

**IN THE SUPREME COURT
OF THE STATE OF NEW MEXICO**

MICHELLE LUJAN GRISHAM in her official capacity
as Governor of New Mexico; HOWIE MORALES in his
official capacity as New Mexico Lieutenant Governor
and President of the New Mexico Senate; MIMI
STEWART, in her official capacity as President Pro
Tempore of the New Mexico Senate; and BRIAN
EGOLF, in his official capacity as Speaker of the New
Mexico House of Representatives,

Petitioners - Defendants,

v.

HONORABLE FRED VAN SOELEN, Respondent,

and

REPUBLICAN PARTY OF NEW MEXICO, DAVID
GALLEGOS, TIMOTHY JENNINGS, DINAH
VARGAS, MANUEL GONZALES, JR. BOBBY and
DEE ANN KIMBRO, and PEARL GARCIA,

Plaintiffs – Real Parties in Interest;

MAGGIE TOULOUSE OLIVER,

Defendant – Real Party in Interest.

S-1-SC-39481

No. _____
District Ct. No. D-506-CV-2022-00041

**VERIFIED PETITION FOR WRIT OF SUPERINTENDING CONTROL
AND REQUEST FOR STAY**

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Petitioners Michelle Lujan Grisham, Governor of New Mexico, Howie Morales, Lieutenant Governor of New Mexico (collectively, the Executive Defendants), Mimi Stewart, President Pro-Tempore of the New Mexico Senate, and Brian Egolf, Speaker of the New Mexico House of Representatives (collectively, the Legislative Defendants), pursuant to article VI, § 3 of the New Mexico Constitution and Rule 12-504 NMRA, petition this Court to exercise its power of superintending control to resolve the following controlling legal issues in this case:

(1) Whether Article II, Section 18 of the New Mexico Constitution provides a remedy for a claim of alleged partisan gerrymandering?

(2) Whether the issue of alleged partisan gerrymandering is a justiciable issue; and if such a claim is justiciable under the New Mexico Constitution, what standards should the district court apply in resolving that claim in this case?

Absent this Court's intervention and control, although the 2022 election cycle will proceed under the legislatively adopted plan, the State of New Mexico's redistricting and electoral processes, and those state actors charged with ensuring their execution and integrity, remain at risk of unnecessary confusion, challenge, and delay. For the same reasons, Petitioners also request the Court enter a stay of the trial court litigation until resolution of these issues.

I. JURISDICTION

1. The New Mexico Constitution grants the Supreme Court superintending control over all inferior courts. N.M. Const. art VI, § 3.¹ Under such grant, this Court has original jurisdiction to control the course of this redistricting litigation in the trial court. Given that writs may issue to correct any specie of error, Petitioners have also simultaneously filed a *Petition for Writ of Error*, pursuant to Rule 12-503 NMRA, before the Court of Appeals.²

2. Although traditionally and prudentially exercised in extraordinary or exceptional circumstances, *State ex rel. Schwartz v. Kennedy*, 1995-NMSC-069, ¶ 8, 120 N.M. 619, the Court's power of superintending control is "...unlimited, being bounded only by the exigencies which call for its exercise." *State v. Roy*, 1936-NMSC-048, ¶ 94, 40 N.M. 397 (internal quotation marks and citation omitted). Where appeal affords an inadequate remedy, superintending control prevents imposition of hardship, delay, or expense upon the parties and judicial system while

¹ N.M. Const. art. VI, § 3 ("The supreme court shall have original jurisdiction...and shall have a superintending control over all inferior courts; it shall also have power to issue ... all other writs necessary or proper for the complete exercise of its jurisdiction and to hear and determine the same.")

² **Important Disclosure:** Petitioners have filed a Petition for a Writ of Error under Rule 12-503 with the Court of Appeals seeking the same relief. While the question presented in both Petitions may ultimately require final resolution by this Court, Petitioners acknowledge the opportunity for additional appellate examination before final resolution of the significant legal questions presented herein.

settling questions of great public interest and importance “at the earliest moment.” *State ex rel. Townsend v. Court of Appeals*, 1967-NMSC-128, ¶ 10, 78 N.M. 71, 74. In these circumstances, the Court should not hesitate to provide prompt and final resolution through issuance of a writ of superintending control. *Griego v. Oliver*, 2013-NMSC-003, ¶ 12 (quoting *Schwartz*, 1995-NMSC-069, ¶ 9).

