

# **IN THE SUPREME COURT OF PENNSYLVANIA**

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**Docket No. 10 MM 2012**

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**IN RE: PETITION FOR REVIEW OF REDISTRICTING COMMISSION  
OBJECTION SUBMITTED BY ANDREW D. ALOSI;  
CONSTITUTIONALITY OF DIVISION OF MUNICIPALITIES IN  
SHIPPENSBURG AREA IN THREE LEGISLATIVE DISTRICTS.**

**RE: APPORTIONMENT MATTER**

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**PETITIONER'S BRIEF**

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## **TABLE OF AUTHORITIES**

### **PENNSYLVANIA SUPREME COURT**

#### **STATUTES**

**Article 2,§16**

**Article 2,§17**

#### **OTHER:**

### **REDISTRICTING COMMISSION**

**I. STATEMENT OF JURISDICTION**

The Supreme Court has jurisdiction based upon Article 2, §17(d) of the Pennsylvania Constitution. Any aggrieved person may file an appeal from the final plan directly to the Supreme Court within thirty days after the filing thereof.

**II. ORDER OR OTHER DETERMINATION IN QUESTION**

The determination in question is the Final Legislative Reapportionment Plan of the 2011 Legislative Redistricting Commission filed with the Secretary of the Commonwealth on December 12, 2011. Does the reapportionment in that plan violate Article 2, §16 of the Pennsylvania Constitution?

**III. STATEMENT OF SCOPE OF REVIEW AND STANDARD OF REVIEW**

The scope of the review is the division of Shippensburg Borough and Southampton Township Cumberland County and compliance or lack of compliance with Article 2, §16 of the Pennsylvania Constitution.

The standard of review is found in Article 2, §17(d) of the Pennsylvania Constitution which directs this Honorable Court to entertain appeals from any aggrieved person within thirty (30) days of the filing of the Final Plan. The Petitioner will demonstrate that the Final Plan violates Article 2, §16.

The Petitioner also presents to this Honorable Court evidence that the Redistricting Commission did not maintain record of Petitioner Objection presented along with his oral testimony in front of the Redistricting Commission the 18th day of November 2011 and adopted the Final Plan without considering it.

**IV. STATEMENT OF QUESTIONS INVOLVED**

1. Did the Redistricting Commission apply Article 2, §16 by dividing Shippensburg Borough into two house districts?

Suggested Answer: No

2. Did the Redistricting Commission apply Article 2, §16 by dividing Southampton Township, Cumberland County into two house districts?

Suggested Answer: No

3. Did the Redistricting Commission apply Article 2, §16 by not including Shippensburg Area School District within one house district?

Suggested Answer: No

4. Did the Redistricting Commission knowingly delay informing the Petitioner there was no record of submitted Objection on November 18th, 2011?

Suggested Answer: Yes

5. Did the Redistricting Commission utilize Petitioner submitted Objection on November 18th, 2011 for development of Final Reapportionment plan for Shippensburg House Districts?  
Suggested Answer: No

6. Did the Redistricting Commission have a copy of Petitioner submitted Objection when developing and discussing suggested amendments to the Final Reapportionment plan for Shippensburg House Districts?  
Suggested Answer: No

## **V. STATEMENT OF THE CASE**

On November 18th, 2011 Petitioner Andrew Dominick Alosi presented amended testimony to the Redistricting Commission and provided hard copy of entire Objection to all Commission members; as seen on video recording of proceedings posted on the Commission Web Site.

The Objection discusses Article 2,§16 and how it is not applied to Southampton Township Cumberland County and Shippensburg Borough; by both municipalities being divided into separate House Districts. Article 2,§16 states that no division should occur "...unless absolutely necessary." The Petitioner provides proof in his Objection that this division, although consistent with County boundaries, does not meet the burden of "...absolutely necessary." The Redistricting Commission neglected to take into account the special situation that Shippensburg is divided by a County boundary. Two wards, the Middle, and the East, are in Cumberland County, and the West Ward is in Franklin County. This situation should have given the Borough special attention as outlined in Petitioner's Objection provided to the Commission on November 18th, 2011. Because there is one precinct within the Franklin County boundary, the Commission could have easily resolved this issue by adding the Shippensburg West Ward to the 86th Legislative District. This would have allowed the municipality to remain in one district while the population deviation would comply with the Commissions agreed upon +/- 2.99% population deviation.

Redistricting Commission neglected to take into account the division of Southampton Township, Cumberland County by including one voting precinct in one legislative district with a geographical boundary to the south that separates it from the other two voting precincts of the township. Division of this Township between two house districts displays the propensity of the Redistricting Commission to further deviate from Article 2,§16. Furthermore, the Commission increases the number of County Boundaries by dividing the Shippensburg area into three separate house districts. Not one of the Southampton Township voting precincts, or the Shippensburg Borough's Middle, and East Wards are represented by any legislator whose predominate population center is located in Cumberland County. One is in Franklin County, one in Perry County, and the third in Adams County.

