

1. Plaintiffs are likely to succeed on the merits of their Elections Clause claims because: (a) a court may not impose mandatory criteria for congressional redistricting unless they emanate from existing prescriptions governing the lawmaking process or from an Act of Congress; and (b) implementing the redistricting plan promulgated by the Pennsylvania Supreme Court would violate the Elections Clause of the United States Constitution.

2. Plaintiffs will suffer irreparable harm if a stay is not entered because the enjoinder of Pennsylvania's validly enacted 2011 congressional districting plan (the "2011 Plan") amounts to irreparable injury.

3. Furthermore, the May 2018 congressional primary is in less than three months. If the Pennsylvania Supreme Court's redistricting plan is implemented, Plaintiffs will be irreparably harmed by being forced to campaign under radically altered circumstances in an unreasonable time period, thereby subjecting Plaintiffs to imminent irreparable harm.

4. The injunction sought by Plaintiffs is also necessary to avert the potential disenfranchisement of military personnel and other voters overseas. State interference with voting rights constitutes irreparable harm.

5. The balance of harms requires issuance of a temporary restraining order and preliminary injunction. If injunctive relief is not granted, Plaintiffs face the imminent risk of voter chaos and confusion, and uncertainty in campaigns and

election results, as well as the usurpation of their given duties as Pennsylvania legislators, resulting in deprivation of fundamental constitutional rights. An injunction would preserve the status quo, using a legislative districting plan that has been in place since 2011 and had not been challenged for over five years. On the other hand, the harm to Defendants from conducting the next primary under the 2011 Plan is *de minimis*, when compared to the harm resulting from implementation of the Pennsylvania Supreme Court's orders.

6. A temporary restraining order and preliminary injunction is in the public interest. The public interest is best served when congressional elections are conducted consistent with the mandates of the United States Constitution. Specifically, the public interest is best served when the people's representative body is afforded an adequate opportunity to enact a redistricting plan before the judiciary takes the extraordinary mapmaking task.

7. Moreover, court orders affecting elections can result in voter confusion and an incentive to remain away from the polls. In particular, the Pennsylvania Supreme Court's orders here are highly likely to cause voter confusion and depress turnout given the imminence of the election and the creation of new districts.

8. It is also against the public interest to conduct the May 2018 primary under a judicial redistricting plan that, if Plaintiffs succeed on the merits of their

claims, will be abrogated prior to the next scheduled congressional election, or even prior to the general election.

For the foregoing reasons, it is hereby ORDERED that Plaintiff's Motion is GRANTED. An INJUNCTION is issued, effective immediately, the terms of which are as follows:

- i. Defendants are enjoined from implementing any Congressional redistricting scheme arising from the Pennsylvania Supreme Court's Court Drawn Plan; and
- ii. Defendants are directed to conduct the 2018 primary and general Congressional elections in full accordance with the Pennsylvania 2011 Plan.

Further, as required by Federal Rule of Civil Procedure 65(c), Plaintiffs are shall post a bond of \$ _____, by _____, 2018.

BY THE COURT:

U.S.D.J.