3. Additionally, where a case presents a purely legal issue of first impression without clear answers, on which this Court may offer guidance to provide certainty and uniformity in the application of the law, the Court has found it proper to exercise its long-standing power of superintending control. *See, e.g., State ex rel. Torrez v. Whitaker*, 2018-NMSC-005, ¶¶ 30–31.

4. The Court’s exercise of its broad power of superintending control in the instant matter is proper because intervention will further the interests of justice, correct manifest error in the lower court, avoid the irreparable injury of burdensome discovery upon the Legislative and Executive Defendants, and provide the plainest, speediest remedy in resolving a matter of substantial public interest. *See In re Extradition of Martinez*, 2001-NMSC-009, ¶ 12, 130 N.M. 144 (quoting *Albuquerque Gas & Elec. Co. v. Curtis*, 1939-NMSC-024, ¶¶ 10-15, 43 N.M. 234).

II. REAL PARTIES IN INTEREST

5. Petitioner-Defendants Governor Michelle Lujan Grisham, Lieutenant Governor Howie Morales, Mimi Stewart, President Pro-Tempore of the New Mexico Senate, and Brian Egolf, Speaker of the New Mexico House of Representatives are named in their official capacities and acting in discharge of their official duties.

6. Defendant New Mexico Secretary of State Maggie Toulouse Oliver is also named in her official capacity and acting in discharge of her official duties.

7. Respondents are Plaintiffs Republican Party of New Mexico, David Gallegos, Timothy Jennings, Dinah Vargas, Manuel Gonzales, Jr., Bobby And Dee Ann Kimbro, and Pearl Garcia.

8. Proposed Intervenors Larry Marker and the Board of County Commissioners of Lea County, New Mexico filed Motions to Intervene in the trial court. Both motions were denied by an order of the district court.

III. RECORDINGS REQUESTED

9. Petitioners assert that all available opinions, orders, transcripts, or other papers indicating the parties' position on the matter in question are contained in the record below. Additionally, the District Court's April 19, 2022 Letter Decision is

attached hereto as **Exhibit A**, and the District Court’s July 11, 2022 *Order Denying Legislative and Executive Defendants’ Motion to Dismiss* is attached as **Exhibit B**.

10. Further, as to comply fully with Rule 12-504(B)(2), Petitioners have attached a preliminary copy of their *Petition for Writ of Error*, to be filed in the Court of Appeals, *see Exhibit C*, and a copy of the *Petition for Writ of Certiorari* recently granted by the United States Supreme Court in *Moore v. Harper*, No. 21-1271, *see Exhibit D*, raising the issue of the independent state legislature doctrine under the federal Free Election Clause, being both necessary and appropriate to inform the Court of circumstances affecting the Petition herein.

IV. BACKGROUND AND PROCEDURAL HISTORY

11. On December 17, 2021, the Governor signed Senate Bill 1 (SB-1) into law, establishing new boundaries for New Mexico’s three congressional districts which the Legislature had adopted following a special legislative session devoted primarily to redistricting.³ Laws 2021 (2nd S.S.), Ch. 2, § 2.

12. Respondents-Plaintiffs filed suit on January 21, 2022, challenging the redrawn boundaries of the congressional districts,⁴ asking the district court to declare

³ This is the first occasion that the political process enacted a congressional redistricting plan since 1991. The legislature and executive were unable to reach a consensus on congressional redistricting after the 2000 and 2010 census, requiring the courts to enact districting plans for New Mexico congressional districts.

⁴ No districting plans involving the New Mexico House of Representatives or the New Mexico Senate are challenged.

that the boundaries of the congressional districts violate the Equal Protection Clause of the New Mexico Constitution and for the district court to impose its own, different boundaries. Plaintiffs' theory does not rely upon the established federal constitutional and statutory principles of equal populations ("one person, one vote") or that of protection of disadvantaged classes. Rather, Plaintiffs argue that their equal protection rights as Republicans under New Mexico's Constitution were violated when, by virtue of the new lines drawn for Congressional District 2 (CD-2), Plaintiffs were allegedly disadvantaged in their ability to elect one of their own.

