

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

KERRY BENNINGHOFF,
individually, and as Majority Leader of the Pennsylvania House of Representatives,
Applicant,

v.

2021 LEGISLATIVE REAPPORTIONMENT COMMISSION,
Respondents.

**APPLICATION TO EXTEND THE TIME
TO FILE A PETITION FOR A WRIT OF CERTIORARI**

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TO THE HONORABLE SAMUEL A. ALITO, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT:

Pursuant to Supreme Court Rule 13(5), Applicant Kerry Benninghoff, in his capacities as Majority Leader of the Pennsylvania House of Representatives, a Member of Pennsylvania's 2021 Legislative Reapportionment Commission, and as a registered voter in Centre County, Pennsylvania, respectfully requests an extension of time of 60 days, to and including August 15, 2022, for the filing of a petition for a writ of certiorari to review the judgment of the Supreme Court of Pennsylvania in this case.

In support of this request, Applicant states as follows:

1. On March 16, 2022, the Supreme Court of Pennsylvania entered final judgment in Applicant's appeal from the 2021 Pennsylvania Legislative Reapportionment Commission's adoption of a final plan to redistrict the Commonwealth of Pennsylvania's State House of Representatives and State Senate districts. A true, accurate, and complete copy of that final decision is attached as Exhibit 1.

2. Unless an extension is granted, the deadline for filing the petition for certiorari will be June 14, 2022.

3. This application is filed more than ten days before the deadline for filing the petition for writ of certiorari absent the requested extension.

4. This Court has jurisdiction under 28 U.S.C. § 1257(a).

5. This case involves the final plan adopted by Pennsylvania's 2021 Legislative Reapportionment Commission (the "Commission"), which is set to govern

elections to the Pennsylvania State House of Representatives and the State Senate for the next decade. Applicant contended to the Pennsylvania Supreme Court that, in pertinent part, the Commission’s final plan violated the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution through its predominant use of racial considerations in the construction of State House districts throughout the Commonwealth, and by creating districts that were malapportioned. Thus, like the Wisconsin plans this Court summarily rejected this Term, the Pennsylvania plans “sort voters on the basis of race” without justification. *Wis. Leg. v. Wis. Elections Comm’n*, 142 S. Ct. 1245, 1248 (2022). The Pennsylvania Supreme Court approved the plans in a short order and, like the Wisconsin Supreme Court in *Wisconsin Legislature*, it failed to establish a strong basis in evidence to justify the race-based redistricting scheme. *Id.* at 1249–50. Applicant was a participant in the proceedings before the Commission and the Pennsylvania Supreme Court, submitted an alternative districting plan drawn without predominant consideration of race, and intends to petition this Court for review under the Equal Protection Clause.

6. A 60-day extension of time is warranted so that counsel may evaluate, prepare, and file the petition for certiorari.

7. Since the Pennsylvania Supreme Court rendered its decision on March 16, 2022, counsel of record has had several significant commitments during the months of March, April, and May, including election-related cases involving tight briefing deadlines and expedited proceedings. Examples of such engagements include *Galmon, Sr. v. Ardoin*, No. 3:22-cv-214 (M.D. La.); *Nairne v. Ardoin*, No. 3:22-cv-178

(M.D. La.); *Robinson v. Ardoin*, No. 3:22-cv-211 (M.D. La.); *Agee v. Benson*, 1:22-cv-00272 (W.D. Mich); *Banerian v. Benson*, 1:22-cv-00054 (W.D. Mich). Additionally, counsel has been engaged in *United States v. PetroSaudi Oil Services (Venezuela) Ltd.*, Nos. 21-56228, 22-55025 (9th Cir.).

8. Applicant thus requests an extension for counsel to prepare a petition that fully addresses the complex issues that the decision below failed to address, and frame those issues in a manner that will be most helpful to the Court. In addition, an extension would permit potential amici to evaluate the important issues presented by this case and consider how they might assist the Court in their filings.

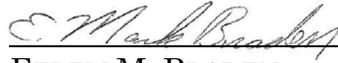
9. An extension will not impact the Court's consideration of this case this term or the calendaring of this case for oral argument next term, should the Court grant review. Applicant's forthcoming petition will be addressed by this Court early next term in all events.

WHEREFORE, for the foregoing reasons, Applicant requests that an extension of time to and including August 15, 2022, be granted within which Applicant may file a petition for a writ of certiorari.

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Respectfully submitted,



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June 1, 2022