

The Honorable Robert S. Lasnik
The Honorable David G. Estudillo
The Honorable Lawrence Van Dyke

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

BENANCIO GARCIA, III,

Plaintiff,

v.

STEVEN HOBBS, in his official capacity
as Secretary of State of Washington, and
the STATE OF WASHINGTON,

Defendants.

NO. 3:22-cv-05152-RSL-DGE-LCJV

DEFENDANT STATE OF
WASHINGTON'S ANSWER TO
AMENDED COMPLAINT

Defendant State of Washington (the State) hereby answers Plaintiff's Amended Complaint (Dkt. # 14) as follows. The State reserves the right to amend this pleading as permitted by the Court's rules and orders and Federal Rule of Civil Procedure 15.

The State admits only the prefatory, unnumbered paragraph accurately quotes *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 511 (2006) (Roberts, C.J., concurring in part, concurring in the judgment in part, and dissenting in part), to which no further response is required.

I. INTRODUCTION

1. This paragraph states legal conclusions and argument to which no response is required. To the extent a further response is required, the State admits that Plaintiff alleges that Washington State Legislative District 15 in the Yakima Valley violates the Equal Protection

1 Clause of the Fourteenth Amendment of the United States Constitution, but specifically denies
2 that Plaintiff's claim has any merit.

3 2. The State admits that as part of the 2021 redistricting process, the Washington
4 State Redistricting Commission approved, and the Washington State Legislature amended and
5 ratified, a plan for the redistricting of state legislative districts. The State is without information
6 sufficient to form a belief as to the truth of the remaining allegations in this paragraph and
7 therefore denies them.

8 3. This paragraph states legal conclusions and argument to which no response is
9 required. To the extent a further response is required, the State admits only that paragraph
10 accurately quotes *Abbott v. Perez*, 138 S. Ct. 2305 (2018), which speaks for itself.

11 4. This paragraph states legal conclusions and argument to which no response is
12 required. To the extent a response is required, the State admits only that Legislative District 15
13 crosses five county lines and bisects two of the largest cities in Central and Eastern Washington
14 and that some Commissioners expressed support for a majority-Latino Citizen Voting Age
15 Population (CVAP) legislative district as an element of the Redistricting Plan. The State denies
16 that the Legislative District "flies in the face of traditional districting principles (as well as
17 Washington state constitutional and statutory requirements)." The State is without information
18 sufficient to form a belief as to the truth of the remaining allegations in this paragraph and
19 therefore denies them.

20 5. This paragraph states legal conclusions and argument to which no response is
21 required. To the extent a further response is required, the State admits only that paragraph
22 accurately quotes *Cooper v. Harris*, 137 S. Ct. 1455 (2017), which speaks for itself.

23 6. This paragraph states legal conclusions and argument to which no response is
24 required. To the extent a further response is required, the State admits only that the paragraph
25 accurately quotes *Cooper v. Harris*, 137 S. Ct. 1455 (2017), which speaks for itself, and denies
26 the remaining allegations in this paragraph.

1 Legislative District 15 is comprised of voters from two or more counties. The remainder of this
2 paragraph states legal conclusions and argument to which no response is required. To the extent
3 a response is required, the referenced provisions of the Revised Code of Washington speak for
4 themselves.

5 13. The State admits that this Court’s Order of Joinder required Plaintiff to join the
6 State as a Defendant. The remainder of this paragraph consists of legal conclusion and argument
7 to which no response is required. To the extent a further response is required, the State admits
8 the allegations in this paragraph.

9 **III. JURISDICTION AND VENUE**

10 14. This paragraph states legal conclusions and argument to which no response is
11 required. To the extent a further response is required, the State admits that this Court has
12 jurisdiction over the federal law claims in this matter but denies that all necessary parties have
13 been joined. The State denies that Plaintiff is entitled to any “declaratory relief pursuant to
14 28 U.S.C. §§ 2201 [or] 2202” or “costs [or] attorneys’ fees pursuant to 42 U.S.C. § 1988 [or]
15 52 U.S.C. § 10310(e).”

16 15. This paragraph is a request for a three-judge court, to which no response is
17 required. To the extent a further response is required, 28 U.S.C. § 2284 and Plaintiff’s Amended
18 Complaint speak for themselves.

19 16. The State admits that the State of Washington is a state of the United States of
20 America and that Secretary Hobbs is a state official who resides in Washington and performs his
21 official duties in Olympia, Washington. The remainder of this paragraph consists of legal
22 conclusions and argument to which no response is required. To the extent a further response is
23 required, the State admits these allegations.