13. Respondents-Plaintiffs also filed a *Motion for Preliminary Injunction*, seeking to set aside SB-1 and adopt an alternative congressional map for the 2022 election cycle.

14. Petitioners-Defendants opposed the injunction and filed on February 18, 2022, two motions to dismiss asserting that the New Mexico Constitution does not recognize a cause of action for political, or partisan, gerrymandering.

15. After full briefing by the parties and a hearing on both motions, the district court issued separate letter rulings denying both injunction and dismissal, as later followed by formal orders.⁵ *See, e.g.,* Ex. A & B.

⁵ With respect to the denial of Plaintiffs' *Motion for Preliminary Injunction*, the letter ruling made clear that "[t]o require a change this late in the game would bring a level of chaos to the process that is not in the public's or the candidate's interest." *See* Ex A, Letter Ruling on Preliminary Injunction at 1-2. Thus, the 2022 election will take place under the plan enacted into law.

16. In denying dismissal, the district court recognized that New Mexico’s Equal Protection Clause mirrors that of the Fourteenth Amendment of the U.S. Constitution, and under the interstitial approach, “New Mexico’s Constitution will only provide broader protections than the U.S. Constitution if the federal approach is unpersuasive because it is flawed or undeveloped.” Ex. B, ¶ 2.

17. The district court also noted, without deciding whether such constitutional grounds exist in New Mexico or the merits of Plaintiffs’ case, that *Rucho v. Common Cause*, 139 S. Ct. 2484 (2019), stopped short of foreclosing “possible court action at the state level where constitutional or statutory grounds may be available to address the issue.” Ex. B, ¶ 4.

18. Therefore, noting the North Carolina Supreme Court decision in *Harper v. Hall*, 2022-NCSC-17, 380 N.C. 317, 868 S.E.2d 499 (2022), the district court determined that Plaintiffs’ claim, that SB-1 is an unconstitutional political gerrymander diluting Republican votes in alleged violation of the traditional redistricting principles noted in *Maestas v. Hall*, 2012-NMSC-006, and the guidelines in the New Mexico Redistricting Act,⁶ states a plausible claim for relief. Ex. B, ¶¶ 6 & 8.

⁶ The district court’s Order acknowledged the Petitioners- Defendants’ position that *Maestas* and the Redistricting Act do not apply to redistricting maps adopted by the Legislature and signed by the Governor, because *Maestas* applies only to court-

19. Petitioners-Defendants now request this Court exercise control over the issues identified and rejected or avoided in the district court’s July 11, 2022 Order denying the Legislative Defendants’ and Executive Defendants’ Motions to Dismiss.⁷

V. ARGUMENT

A. Writ of Superintending Control is Necessary for Definitive, Constitutional Resolution of Issues of Great Public Importance

The twin issues of jurisdiction and justiciability were fully briefed and squarely rejected by the district court’s denial. *See* Ex. B, ¶¶ 3 & 5. In doing so, the district court put off answering the ultimate question of standards to another day, after the parties will have spent their own (and—as state officials—more accurately the public’s) resources and the court’s own time and resources litigating unprecedented claims that may not be viable. Therefore, in exercising its power of superintending control to decide a question of great public interest at the earliest possible stage in the litigation, this Court should determine (1) whether a claim exists under New Mexico’s Equal Protection Clause for partisan gerrymandering, and if

drawn maps, and the Redistricting Act requirements are not binding on the Legislature. Ex. B, ¶7.

⁷ In the district court’s prior Letter Ruling on Petitioners’ *Motion to Dismiss*, Ex. A at 2, it characterized the issue as an “undeveloped area of political gerrymandering as an equal protection claim,” however Petitioners’ request for interlocutory appeal, submitted with Respondent-Plaintiffs via a joint proposed order, was rejected by the district court.

so, (2) what standards are to guide a court in making that determination. Following New Mexico and persuasive federal precedent, Petitioners urge this Court to respect and preserve the fundamental doctrines of separation of powers and justiciability. Here, no clear, discernable standards appear in New Mexico’s Constitution to guide the judiciary or remove Plaintiffs’ claims from the reach of *Rucho*’s holding.