The information that was included in Petitioner Objection was not taken into consideration by the Commission because it did not retain a copy of the Objection. On Wednesday, January 11th at 11:43AM, Petitioner Andrew Dominick Alosi received a call from the Redistricting Commission staff Barbara Janecko stating in brief 'we are wondering if you could send us a copy of your remarks that you turned in, we have looked everywhere and don't seem to have a copy, in the craziness of the day, they must have been misplaced.' Petitioner did ask Ms. Janecko to send him an email to remind him she needed a copy. She sent an email to Petitioner at 1:27pm. Petitioner responded at 1:40PM asking again to clarify the Commission did not have a copy of the Objection. Ms. Janecko replied at 1:53PM stating "Yes, that's correct. The Commission does not have a copy of the testimony you presented on Nov 18." The Petitioner promptly emailed a word document copy of the full Objection to Ms. Janecko. By the fact that the Redistricting Commission did not have a copy of the testimony Petitioner presented, probable cause is given the Commission did not take into consideration the testimony presented on November 18th by

the Petitioner prior to adoption of the Final Reapportionment Plan for the House Districts in the Shippensburg area.

Upon discovering this information, the Petitioner immediately contacted the only dissenting member of the Commission, Senator Jay Costa in order to request assistance in formulating a challenge to the Final Plan. The Petitioner recognized at this point, there was just over three hours to prepare and deliver a Petition to the Supreme Court of Pennsylvania. Senator Costas office referred Petitioner to Mark McKillo; a PA Senate employee who informed Petitioner that they could not assist due to “logistics and time constraints.” The Petitioner then quickly amended the original Objection presented to the Commission and hand delivered it to the Supreme Court of Pennsylvania to serve as his Petition.

Had Petitioner been notified by the Redistricting Commission weeks or days earlier the Petitioner would have acquired counsel to represent him and provide accurate and proper legal presentation of arguments. The decision to submit an appeal was based on the facts presented to Petitioner on the 11<sup>th</sup> day of January, 2012 that the Redistricting Commission did not have record of his testimony.

## **VI. SUMMARY OF THE ARGUMENT**

The Redistricting Commission violated Article 2,§16 by not keeping the voting precincts in the Shippensburg area intact and within one legislative district. Though the fact that the borough straddles two counties makes it impossible to place the borough in a legislative district that is entirely within one county. It is not impossible to keep the entire Shippensburg area within one legislative district with only a slight overlap into two counties which is not stated clearly in State Law.

In addition, the Redistricting Commission did not consider the Petitioner’s live testimony and his written Objection when deciding upon the Final Plan because they did not have it. His Objection contained alternatives that made it possible to keep the Shippensburg Borough and Southampton Township, Cumberland County within one legislative district.

## **VII. LEGAL ARGUMENT**

1. If ever a case screamed out for justice, this is one. The decision of the Redistricting Commission to neglect until the last possible moment to notify the petitioner is easily interpreted as intentional to not allow appropriate time to prepare a legally prepared Petition to the Court by the deadline. The burden of proof is on the Redistricting Commission to prove otherwise.
2. The Redistricting Commission violated Article2,§17(c) by not taking into consideration the prepared Objection by the Petitioner in preparation of a final Reapportionment plan due to the Redistricting Commission not having on record the Objection that was submitted on the 18<sup>th</sup> day of November 2011.
3. The Redistricting Commission did show propensity to violate Article 2,§16 by needlessly

dividing two municipalities in developing a final redistricting of the Shippensburg area.

4. The Petitioner is requesting the Court rule the redistricting of Shippensburg Borough and Southampton Township, Cumberland County as unconstitutional under Article 2, §16 and order the Commission to prepare and present a plan that does follow the PA constitution.

## CONCLUSION

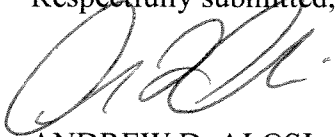
The Redistricting Commission sliced and diced the Shippensburg area in three parts. It violated the admonition within Article 2, §16, "Unless absolutely necessary no county, city, incorporated town, borough, township or ward shall be divided in forming either a senatorial or representative district." The fact that Shippensburg area was divided into three parts clearly demonstrates that the Redistricting Commission was not following the guidance provided in the Pennsylvania Constitution.

Furthermore, the burden of proof is on the Redistricting Commission to prove otherwise that it did not intentionally neglect to misplace a formal Objection by the petitioner. In addition, the burden of proof is on the Redistricting Commission to prove otherwise that it did not intentionally notify the Petitioner at such a late time as to hinder the ability to prepare and present an entire and legally prepared Petition to the Court.

After receiving a Docket from the Supreme Court of Pennsylvania, the Redistricting Commission moved to order to dismiss based on Petition not following proper appellate procedure. It is logistically impossible for a Petitioner who is not under the advisement of Legal Council to accurately prepare a Petition that follows proper appellate procedure within the time constraint of 2 hours, 6 minutes, and 19 seconds.

Additionally, it was required the Consolidated Answer/No Answer was due by 11:00AM on Thursday January 12, 2012. It was not provided in entirety to the Petitioner until 7:32PM on Thursday January 12, 2012..

Respectfully submitted,



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**PROOF OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Petitioner's Brief for Docket 10MM2012 was served upon the following persons this 13<sup>th</sup> day of January, 2012, in the manner described below:

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