24 17. This paragraph states legal conclusions and argument to which no response is
25 required. To the extent a further response is required, the State admits only that Secretary Hobbs
26

1 is a state official performing his official duties in the Western District of Washington and that
2 venue is proper in this judicial district.

3 **IV. FACTS**

4 **A. Washington State Redistricting**

5 18. This paragraph states legal conclusions and argument to which no response is
6 required. To the extent a further response is required, the State admits only that the paragraph
7 accurately quotes a portion of the Washington State Constitution, which speaks for itself.

8 19. The State admits that the Commission was composed of five members, four of
9 whom were voting members, who selected a fifth, non-voting member to serve as the
10 Commission's chair. The remaining allegations in this paragraph state legal conclusions to which
11 no response is required. To the extent a further response is required, the State admits only that
12 the paragraph accurately quotes a portion of the Washington State Constitution, which speaks
13 for itself.

14 20. This paragraph states legal conclusions and argument to which no response is
15 required. To the extent a further response is required, the State admits only that the paragraph
16 accurately quotes a portion of the Washington State Constitution, which speaks for itself.

17 21. This paragraph states legal conclusions and argument to which no response is
18 required. To the extent a further response is required, the State admits only that the paragraph
19 accurately quotes a portion of the Revised Code of Washington, which speaks for itself.

20 22. This paragraph states legal conclusions to which no response is required. To the
21 extent a further response is required, the State admits only that the paragraph accurately quotes
22 a portion of the Washington State Constitution, which speaks for itself.

23 23. This paragraph states legal conclusions to which no response is required. To the
24 extent a further response is required, the State admits only that the paragraph accurately quotes
25 a portion of the Washington State Constitution, which speaks for itself.
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1 24. This paragraph states legal conclusions to which no response is required. To the
2 extent a further response is required, the State admits only that the paragraph accurately quotes
3 a portion of the Revised Code of Washington, which speaks for itself.

4 25. This paragraph states legal conclusions to which no response is required. To the
5 extent a further response is required, the State admits only that the paragraph accurately quotes
6 a portion of the Revised Code of Washington, which speaks for itself.

7 26. This paragraph states legal conclusions to which no response is required. To the
8 extent a further response is required, the State admits only that the paragraph accurately quotes
9 a portion of the Revised Code of Washington, which speaks for itself.

10 27. This paragraph states legal conclusions to which no response is required. To the
11 extent a further response is required, the State admits only that the paragraph accurately quotes
12 a portion of the Revised Code of Washington, which speaks for itself.

13 **B. The History of Legislative District 15**

14 28. The State admits that from 1931 to 1982 and from 2002 to 2021, Legislative
15 District 15 contained a portion of Yakima County, and that from 1982 to 2001, it contained a
16 portion of Yakima County as well as portions of neighboring counties but never Othello or
17 Pasco. The State denies any remaining allegations in this paragraph.

18 29. The State admits that this paragraph includes an accurate representation of the
19 1931–1957 district map in STATE OF WASH., MEMBERS OF THE LEGISLATURE
20 1889–2019 (2019). The State further admits that the section of the image designated as
21 Legislative District 15 contains only a portion of Yakima County.

22 30. The State admits that this paragraph includes an accurate representation of the
23 1957–1965 district map in STATE OF WASH., MEMBERS OF THE LEGISLATURE
24 1889–2019 (2019). The State further admits that the section of the image designated as
25 Legislative District 15 contains only a portion of Yakima County.
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1 31. The State admits that this paragraph includes an accurate representation of a
2 portion of the 1965–1972 district map in STATE OF WASH., MEMBERS OF THE
3 LEGISLATURE 1889–2019 (2019). The State further admits that the section of the image
4 designated as Legislative District 15 contains only a portion of Yakima County.

5 32. The State admits that this paragraph includes an accurate representation of a
6 portion of the 1972–1981 district map in STATE OF WASH., MEMBERS OF THE
7 LEGISLATURE 1889–2019 (2019). The State further admits that the section of the image
8 designated as Legislative District 15 contains only a portion of Yakima County.

9 33. The State admits that this paragraph includes an accurate representation of a
10 portion of the 1982–1991 district map in STATE OF WASH., MEMBERS OF THE
11 LEGISLATURE 1889–2019 (2019). The State further admits that the section of the image
12 designated as Legislative District 15 contains portions of Yakima and Benton Counties.