1. Bedrock Principles of Separation of Powers and the Political Question Doctrine Support Dismissal.

In answering the questions presented, however, this Court does not write upon a blank slate: the Court has taken great pains to caution courts from wading into what is “fundamentally a political dispute,” absent a complete failure of the co-equal branches of government:

[u]nfortunately, because of the inability of our sister branches of government to find a way to work together and address the most significant decennial legislation to affect the voting rights of the adult citizens of our State, the judiciary in New Mexico finds itself embroiled in this political thicket.

Maestas, 2012-NMSC-006, ¶ 27, 274 P.3d 66. Now, and for the first time since 1991, the political branches of government passed and enacted into law a congressional districting plan. Here, there was no failure or deadlock. The Legislature and the Executive accomplished their delegated tasks and have done so in unchallenged compliance with the federal constitutional standards of one-person, one-vote, and the federal statutory standards contained in the Voting Rights Act to protect minority rights from discriminatory treatment. The district court’s decision

to intervene in the political redistricting process at this stage, essentially trumping the will of New Mexico’s people and their elected representatives,⁸ jeopardizes the credibility of the judiciary itself.⁹

2. No Discernable, Justiciable Guidelines Exist to Remove Partisan Redistricting Claims from the Realm of Political Question.

Respondents-Plaintiffs claim partisan vote dilution under New Mexico’s Equal Protection Clause because *Rucho* forecloses the federal avenue. Under the interstitial approach cited by the district court, Ex. B at ¶2, the next step for this Court is to ascertain whether divergence from federal precedent is justified because of (1) a flawed federal analysis, (2) structural differences between state and federal government, or (3) distinctive state characteristics. *State v. Gomez*, 1997-NMSC-

⁸ See *Maestas*, 2012-NMSC-006, ¶ 32, 274 P.3d 66, 77 (“[The] Legislature is the voice of the people, and it would be unacceptable for courts to muzzle the voice of the people”); *Connor v. Finch*, 431 U.S. 407, 414–15 (1977) (“[A] state legislature is the institution that is by far the best situated to identify and then reconcile traditional state policies within the constitutionally mandated framework of substantial population equality.”); *Cockrell v. Bd. of Regents of New Mexico State Univ.*, 2002-NMSC-009, ¶ 13, 132 N.M. 156, 163, 45 P.3d 876, 883 (policy decisions of great public importance and relating to the “most fundamental political processes [are] particularly unsuited for judicial resolution as a matter of state constitutional law”) (internal quotations omitted).

⁹ Cf. *Montoya v. Ulibarri*, 2007-NMSC-035, ¶ 21, 142 N.M. 89, 96 (in interpreting the New Mexico Constitution, the judiciary is charged with protecting state sovereignty, and “[i]ntrinsic within state sovereignty is an interest protecting the credibility of the state judiciary.”); *Eturriaga v. Valdez*, 1989-NMSC-080, ¶ 17, 109 N.M. 205, 784 P.2d 24 (“It is not the province of this Court to invalidate substantive policy choices made by the legislature.”).

006, ¶ 19, 122 N.M. 777. Because Respondents-Plaintiffs have not asserted or raised structural differences or distinctive state characteristics, *i.e.* textual differences or the adoption of the Equal Rights Amendment, *see, e.g., New Mexico Right to Choose/NARAL v. Johnson*, 1999-NMSC-005, ¶ 29, 126 N.M. 788, Petitioners focus the Court’s attention on the federal analysis of equal protection claims of partisan gerrymandering.¹⁰ A close reading of *Rucho*’s rationale demonstrates and supports a similar, coextensive interpretation of New Mexico’s Equal Protection Clause and the conclusion that partisan redistricting remains a political question.

