

**IN THE SUPREME COURT OF PENNSYLVANIA**

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**7 WM 2022**

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**TODD ELLIOTT KOGER, REPUBLICAN CANDIDATE  
APRIL 5, 2022, SPECIAL ELECTION PA HOUSE DISTRICT #24**

**V.**

**2021 PENNSYLVANIA LEGISLATIVE  
REAPPORTIONMENT COMMISSION**

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**PETITIONER'S BRIEF IN SUPPORT**

- 1. CHALLENGE TO PENNSYLVANIA LEGISLATIVE  
REAPPORTIONMENT COMMISSION "FINAL PLAN"**
- 2. APPLICATION FOR "EMERGENCY INJUNCTIVE RELIEF"  
DIRECTED TO ANY 2022 ELECTION AS THEY RELATE TO THE  
BOROUGH OF WILKINSBURG, HOUSE DISTRICT #24, AND/OR  
ANY OTHER ELECTION THE COURT DEEMS APPROPRIATE**

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**Todd Elliott Koger, Pro Se**

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Pursuant to this Court's scheduling order, Todd Elliott Koger, pro se, submits this brief in support of his Application for Relief.

## **INTRODUCTION**

Under federal law PA House District #24 must be drawn in a manner that keeps intact the common socio-economic and cultural interest of the black voters of Wilkinsburg. Voting Rights Act of 1965, 52 U.S.C. Section 10301(b) (2018).

However, the 2021 Pennsylvania Legislative Reapportionment Commission with its "Final Plan" has knowingly denied and abridged the voting rights of the black living in Wilkinsburg, in clear violation of U.S. Const. amends. XIV, XV; 52 U.S.C. Section 10301(a). See *Mellow v. Mitchell*, 530 Pa. 44, 50 (1992). And see also *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 272 (2015).

There is no available justification for separating Wilkinsburg and Homewood voters who share a middle and high school, fire and police protection, garbage removal, a busway for transportation, and nonprofits providing human services, among other (planned annexation).

That is, the voting demographic has similar work opportunities, standards of living and common environmental, healthcare, or educational concerns.

But by failing to keep the black neighborhoods of Wilkinsburg and Homewood intact the Reapportionment Commission “Final Plan” knowingly denies constitutionally protected bonds of ancestry, history, or religion, and the right to vote in community, not political identity or party.

The Reapportionment Commission “Final Plan” fails to preserve the constitutional protected “voting rights” of blacks living in Wilkinsburg.

Additionally, because of the “conflict of interest” present with Democrat Jay Costa serving on the Reapportionment Commission and the “removal of Wilkinsburg” providing a direct advantage to his employee Martell Convington’s campaign to represent PA House District #24, on its face the “Final Plan” is further flawed by being not partisan fair.

The petitioner here, Todd Elliott Koger, is the Republican candidate for PA House District #24. Mr. Koger, is and has been at all relevant times a resident of 515 Kelly Avenue, Wilkinsburg, Pennsylvania 15221.

515 Kelly Avenue is situated in PA House District #24 for the date set April 5, 2022, “Special Election” but has been removed from PA House District #24 in the Pennsylvania Legislative Reapportionment Final Plan governing the 2022 Primary Election.

The Pennsylvania Legislative Reapportionment Final Plan governing the 2022 Primary Election, unconstitutionally benefits Democrat Martell

Covington by removing the Republican opponent Todd Elliott Koger from PA House District #24 primary election.

## **ARGUMENT**

The 2021 Pennsylvania Legislative Reapportionment Commission with “racial gerrymandering” has created an irreparable harm.

By failing to keep the neighborhoods of Wilkinsburg and Homewood intact the Reapportionment Commission “Final Plan” knowingly denies constitutionally protected bonds on account of ancestry, history, or religion, and the right of blacks living in Wilkinsburg to vote in community, not political identity or party.

And because of the “conflict of interest” present with Democrat Jay Costa serving on the Reapportionment Commission and the “removal of Wilkinsburg” providing a direct advantage to his employee Martell Covington’s campaign to represent PA House District #24, on its face the “Final Plan” is not partisan fair.

The Pennsylvania Legislative Reapportionment Final Plan governing the 2022 Primary Election, unconstitutionally benefits the Democrat (Martell Covington) by removing the Republican opponent (Todd Elliott Koger) from the PA House District #24 primary election.

Removing Wilkinsburg effectively disenfranchises the black voters of Wilkinsburg (Todd Elliott Koger the black Republican candidate).

With the “Final Plan” constitutionally flawed it is now impossible for the Commonwealth to meet the statutorily mandated schedule for the 2022 primary election.

The simplest, most lawful, path for the Court is to proceed as it did last cycle: Order the 2022 election to proceed under the current reapportionment plan (“2012 Final Plan”), to allow time for due diligence of the Commission’s Plan adopted on February 4, 2022.

Anything less will cause the black voters of Wilkinsburg (Todd Elliott Koger the black Republican candidate) irreparable harm.



## CONCLUSION

For the foregoing reasons, Todd Elliott Koger, the Republican candidate for PA House District #24 respectfully request that this Court issue an Order preventing the Legislative Reapportionment Commission “Final Map” from violating the constitutional rights of Wilksburg black voters.

And at this point, the only available option for the Court is to require all 2022 elections to “take place” using existing Pennsylvania House and Senate Districts (providing relief to allow Todd Elliott Koger participation).

/s/ Todd Elliott Koger, Pro Se

Republican Candidate  
PA House District #24  
515 Kelly Avenue  
Wilksburg, Pa 15221

## **CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

/s/ Todd Elliott Koger

## **PROOF OF SERVICE**

I, the undersigned, do hereby certify that a true and correct copy of the within was served on the 3 day of March 2022.

1. 2021 Legislative Reapportionment Commission Attn. G. Reynolds Clark, Executive Director 209 Irvis Office Building Harrisburg, PA 17120.
2. The Honorable Josh Shapiro Office of Attorney General of Pennsylvania c/o Torts Litigation Unit 15th Floor, Strawberry Square Harrisburg, Pennsylvania 17120.
3. 2021 Legislative Reapportionment Commission Attn. Robert L. Byer, Esq., Chief Counsel c/o Duane Morris LLP 600 Grant Street, Suite 5010 Pittsburgh, PA 15219-2802 rlbyer@duanemorris.com

/s/ Todd Elliott Koger