

SUPREME COURT OF PENNSYLVANIA

Carter v. Chapman

270 A.3d 444 (Pa. 2022) · No. No. 7 MM 2022 · Decided March 9, 2022

SUMMARY

The Pennsylvania Supreme Court selected a congressional redistricting plan for the 2022 elections after Pennsylvania lost a congressional seat following the 2020 Census and the General Assembly and Governor failed to agree on a replacement plan. Exercising original jurisdiction, the Court declined to adopt the Special Master’s recommended plan and adopted the plan submitted by the Carter Petitioners. The opinion discusses population equality, compactness, contiguity, political-subdivision splits, communities of interest, partisan fairness, and compliance with the Pennsylvania Constitution and Voting Rights Act.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Chief Justice Baer; Justice Todd; Justice Donohue; Justice Dougherty; Justice Wecht; Justice Mundy; Justice Brobson
JURISDICTION	Pennsylvania
DECIDED	March 9, 2022
DOCKET	No. 7 MM 2022
DISPOSITION	other
PROCEDURAL POSTURE	Two consolidated petitions for review were filed in the original jurisdiction of the Commonwealth Court challenging Pennsylvania's 2018 congressional redistricting plan as unconstitutionally malapportioned after the 2020 Census. The Supreme Court of Pennsylvania assumed plenary jurisdiction, reviewed the matter de novo, considered exceptions to the Special Master's report, and selected a new congressional redistricting plan.
STANDARD OF REVIEW	De novo review because the Supreme Court assumed original jurisdiction; the Special Master's factual findings were given due consideration but were not binding.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Carol Ann Carter, Monica Parrilla, 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, Janet Temin, Philip T. Gressman, Ron Y. Donagi, Kristopher R. Tapp, Pamela Gorkin, David P. Marsh, James L. Rosenberger, Amy Myers, Eugene Boman, Gary Gordon, Liz McMahon, Timothy G. Feeman, Garth Isaak v. Leigh M. Chapman, 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

TOPICS

redistricting election law constitutional law election administration separation of powers

PRACTICE AREAS

election law constitutional law redistricting civil procedure

QUESTIONS PRESENTED

1. Whether Pennsylvania's 2018 congressional redistricting plan became unconstitutional after the 2020 Census reduced the Commonwealth's congressional delegation from eighteen to seventeen seats.
2. Whether the Supreme Court of Pennsylvania could assume plenary jurisdiction and select a congressional redistricting plan when the General Assembly and Governor failed to enact one.
3. What criteria govern the judicial selection of a replacement congressional redistricting plan under Pennsylvania's Free and Equal Elections Clause.
4. Whether the Carter Plan satisfied the traditional core redistricting criteria, subordinate historical considerations, partisan-fairness requirements, and the Voting Rights Act.
5. Whether a two-person maximum population deviation was permissible when justified by avoiding an additional split of a vote-tabulation district.

HOLDINGS

1. The 2018 congressional redistricting plan was unconstitutional because it created eighteen districts based on the 2010 Census even though Pennsylvania was entitled to only seventeen congressional districts after the 2020 Census.
2. When the political branches are unable to enact a timely congressional redistricting plan, the judiciary may select a constitutionally valid plan, and the Supreme Court may assume plenary jurisdiction to do so.
3. A judicially selected congressional redistricting plan must satisfy the traditional core criteria of compactness, contiguity, population equality as nearly equal as practicable, and minimization of political-subdivision divisions; it may also consider subordinate historical factors, must avoid vote

dilution under Pennsylvania's Free and Equal Elections Clause, and must comply with the Voting Rights Act.

4. The Carter Plan was superior or comparable to the other submitted plans and satisfied the governing redistricting criteria; it was adopted as Pennsylvania's 2022 Congressional Redistricting Plan.
5. The Carter Plan's maximum two-person population deviation was permissible because it resulted from a good-faith effort to avoid an additional split of a vote-tabulation district, a legitimate state objective.

KEY QUOTATIONS

*“we have endeavored to adopt a plan that, as phrased in *League of Women Voters of Pennsylvania v. Commonwealth*, 181 A.3d 1083, 1087 (Pa. 2018) (“LWV III”), is “superior or comparable” to all of the plans submitted on the designated criteria.” (at 3)*

“First and foremost, we begin, with the traditional core criteria of ensuring that the districts are compact, contiguous, are as nearly equal in population as practicable, and do not divide any county, city, incorporated town, borough, township, or ward, except where necessary.” (at 22)

“After careful consideration and for the reasons set forth above, we adopt the Carter Plan for the Pennsylvania primary and general elections for seats in the United States House of Representatives commencing in 2022.” (at 38)

FACTUAL BACKGROUND

Pennsylvania lost one congressional seat after the 2020 Census, reducing its allotment from eighteen to seventeen representatives. The existing 2018 congressional plan, which was based on the 2010 Census, therefore became unconstitutionally malapportioned. The General Assembly and Governor failed to agree on a replacement plan before the 2022 election cycle, requiring the Supreme Court to select among proposed seventeen-district plans. The Court ultimately adopted the Carter Plan after evaluating population equality, compactness, contiguity, political-subdivision splits, communities of interest, preservation of prior district lines, incumbency, partisan fairness, and Voting Rights Act compliance.

PROCEDURAL HISTORY

The Carter and Gressman Petitioners filed separate petitions for review in Commonwealth Court on December 17, 2021. After the General Assembly and Governor failed to agree on a replacement plan, the Commonwealth Court conducted proceedings and evidentiary hearings before the Supreme Court assumed original jurisdiction on February 2, 2022, designated Judge Patricia A. McCullough as Special Master, and received her recommendation of H.B. 2146. Following argument on February 18, 2022, the Supreme Court rejected the Special Master's recommendation, adopted the Carter Plan by per curiam order on February 23, 2022, and issued this opinion explaining its decision.

DISPOSITION

other

CASES CITED

- League of Women Voters of Pennsylvania v. Commonwealth, 178 A.3d 737 (Pa. 2018)
- Mellow v. Mitchell, 607 A.2d 204 (Pa. 1992)
- League of Women Voters of Pennsylvania v. Commonwealth, 175 A.3d 282 (Pa. 2018)
- League of Women Voters of Pennsylvania v. Commonwealth, 181 A.3d 1083 (Pa. 2018)
- Karcher v. Daggett, 462 U.S. 725 (1983)
- Vieth v. Pennsylvania, 195 F. Supp. 2d 672 (M.D. Pa. 2002)
- Upham v. Seamon, 456 U.S. 37 (1982)
- Perry v. Perez, 565 U.S. 388 (2012)
- Johnson v. Wisconsin Elections Commission, 967 N.W.2d 469 (Wis. 2021)
- Carstens v. Lamm, 543 F. Supp. 68 (D. Colo. 1982)
- Hippert v. Ritchie, 813 N.W.2d 374 (Minn. 2012)
- Scarnati v. Wolf, 173 A.3d 1110 (Pa. 2017)