13 34. The State admits that this paragraph includes an accurate representation of a
14 portion of the 1991–2001 district map in STATE OF WASH., MEMBERS OF THE
15 LEGISLATURE 1889–2019 (2019). The State further admits that the section of the image
16 designated as Legislative District 15 contains portions of Yakima, Benton, Klickitat, and
17 Skamania Counties.

18 35. The State admits that this paragraph includes an accurate representation of a
19 portion of the 2002–2011 district map in STATE OF WASH., MEMBERS OF THE
20 LEGISLATURE 1889–2019 (2019). The State further admits that the section of the image
21 designated as Legislative District 15 contains portions of Yakima, Klickitat, Skamania, and
22 Clark Counties.

23 36. The State admits that this paragraph includes an accurate representation of a
24 portion of the 2012–2021 district map in STATE OF WASH., MEMBERS OF THE
25 LEGISLATURE 1889–2019 (2019). The State further admits that the section of the image
26 designated as Legislative District 15 contains only a portion of Yakima County.

1 **C. The 2021 Redistricting Process**

2 37. Admitted.

3 38. Admitted.

4 39. Admitted.

5 40. Admitted.

6 41. Admitted.

7 42. The State admits that none of the Commissioner-proposed maps released on
8 September 21, 2021 included the cities of Othello or Pasco in Legislative District 15. The State
9 is without information sufficient to form a belief as to the truth of the remaining allegations in
10 this paragraph and therefore denies them.

11 43. The State admits that the image in this paragraph appears to be a partial
12 reproduction of the map proposed by Commissioner Sims, which speaks for itself. The State
13 further admits that the Amended Complaint accurately quotes portions of Commissioner Sims’
14 statement on her proposal, which speaks for itself. To the extent a further response is required,
15 the State denies the allegations in this paragraph.

16 44. The State admits that the image in this paragraph appears to be a partial
17 reproduction of the map proposed by Commissioner Walkinshaw, which speaks for itself. The
18 State further admits that the Amended Complaint accurately quotes portions of Commissioner
19 Walkinshaw’s statement on his proposal, which speaks for itself. To the extent a further response
20 is required, the State denies the allegations in this paragraph.

21 45. The State admits that the image in this paragraph appears to be a partial
22 reproduction of the map proposed by Commissioner Fain, which speaks for itself. The State
23 further admits that the Amended Complaint accurately quotes portions of Commissioner Fain’s
24 statement on his proposal, which speaks for itself. To the extent a further response is required,
25 the State denies the allegations in this paragraph.

1 46. The State admits that the image in this paragraph appears to be a partial
2 reproduction of the map proposed by Commissioner Graves, which speaks for itself. The State
3 further admits that the Amended Complaint accurately quotes portions of Commissioner Graves’
4 statement on his proposal, which speaks for itself. To the extent a further response is required,
5 the State denies the allegations in this paragraph.

6 47. The State admits that the hyperlink in this paragraph leads to the cited
7 presentation, which speaks for itself. The State is without information sufficient to form a belief
8 as to the truth of the remaining allegations in this paragraph and therefore denies them.

9 48. The State is without information sufficient to form a belief as to the truth of the
10 allegations in this paragraph and therefore denies them.

11 49. The presentation referenced in this paragraph speaks for itself, and no further
12 response is required.

13 50. The presentation referenced in this paragraph speaks for itself, and no further
14 response is required.

15 51. The presentation referenced in this paragraph speaks for itself, and no further
16 response is required.

17 52. The presentation referenced in this paragraph speaks for itself, and no further
18 response is required.

19 53. The State admits only that the Amended Complaint accurately quotes the
20 October 21, 2021 statement of Commissioner Walkinshaw posted on the website cited in this
21 paragraph; that statement speaks for itself. To the extent a further response is required, the State
22 denies the remaining allegations in this paragraph.

23 54. The State admits only that quoted language is attributed to Commissioner
24 Walkinshaw and appears on the website cited in this paragraph. That quotation speaks for itself,
25 and no further response is required.

1 55. The State admits only that on October 25, 2021, Commissioners Sims and
2 Walkinshaw released revised proposed legislative maps, which speak for themselves. The State
3 is without information sufficient to form a belief as to the truth of the remaining allegations in
4 this paragraph and therefore denies them.

5 56. The State admits only that the quoted language in this paragraph appears in the
6 news release cited in this paragraph. The news release speaks for itself, and no further response
7 is required.

8 **D. Legislative District 14 Under the 2021 Plan**

9 57. The State admits only that the quoted language appears in the cited Washington
10 Supreme Court Order, which speaks for itself. To the extent a further response is required, the
11 State denies the remaining allegations in this paragraph.

