

The Washington Post

Maryland gerrymandering commission meets as case goes to Supreme Court

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January 4, 2018

A nonpartisan commission created to redraw the boundaries of Maryland's 6th Congressional District — deemed by federal judges to have been gerrymandered by Democrats to the point of unconstitutionality — met Friday to consider how to redesign a district that stretches from conservative Western Maryland to liberal Montgomery County.

But on the same day, the U.S. Supreme Court agreed to hear a challenge to the gerrymander ruling from Maryland Attorney General Brian E. Frosh, a Democrat who has argued that the map should not be redrawn.

While the Supreme Court has set arguments in the Maryland gerrymander case for March, Walter Olson, one of the commission's two co-chairs, said his group will proceed with redrawing the map.

"I would be surprised if it changed the timing of our work much," said Olson, a Republican and senior fellow at the Cato Institute's Center for Constitutional Studies.

Frosh's appeal to the Supreme Court conflicted with Gov. Larry Hogan (R), who followed the lower court's direction and created the nine-member Emergency Commission on Sixth Congressional District Gerrymandering in late November.

"We fully expect that the Supreme Court will uphold the unanimous decision by the federal court that Maryland's congressional map is unconstitutionally gerrymandered and deprives voters of one of their most basic civil liberties," Hogan spokeswoman Amelia Chasse said.

Frosh's office released a statement saying that a "Supreme Court review is needed to provide guidance to the legislature in future redistricting."

In November, a three-judge panel at the U.S. Court of Appeals for the 4th Circuit ruled that Maryland must redraw the 6th District before the 2020 election.

That district was redrawn in 2011, when Democratic mapmakers moved hundreds of thousands of conservative voters from Western Maryland out of the 6th District and added Democrats from Montgomery.

The seat had been held by Rep. Roscoe Bartlett, a Republican, since 1993. But after Democrats redrew its boundaries, Bartlett lost to Democrat John Delaney in 2012. Delaney won reelection twice. His Democratic successor, Rep. David Trone, won the seat in November.

A group of Republican voters filed suit in 2013, arguing that the new district boundaries were drawn to intentionally exclude them, violating their First Amendment right to political association.

Friday's inaugural meeting of the commission in Annapolis was largely housekeeping for the new body. Three of the members were appointed by Hogan, with the rest chosen after a public application process. Three are Republicans, three Democrats, and the remaining three are unaffiliated with a political party.

Chris Mincher, deputy legal counsel for Hogan, walked the commission through the lower court's 59-page legal opinion, issued Nov. 7, the day after the general election.

The commission was instructed to draw new boundaries without considering party registration of voters, or how citizens voted in the past. Hogan's executive order added another restriction — the commission is not to consider where an officeholder or potential candidate lives.

The commission will hear public comment on the map it produces and hold public hearings — the first scheduled for Jan. 14 in Frederick County. The state also plans a website that will include a tool the public can use to create its own maps and submit them to the commission for consideration.

Each of Maryland's eight congressional districts must include about 721,000 residents — the population of the state from 2010 Census data divided by eight, subtracting incarcerated inmates, who under Maryland law are counted as residents of their previous addresses.

Although the judges ruled that the state had to approve a new map by March 7, that decision was stayed while Frosh appealed to the Supreme Court.

Mincher said the commission must approve a final certified map by April 2, along with a report explaining the reasoning behind the new lines. Hogan's office will submit the map to the General Assembly as emergency legislation, Mincher said.

Olson said he doubted the Supreme Court's decision to consider the Maryland case will interfere with the commission's redesign of boundaries for the 6th District.

"I doubt the Supreme Court would resolve these issues before the point we were supposed to be finished with our work anyway," he said.