(i) *Federal Analysis of Partisan Gerrymandering Claims under Rucho is Sound and Persuasive.*

First, *Rucho* recognizes that “[p]olitics and political considerations are inseparable from districting and apportionment.” *Gaffney v. Cummings* 412 U.S. 735, 753 (1973); *see also Maestas*, 2012-NMSC-006, ¶ 27 (characterizing redistricting and apportionment as a “fundamentally political dispute”). Thus, absent the precision of the one-person, one-vote standard or the absolute bar on racial discrimination, the “central problem” for the judiciary becomes one of degree: how to reliably differentiate between constitutional political gerrymandering and when a

¹⁰ *See Morris v. Brandenburg*, 2015-NMCA-100, ¶23, 356 P.3d 564, 573, *aff’d*, *Morris v. Brandenburg*, 2016-NMSC-027 (where plaintiffs asked court to depart from federal precedent, plaintiffs failed to carry their initial burden in establishing greater protections under Article II, Section 18 of New Mexico Constitution).

redistricting map's partisan dominance is too far or too much. *Rucho*, 139 S. Ct. at 2497, 2499 (quoting *Vieth v. Jubelirer*, 541 U.S. 267, 296 (2004), and *League of United Latin American Citizens v. Perry*, 548 U.S. 399, 420 (2006)). *Rucho* follows Justice Kennedy's caution in *Vieth* against adopting standards which would not only invite but "commit federal and state courts to unprecedented intervention in the American political process." *Id.* at 2498 (quoting *Vieth*, 541 U.S. at 306).

Second, *Rucho* addresses Plaintiffs' implicit proportionality argument, wherein challengers declare a validly adopted redistricting map unconstitutional because it is more "difficult for one party to translate statewide support into seats in the legislature." *Id.* at 2499. Proportionality is a "norm that does not exist" in our electoral system, federal or state. *Id.* And the U.S. Supreme Court has dismissed this argument and its attendant unmanageable standards directly,¹¹ whether cloaked as "fairness" or otherwise. *Rucho*, 139 S. Ct. at 2499–2500.

Third, Plaintiffs, just as in *Rucho*, ask the Court to insert its own political judgment as to the amount of representation a particular political party deserves. No

¹¹ See *Davis v. Bandemer*, 478 U.S. 109, 159 (1986) (opinion of O'Connor, J.) ("Our cases, however, clearly foreclose any claim that the Constitution requires proportional representation or that legislatures in reapportioning must draw district lines to come as near as possible to allocating seats to the contending parties in proportion to what their anticipated statewide vote will be."). As Justice O'Connor put it, such claims are based on "a conviction that the greater the departure from proportionality, the more suspect an apportionment plan becomes." *Id.*

guidelines equip this Court to do so, nor do constitutional provisions grant such authority. Because “judicial action must be governed by standard, by rule,” and by “principled, rational, and based upon reasoned distinctions” grounded in the law, *Vieth*, 541 U.S. at 278, 279 (plurality opinion), Plaintiffs’ request for judicial review of partisan gerrymandering, without enunciating a workable standard, fails. Were this Court to engage in such an unprecedented and novel expansion of judicial power—not only into one of the most intensely partisan aspects of American political life, but also unlimited in scope and duration, repeating with each new census—it would flout the prior wisdom and judicial restraint espoused in *Eturriaga*, 1989-NMSC-080, ¶ 17, 109 N.M. 205 (advising where conflict arises between legislative and judicial branches, “[i]t is not the province of this Court to invalidate substantive policy choices made by the legislature.”).

(ii) *New Mexico has yet to Adopt Clear, Manageable Standards to Adjudicate Partisan Redistricting: Maestas and the Redistricting Act are Inapposite.*

Finally, in following the federal analysis of *Rucho*, specific provisions in state statutes or constitutions could provide Plaintiffs’ sought-after standards. Indeed, numerous other States have done so through legislative enactment or constitutional referendum.¹² But New Mexico has yet to join their ranks. The district court’s vague

¹² See *Rucho*, 139 S. Ct. at 2507 (“Provisions in state statutes and state constitutions can provide standards and guidance for state courts to apply.”); see also *id.* at 2507–

citation to “traditional redistricting principles” employed in court-drawn maps under *Maestas*, 2012-NMSC-006, ¶ 34, or by the independent Citizens Redistricting Committee under the Redistricting Act, NMSA 1978, § 1-3A-7(A), addresses the wrong audience. Ex. B, ¶ 6. The audience is the Legislature, elected by the people of this State; not the courts, as in *Maestas* (when the legislative process of enacting a map has failed), and not an appointed Committee which is not directly accountable to the people, and whose sole function is to make non-binding proposals to the Legislature. Therefore, in the absence of any specific Constitutional or statutory

