995	5th
Howard Precinct 01-010	1	3rd	2209	7th
Prince George's Precinct 09-002	1	4th	4470	5th
Anne Arundel Co. Precinct 06-019	2	3rd	2319	4th
Frederick Precinct 12-001	2	8th	3299	6th
Baltimore County Precinct 04-009	3	2nd	2523	7th
Frederick Precinct 07-004	3	8th	2846	6th
Frederick Precinct 22-001	3	6th	1551	8th
Baltimore County Precinct 04-011	4	7th	575	2nd
Frederick Precinct 23-001	4	6th	5439	8th
Harford Precinct 02-001	8	2nd	387	1st
Baltimore City Precinct 27-009	10	7th	1930	3rd
Baltimore City Precinct 27-014	12	3rd	3432	7th
Harford Precinct 02-002	14	2nd	4473	1st
Frederick Precinct 21-001	16	6th	3111	8th
Anne Arundel Co. Precinct 04-005	21	4th	2068	3rd
Montgomery Precinct 08-005	21	8th	3357	3rd
Baltimore County Precinct 08-003	22	7th	2161	1st
Baltimore County Precinct 14-006	22	2nd	4374	3rd
Harford Precinct 02-005	23	2nd	366	1st
Baltimore County Precinct 11-012	26	2nd	4614	1st
Montgomery Precinct 05-010	27	8th	3997	3rd
Montgomery Precinct 05-005	33	3rd	3034	8th
Anne Arundel Co. Precinct 01-010	46	3rd	1734	2nd
Montgomery Precinct 13-061	64	3rd	3116	8th
Montgomery Precinct 05-006	69	8th	5899	3rd
Montgomery Precinct 08-006	73	8th	4996	3rd

64. Gorrell asks this Court to look at the first precinct on the chart - Anne Arundel Co. Precinct 04-006. The description of this 04-006 in the Senate Bill 1 reads:

(A) The Fourth Congressional District consists of the following parts of Anne Arundel County:

(10) That part of Election District 4, Precinct 6 that consists of the following:

(I) Census Tract 7406.03, Blocks 1033, 1034, 1036 through 1039, 1045, and 1052; and

(11) Census Tract 7515,00, Block 3015.

The State's Plan put zero population on this 04-006 in Fourth Congressional District, in accordance to the "County Population Totals by District" in the website of the Maryland General Assembly.

65. Gorrell explains that rigid equal population rules could make it harder to draw districts that give citizens real opportunity to elect representatives of their choice. For example, in Frederick County, the State's Plan has carved out 2 of 3301 total adjusted population on the 12-001 Precinct, 3 of 2849 in the 07-004 Precinct, 3 of 1554 in the 22-001 Precinct, 4 of 1248 in the 04-011 Precinct, 4 of 5443 in the 23-001 Precinct and 16 of 3127 in the 21-001 Precinct.

66. Gorrell points that it could be amazing that the State's Plan splits only one precinct in Prince George's County (Precinct 09-005 by assigning 333 persons in the 4th Congressional District and 3716 persons in the 5th Congressional District), although the State's plan carves 1 of 4471 in the 09-002 Precinct and leaves zero on one side of Congressional Districts in four precincts: 09-009, 15-002, 15-005, and 16-003.

67. Gorrell believes that "leaving zero population" could violate the district population requirements of the "one person, one vote" principle.

PRAYER FOR RELIEF

WHEREFORE, Gorrell respectfully requests that the Court:

- a. Assume jurisdiction over this matter;
- b. Convene a three-judge panel pursuant to 28 U.S.C. § 2284 so that a court with the authority to establish any necessary redistricting plan(s) is constituted in a timely manner;
- c. Enter a declaratory judgment that the Congressional Districts violate Gorrell's rights under federal law;
- d. Enjoin Defendants from using the Congressional Districts in any future primary or general election(s);
- e. Redraw the Congressional Districts; and
- f. Provide such other and further relief as the Court may deem

DATED this 27th day of October, 2011

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