



Here's the Fun You Missed Outside Tuesday's Supreme Court Redistricting Hearing

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Almost a year to the day after the U.S. Supreme Court heard oral arguments in *Benisek v. Lamone*, the justices were back at it Tuesday, listening for over an hour as two groups of plaintiffs – including one from Maryland – tried to make the case that they were victims of brazen, unconstitutional gerrymandering.

Outside the court, a spirited rally sought to boost public support for reform, as speaker after speaker tried to connect the dots between the wonky-seeming issue of redistricting and more easy-to-digest concerns like immigration, the deficit and the nation's crumbling infrastructure.

Serving as a backdrop for the rally on the Supreme Court steps were some of the same cardboard cutouts of contorted and decidedly not contiguous districts that reform advocates used last March, along with some new ones.

They were red (to represent a North Carolina lawsuit) and blue (representing Maryland), and volunteers held them aloft.

NC-9!

MD-3!

NC-11!

And this year, advocates were able to add some star power to the mix.

Arnold Schwarzenegger, the 71-year-old (but doesn't look it) actor and former California governor showed up to speak on behalf of redistricting reform.

Inevitably, he declared, "We must terminate gerrymandering!" to great whoops from the crowd.

It was not the only reference to "The Terminator" movie franchise that helps keep Schwarzenegger, all these years after his improbable debut, a box office moneymaker and a household name.

He went on to call gerrymandering "a national disgrace [and] a national scandal."

Schwarzenegger and Maryland Gov. Lawrence J. Hogan Jr. (R) filed an amicus brief in *Benisek*, urging the justices to find for the plaintiffs in their challenge to the 6th District boundaries, which State House Democrats redrew to their advantage in 2011 to take out long-serving Rep. Roscoe G. Bartlett (R).

“This is not a fight between the right and the left,” Hogan told the crowd. “This is a fight between right and wrong. This is a fight for our democracy.”

The governor told the crowd that he has repeatedly urged the Maryland General Assembly to follow California’s lead and shift the power to draw congressional districts to an “independent” commission. Although the legislative session is winding down, lawmakers seem intent on letting the measure die without a vote, as they have in the past.

Anne Riley, a resident of Riderwood Village in Silver Spring, stood in the back of the crowd with a homemade sign that said, “gerrymandering is unfair,” with a frowny face drawn in for good measure.

“I’ve been concerned about it since I learned about it in middle school,” she said. “I think it’s unfair and I’m gonna fight like crazy.”

Last year redistricting reform advocates had their hopes aroused when the Supreme Court took up two redistricting cases — one from Maryland, the other from Wisconsin — only to be disappointed when the justices punted the issue back to lower courts on technical grounds.

The court sought two more bites at the apple this year, again agreeing to hear the Maryland case and pairing it with one from GOP-controlled North Carolina. (Observers believe the high court intentionally links a red-state case with a blue-state case to appear more neutral.)

With the 2020 Census looming, to be followed by congressional and legislative line-drawing in all 50 states, gerrymandering critics are again eager for the justices to establish guardrails to prevent against the worst abuses.

Asked if she expects a more substantive ruling this time, Riley said, “I guess I wouldn’t be here if I wasn’t optimistic, but certainly it’s going to be a tough uphill ride.”

The proposal that Maryland should join a multi-state compact committed to fair and balanced boundaries, a concept floated by some Democrats and editorial writers, is “baloney,” Riley said. Hogan is also not a fan.

While contorted, oddly-shaped districts abound and are easy to spot (and Maryland has more than its share), the courts for decades have failed to craft a fix.

Walter Olson, the co-chair of the Maryland Redistricting Commission, said there is a numerical test that can be applied to congressional districts, and another that involves squares and circles.

But he refused to play the prediction game.

“There are some Supreme Court areas where you can tell what they’re going to do. This is not one of the easy ones,” said Olson, who wore a Maryland-flag inspired scarf to the rally.

“I don’t make predictions in close cases anymore,” he added, with a laugh.

After the hearing, Schwarzenegger and Hogan spoke to the media again. This time there were dozens of cameras outside the Supreme Court and the two men repeated much of what they had said at the rally.

Hogan's security detail appeared startled when Nina Totenberg of NPR, a fixture at the court, bulldozed past the governor's executive protection and stood in what can only be described as Schwarzenegger's personal space.

The two men continued undeterred. Totenberg seemed oblivious to the tense gaze and staff whispering spawned by her actions.

In an interview with Maryland Matters, Hogan said he's hopeful the justices find for the plaintiffs.

"In our case there seemed to be a wider — almost twice as many — [justices] that seemed to be interested in the argument that we were making, so I'm hopeful. But they have a tough decision to make."

Rep. Andrew P. Harris (R-Md.), in an interview after the rally, was even more cautious.

"This is a difficult decision for the Supreme Court because hard and fast rules can be very difficult" to apply, he said. "They may well decide that the Constitution gives the authority to effect gerrymandering and the selection of districts to state legislatures."

Maryland's "emergency" commission on redistricting has just concluded a public comment period on a map drawn to comply with last year's federal court order declaring the 6th District contours unconstitutional. If approved, as expected, the map could be used once, in 2020, depending on what, if anything, the Supreme Court decides. The General Assembly is unlikely to take any action on the proposal unless a court orders it to do so.