12 58. The State admits only that the quoted language appears in the cited Washington
13 Supreme Court Order, which speaks for itself. To the extent a further response is required, the
14 State denies the remaining allegations in this paragraph.

15 59. Admitted.

16 60. This paragraph states legal conclusions to which no response is required. To the
17 extent a further response is required, the State admits these allegations.

18 61. The State admits that the image in this paragraph appears to be a reproduction of
19 the map of the new Legislative District 15 as defined by the Commission’s approved plan. The
20 remainder of the allegations in this paragraph state legal conclusions and argument to which no
21 response is required. To the extent a further response is required, the State denies the allegations
22 in this paragraph.

23 62. This paragraph states legal conclusions and argument to which no response is
24 required. To the extent a further response is required, the State admits only that Legislative
25 District 15 includes portions of Yakima and Pasco and extends to Mattawa and Othello. Insofar
26 as Plaintiff’s allegations seek to characterize Legislative District 15, the map speaks for itself.

1 The State is without information sufficient to form a belief as to the truth of the allegation that
2 “[t]he interior of the district is sparsely populated,” and therefore denies it. The State denies the
3 remaining allegations in this paragraph.

4 63. This paragraph states legal conclusions and argument to which no response is
5 required. To the extent a response is required, the State admits only that Legislative District 15
6 includes portions of five counties but no complete county. Insofar as Plaintiff’s allegations seek
7 to characterize Legislative District 15, the map speaks for itself. The State denies the remaining
8 allegations in this paragraph.

9 64. This paragraph states legal conclusions and argument to which no response is
10 required. To the extent a response is required, the State admits only that Legislative District 15
11 bifurcates Yakima, Pasco, Grandview, and Moxee and that Pasco, Othello, and the Hanford
12 Nuclear Site have not previously been in the same legislative district as the City or County of
13 Yakima. Insofar as Plaintiff’s allegations seek to characterize Legislative District 15, the map
14 speaks for itself. The State denies the remaining allegations in this paragraph.

15 65. The State admits only that the boundaries of the new Legislative District 15
16 approved by the Commission are different in certain respects from prior Legislative District 15
17 boundaries and those of publicly-proposed districts by the Commissioners during the 2021
18 redistricting process. To the extent a further response is required, the State denies the allegations
19 in this paragraph.

20 66. The State is without information sufficient to form a belief as to the truth of the
21 allegations in this paragraph and therefore denies them.

22 67. The State is without information sufficient to form a belief as to the truth of the
23 allegations in this paragraph and therefore denies them.

24 68. This paragraph states legal conclusions and argument to which no response is
25 required. To the extent a further response is required, the State denies these allegations.
26

1 76. This paragraph states legal conclusions and argument to which no response is
2 required. To the extent a further response is required, the State denies the allegations in this
3 paragraph.

4 77. This paragraph states legal conclusions and argument to which no response is
5 required. To the extent a further response is required, the State denies the allegations in this
6 paragraph.

7 **VI. PRAYER FOR RELIEF**

8 78. This section of the Complaint asserts Plaintiffs’ requests for relief, to which no
9 response is required. To the extent a response is required, the State denies that Plaintiffs are
10 entitled to the relief requested with respect to the State of Washington.

11 **VII. AFFIRMATIVE DEFENSES**

12 The State’s affirmative defenses to the Amended Complaint are set forth below. By
13 setting forth the following defenses, the State does not assume the burden of proof for matters
14 other than those for which it has the burden of proof as a matter of law. The State reserves the
15 right to supplement these defenses.

- 16 1. Plaintiff’s claim is non-justiciable.
- 17 2. Plaintiff sued the wrong parties.
- 18 3. Plaintiff has failed to join all necessary parties.
- 19 4. Plaintiff has failed to allege sufficient facts that would entitle him to relief.

20 **VIII. DEFENDANT STATE OF WASHINGTON’S REQUEST FOR RELIEF**

21 Wherefore, the State prays that the Court:

- 22 1. Dismiss Plaintiff’s Amended Complaint with prejudice;
- 23 2. Deny all relief that Plaintiff requests; and
- 24 3. Grant the State such other and further relief as the Court may deem just and

25 proper.
26

1 DATED this 9th day of August 2022.

2 ROBERT W. FERGUSON
3 Attorney General

4 *s/ Erica R. Franklin*

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DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 9th day of August 2022, at Seattle, Washington.

s/ Erica R. Franklin

ERICA R. FRANKLIN, WSBA No. 43477

Assistant Attorney General

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