

Prince George's County,
Petitioner

IN THE
COURT OF APPEALS OF
MARYLAND

Petition Docket No. 405,
September Term, 2021

v.

COA-PET-0405-2021

Robert E. Thurston, et al.,
Respondent

CSA-REG-1865-2021
Circuit Court No. CAL22-01728

**EMERGENCY MOTION FOR EXPEDITED CONSIDERATION
AND RELIEF OF THE PETITION FOR A WRIT OF
CERTIORARI**

Petitioner, Prince George's County, hereby moves, pursuant to Md. Rules 8-431 and 8-432, for expedited consideration of the petition for writ of certiorari to review the judgment of the Circuit Court for Prince George's County, and for an emergency order for expedited relief as follows:

1. Petitioner submits that the facts and circumstance of this case warrant an emergency and emergency order from this Court before the time for a response from Respondents because the filing deadline to declare candidacy for the 2022 Councilmanic election **is in 2-weeks**. Md. Rule 8-431(f), Md. Rule 8-432 (a).

2. Respondents filed an (Emergency) Verified Complaint for Declaratory Judgment and Injunctive Relief in Circuit Court for Prince George's County on January 24, 2022. The *emergency* complaint was filed *sixty-nine days after* the County Council adopted its 2021 decennial Redistrict Plan and *after* the Plan was transmitted to the Board of Elections (BOE) for further administrative action.

3. Four days after the emergency complaint was filed, circuit court held a full hearing on the face of the complaint on Friday, January 28—where the County argued, among other things, that the complaint was **9 years, 2 months, and 22 days late**. D76. The weekend passed. On Monday, January 31, circuit court issued its Order of Court and Order of Declaratory Judgment—invalidating Council's Plan along with a permanent injunction and mandate to transmit the proposed plan of the Commission to the BOE for implementation—22-days to the election filing deadline.

4. On Tuesday, February 1, the County *immediately* appealed. An expedited transcript of the proceeding was ordered and delivered at 3:27 pm on Wednesday, January 2. The petition for writ of certiorari was e-filed at 12:50 am on February 7 and 7-hard copies were hand-delivered to the Court hours later.

5. Expedited relief and emergency order from this Court is warranted because of the indisputable importance and urgency to resolve the question of first impression presented in the petition for writ of certiorari.¹

6. Delay would inflict further injury to the County and more importantly, its electorate. The public has a significant interest in the expeditious consideration of the question of first impression presented in the petition for writ of certiorari to secure the safety and soundness of our democratic processes and institutions—such as questions ratified at the ballot box 10 years ago—even if some disagree—such give and take is what democracy is all about.

7. Respondents have voiced their position on this motion through counsel.² Respondents' counsel Timothy F. Maloney, Esquire, agrees

¹ Expedited relief and emergency order stems from the lower court's unexpected and conclusory treatment of this case. Judge Snoddy told the parties: "I'm telling you that because election cases get advanced for appeals [sic] purposes we can resolve it today one way or the other, *and you all can go wherever you need to go to get a determination if someone doesn't agree with what I do here today.*" D58-59 (Emphasis added). It is fair to say Judge Snoddy *knew* the County would have a long way to go but a short time to get to this Court to restore the *status quo*.

² The Court may rule on the County's emergency motion without waiting on a response from Respondents because for purposes of this emergency motion for expedited relief and emergency order, Respondents have provided their response. *See* Exhibit 1.

that the Court should rule expeditiously and prior to the February 22 deadline—but believes oral argument is unnecessary and the Court should grant summary affirmance of circuit court. Exhibit 1. But the people of Prince George’s County deserve more than a “summary affirmance” of the lower court’s rejection of their voices from 10-years ago on Ballot Question A—when they *saw fit, in their wisdom, to amend their Constitution to require* County lawmakers to adopt redistricting law by *resolution*.

8. The people of Prince George’s County deserve (at *least*) **one (1) measured** day of argument in *their* Supreme Court before they are told to carry on—because securing the safety and soundness of our democratic processes and institutions shouldn’t be summarily decided.

9. Because of the declarations and injunction entered by circuit court, expedited relief and emergency order is therefore imperative—because the filing deadline to declare candidacy for the 2022 Councilmanic election **is in 2-weeks**.