08, noting the following states’ constitutional and statutory prohibitions against partisanship in redistricting:

- Florida’s Fair Districts Amendment to the Florida Constitution, Fla. Const., art. III, § 20(a) (“No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent.”);
- Mo. Const., art. III, § 3 (“Districts shall be designed in a manner that achieves both partisan fairness and, secondarily, competitiveness. ‘Partisan fairness’ means that parties shall be able to translate their popular support into legislative representation with approximately equal efficiency.”);
- Iowa Code §42.4(5) (2016) (“No district shall be drawn for the purpose of favoring a political party, incumbent legislator or member of Congress, or other person or group.”);
- Del. Code Ann., Tit. xxix, § 804 (2017) (providing that in determining district boundaries for the state legislature, no district shall “be created so as to unduly favor any person or political party”).

See also Ohio Const. art. XI, § 6(A) (“No general assembly district plan shall be drawn primarily to favor or disfavor a political party.”) and Article XIX, Section 1(C)(3)(a) (“The general assembly shall not pass a plan that unduly favors or disfavors a political party or its incumbents.”); *But see* *Rucho*, 139 S.Ct. at 2524, n.6 (Kagan, J, dissenting) (commenting that “state courts do not typically have more specific ‘standards and guidance’ to apply to electoral redistricting,” and noting that few states have constitutional provisions like Florida which expressly address political parties).

standards controlling the Legislature or precedent expanding the reach of New Mexico's Equal Protection Clause to partisan redistricting, Respondent-Plaintiffs' case must be dismissed as nonjusticiable for lack of jurisdiction and failure to state a claim.

B. A Stay is Warranted to Avoid Burden, Confusion, and Potential Mootness

For the same reasons that an exercise of superintending control is appropriate, to prevent confusion or conflicting decisions as to the justiciability of Respondents-Plaintiffs' claims prior to this Court providing definitive guidance, Petitioners respectfully ask that the Court order all proceedings stayed in Case No. D-506-CV-2022-00041 during the pendency of this Petition. Rule 12-504(D) NMRA. Petitioners will informally notify Respondents and Real Parties in Interest of this Petition at the time of filing and serve the Petition as soon as possible thereafter. Alternatively, Petitioners also request that the Court stay all litigation in the case below until the matter at issue in *Moore v. Harper* has been heard and decided before the U.S. Supreme Court. A stay is warranted for the following reasons:

(1) No Prejudice to Respondents-Plaintiffs Effectuated by Stay.

As the district court made clear in its Letter Ruling on the denial of Plaintiffs' Motion for Preliminary Injunction, the 2022 congressional election will proceed under the law passed during the last session of the legislature. *See also* Order Denying Preliminary Injunction dated July 11, 2022. As a result, the appellate courts

are relieved of the pressure and need for immediate resolution found in many redistricting cases. Here, there is sufficient time for careful and considered resolution of the issues, allowing for the most efficient and expeditious resolution of the case on the merits.

(2) Stay will Avoid Hardship and Burden Imposed upon Petitioners and Furthers Judicial Economy.

If Petitioners succeed in their challenge to the district court order, dismissal of Plaintiffs' claims obviates the need for a trial on the merits. Thus, the same concerns underlying judicial decisions to delay or forego burdensome discovery under qualified immunity challenges, *see, e.g., Doe v. Leach*, 1999-NMCA-117, ¶¶ 17 & 31, 128 N.M. 28 (granting writ of error and reversing district court decision subjecting immune governmental defendants to discovery), are present here, especially so where legislative immunity, as understood and enforced through the speech and debate clause, N.M. Const. art VI, § 13, renders many areas of inquiry inaccessible and prejudicial.

Second, even if the Respondents-Petitioners' claims are not dismissed, this Court would still be required to direct how the claim is to be litigated and what standards apply in the first instance. Thus, efficiency and concern for judicial economy requires final judicial resolution of the issues presented here *before*—not after—resolution of the merits and the trial discovery attendant to that resolution.