WHEREFORE, the County respectfully requests emergency expedited relief and emergency order as follows:

A. Grant the County’s petition for writ of certiorari and direct further proceedings in this Court pursuant to Rule 8-303(f)(1), including

advancing the case to oral argument in similar fashion as it did in *Harford County v. Board of Supervisors*, 274 Md. 33, 321 A.2d 151 (1974);

B. Stay the enforcement or execution of the judgment of the circuit court and restore the *status quo*;

C. Vacate or reverse the judgment of the circuit court pursuant to Rule 8-303(f)(4) in so far as that judgment has invalidated CR-123-2021 and enjoined the County and/or County Council or any other agency from acting upon and/or implementing its 2021 decennial Redistricting Plan as approved in CR-123-2021; or

D. An appropriate combination of the above.

Respectfully submitted,

/ s / Rajesh A. Kumar

Rajesh A. Kumar — 9806230294
Principal Counsel
Wayne K. Curry Admin. Bldg.
1301 McCormick Drive, Suite 3-126
Largo, Maryland 20774
301.952.3921 voice
301.952.4862 facsimile
rakumar@co.pg.md.us

/s/ Rosalyn E. Pugh

Rosalyn E. Pugh, Esquire
Attorney No. 8312010375
The Pugh Law Group, LLC
1401 Mercantile Lane
Suite 211
Upper Marlboro, Maryland 20774
301.772.0006 voice
rpugh@pughlawgroup.com

Attorneys for Petitioner

POINTS AND AUTHORITIES

1. *Harford County v. Board of Supervisors*, 274 Md. 33, 321 A.2d 151 (1974).
2. Md. Rule 8-303
3. Md. Rule 8-431.
4. Md. Rule 8-432.

RULE 1-351 CERTIFICATION

I HEREBY CERTIFY, in accordance with Md. Rule 8-431(f), all parties who will be affected by the relief requested herein have been given notice of the time and place of presentation of this motion or application to the Court or specified efforts commensurate with the circumstances have been made to give notice. *See Exhibit 1.*

/s/ Rajesh A. Kumar

Rajesh A. Kumar — 9806230294

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 8, 2022, a copy of the foregoing Motion and Proposed Order was filed and served electronically through the MDEC System and by first-class mail, postage prepaid, upon upon Matthew G. Sawyer, Esquire, The Law Offices of Matthew G. Sawyer, LLC, 30 Courthouse Square, Suite 100, Rockville, Maryland 20850 and Timothy F. Maloney, Esquire, Joseph Greenwald & Laake, PA, 6404 Ivy Lane, Suite 400, Greenbelt, Maryland 20770.

/s/ Rajesh A. Kumar
Rajesh A. Kumar — 9806230294

EXHIBIT 1

From: [Timothy Maloney](#)
To: [Kumar, Rajesh A.](#)
Cc: [Samuel P. Morse](#); matthew@msawyerlaw.com; matthew@msawyerlaw.com; [Timothy Maloney](#); [Kathleen L. Ridgley](#)
Subject: redistricting
Date: Monday, February 7, 2022 4:01:14 PM

CAUTION: This email originated from an external email domain which carries the additional risk that it may be a phishing email and/or contain malware.

Raj

We believe the court should rule expeditiously and prior to February 22 deadline--but we also believe oral argument is unnecessary and will be requesting the court grant summary affirmance under Md. Rule 8-303(f)(3).

Tim

TIMOTHY F. MALONEY, ESQ
JOSEPH GREENWALD & LAAKE, PA

tmaloney@jgllaw.com | OFFICE: 301.220.2200 | eFax: 240.553.1737

Greenbelt Office – Mailing Address

6404 Ivy Lane, Suite 400, Greenbelt, Maryland 20770

T: 301.220.2200 | F: 301.220.1214 | www.jgllaw.com

Rockville Office

111 Rockville Pike, Suite 975, Rockville, Maryland 20850

T: 240.399.7900 | F: 240.399.7901 | www.jgllaw.com

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PROPOSED EMERGENCY ORDER

Upon consideration of the Emergency Motion for Expedited Consideration and Relief of the Petition for Writ of Certiorari, it is this ___ day of February, 2022 ORDERED, by the Court of Appeals of Maryland, that the Petition be, and it is hereby GRANTED, and it is further

ORDERED, that the Clerk of this Court shall schedule further proceedings in this Court pursuant to Rule 8-303(f)(1), including advancing the case to oral argument, and it is further

ORDERED, that the enforcement or execution of the judgment of the circuit court is STAYED to restore the status quo; and it is further

ORDERED, that the judgment of the circuit court is VACATED or REVERSED in so far as that judgment has invalidated CR-123-2021 and enjoined the County and/or County Council or any other agency from acting upon and/or implementing its 2021 decennial Redistricting Plan as approved in CR-123-2021.

Judge