(3) Stay Extending Beyond Decision in *Moore v. Harper* Affords Certainty and Uniformity.

Good cause also exists to extend the Court's stay of the underlying litigation until the U.S. Supreme Court has issued its opinion on the closely related federal Free Election Clause issue, U.S. Const., art I, § 4, determining the powers of the state judiciary in overturning or overriding legislatively enacted congressional redistricting plans. *See Ex. D.* Should the U.S. Supreme Court adopt the independent legislature theory as applied to federal elections, such an outcome would obviate this Court's need to engage in Plaintiffs' express challenge to congressional redistricting maps and render potential, interim-issued opinions moot.

WHEREFORE, Petitioners, the Legislative and Executive Defendants, respectfully request that this Court:

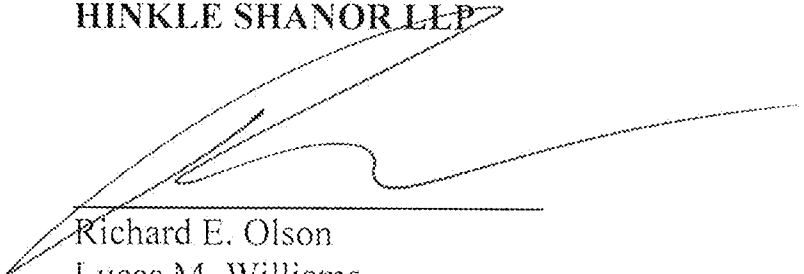
1. Grant their *Petition for Writ of Superintending Control* and order a hearing and supplemental briefing on the issue, as a matter of great public importance;
2. If it believes it necessary for the parties to present additional briefing to the Court, to issue a supplemental brief and oral argument schedule, including directive to any potential amici;
3. Issue a stay of proceedings in the district court pending decisions by this Court on the issues presented;
4. Reverse the district court and find that Plaintiffs have failed to state a claim for relief under New Mexico's equal protection clause for partisan

gerrymandering , or alternatively provide the district court with guidance as to what standards it should apply in resolving such a claim; and

5. For such other and further relief as the Court deems just and proper.

Respectfully submitted,

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VERIFICATION

I, Mimi Stewart, pursuant to 12-504 NMRA, state, under oath and subject to penalty of perjury under the laws of the State of New Mexico as follows:

1. My name is Mimi Stewart. I am one of the Petitioners in the Petition for Superintending Control to which this Verification is attached.
2. I have read the Petition. The statements contained in the Petition are true and correct to the best of my knowledge, information and belief.

This Verification is made under oath and subject to penalty of perjury under the laws of the State of New Mexico this 22 day of July, 2022.



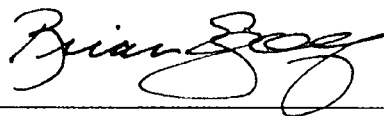
MIMI STEWART

VERIFICATION

I, Brian Egolf, pursuant to 12-504 NMRA, state, under oath and subject to penalty of perjury under the laws of the State of New Mexico as follows:

1. My name is Brian Egolf. I am one of the Petitioners in the Petition for Superintending Control to which this Verification is attached.
2. I have read the Petition. The statements contained in the Petition are true and correct to the best of my knowledge, information and belief.

This Verification is made under oath and subject to penalty of perjury under the laws of the State of New Mexico this 22 day of July, 2022.



BRIAN EGOLF

CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2022 I caused the foregoing Verified Petition along with this Certificate of Service, to be served and filed electronically through the Tyler Technologies Odyssey File & Serve electronic filing system, which caused all parties or counsel of record to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

Additionally, a copy was emailed to The Honorable Fred Van Soelen at cloddiv3criminalproposedtxt@nmcourts.gov, and mailed via Certified Return Receipt to:

The Honorable Fred Van Soelen
Curry County Courthouse
700 N. Main St., Suite 3
Clovis, NM 88101

Additionally, pursuant to Rule 12-504(E) a copy was served via Certified Return Receipt to:

The Office of the Attorney General
Litigation Division
Galisteo St.
Santa Fe, NM 87504

HINKLE SHANOR LLP

