

IN THE SUPREME COURT OF THE STATE OF KANSAS

FAITH RIVERA, DIOSSELYN TOT-
VELASQUEZ, KIMBERLY WEAVER,
PARIS RAITE, DONNAVAN DILLON,
and LOUD LIGHT,

Plaintiffs-Appellees,

TOM ALONZO, SHARON AL-UQDAH,
AMY CARTER, CONNIE BROWN
COLLINS, SHEYVETTE DINKENS,
MELINDA LAVON, ANA MARCELA
MALDONADO MORALES, LIZ MEITL,
RICHARD NOBLES, ROSE SCHWAB,
and ANNA WHITE,

Plaintiffs-Appellees,

SUSAN FRICK, LAUREN SULLIVAN,
DARRELL LEA, and SUSAN SPRING
SCHIFFELBEIN,

Plaintiffs-Appellees,

v.

SCOTT SCHWAB, in his official capacity
as Kansas Secretary of State, and MICHAEL
ABBOTT, in his official capacity as Election
Commissioner of Wyandotte County,
Kansas,

Defendants-Appellants

JAMIE SHEW, in his official capacity as
Douglas County Clerk.

Defendant.

County Appealed From: Wyandotte
District Court Case No.: 2022-CV-000089
(Consolidated with 2022-CV-000090 and
Douglas County Case 2022-CV-000071)

Proceeding Under Chapter: 60

Parties Filing Appeal: Scott Schwab and
Michael Abbott

Parties Who Will Appear as Appellees:
Faith Rivera, Diosselyn Tot-Velasquez,
Kimberly Weaver, Paris Raite, Donnavan
Dillon, Loud Light, Tom Alonzo, Sharon Al-
Uqdah, Amy Carter, Connie Brown Collins,
Sheyvette Dinkens, Melinda Lavon, Ana
Marcela Maldonado Morales, Liz Meitl,
Richard Nobles, Rose Schwab, Anna White,
Susan Frick, Lauren Sullivan, Darrell Lea,
and Susan Spring Schiffelbein

DOCKETING STATEMENT - CIVIL

1. **Civil Classification:** Constitutional Law
2. **Proceedings in the District Court:**

- a. Trial judge from whose decision this appeal is taken: Hon. Bill Klapper
- b. List any other judge who has signed orders or conducted hearings in this matter:
Hon. James R. McCabria
- c. Was this case disposed of in the district court by:
 - Jury trial
 - Bench trial
 - Summary judgment
 - Dismissal
 - Other
- d. Length of trial, measured in days (if applicable): 4
- e. State the name of each court reporter or transcriptionist who has reported or transcribed any or all of the record for the case on appeal. (This is not a substitute for a request for transcript served on the individual reporter or transcriptionist under Rule 3.03.)

Rose Vieth, Tamara Ross
- f. State the legal name of all entities that are NOT listed in the case caption (including corporations, associations, parent, subsidiary, or affiliate business entities) but are parties or have a direct involvement in the case on appeal:

N/A
- g. State the name, address, telephone number, fax number, and e-mail address of every attorney who represented a party in district court if that attorney's name does NOT appear on the certificate of service attached to this docketing statement. Clearly identify each party represented.

All attorneys are listed in the certificate of service.

3. **Jurisdiction:**

- a. Date journal entry, judgment form, or other appealable order filed: April 25, 2022
- b. Is the order appealed from a final order, *i.e.*, does it dispose of the action as to all claims by all parties? Yes
- c. If the order is not a final disposition as to all claims by all parties, did the district court direct the entry of judgment under K.S.A. 60-254(b)? N/A

If not, state the basis on which the order is appealable.

- d. Date any posttrial motion filed: None
- e. Date disposition of any posttrial motion filed: N/A
- f. Date notice of appeal filed in district court: April 25, 2022
- g. Other relevant dates necessary to establish this court's jurisdiction to hear the appeal, *i.e.*, decisions of administrative agencies or municipal courts and appeals therefrom: N/A
- h. Statutory authority for appeal: K.S.A. 60-2101(b)
K.S.A. 60-2102(a)(2) also provides statutory authority for an appeal, but a direct appeal to the Kansas Supreme Court is required under K.S.A. 60-2101(b)
- i. Are there any proceedings in any other court or administrative agency, state or federal, which might impact this case or this court having jurisdiction (yes or no)? No

If "yes," identify the court or agency in which the related proceeding is pending. List the case captions and the case or docket numbers.

4. **Constitutional Challenges to Statutes or Ordinances:**

Was any statute or ordinance found to be unconstitutional by the district court (yes or no)? Yes

If "yes," what statute or ordinance? 2022 Substitute for Senate Bill 355

5. **Related Cases/Prior Appeals:**

a. Is there any case now pending or about to be filed in the Kansas appellate courts which:

(1) Arises from substantially the same case as this appeal (yes or no) No

If "yes," give case caption and docket number.

(2) Involves an issue that is substantially the same as, similar to, or related to an issue in this appeal (yes or no)? No

If "yes," give case caption and docket number.

- b. Has there been a prior appeal involving this case or controversy (yes or no)? Yes

If “yes,” give case caption and docket number.

Schwab v. Klapper, No. 124849

Joint Request of the Seventh Judicial District and the Twenty-Ninth Judicial District to Consolidate Multidistrict Litigation, No. 124927

6. Brief statement (less than one page), without argument, of the material facts. This is not intended to be a substitute for the factual statement that will appear in the brief.

Earlier this year, the Kansas Legislature passed Substitute for Senate Bill 355 (SB 355). SB 355 adopted the “Ad Astra 2” map for congressional districts. That map divides Kansas’s four congressional districts based on the 2020 Census. Both houses of the Kansas Legislature passed the bill by overwhelming majorities. The Governor vetoed the bill. The Legislature then overrode that veto by the required two-thirds majorities in each house. The congressional districts the Legislature drew in SB 355 are set to be used in the upcoming 2022 elections. The candidate filing deadline for the primary election is June 1. See K.S.A. 25-205. The primary election itself is on August 2. See K.S.A. 25-203(a). And the general election is on November 8. See K.S.A. 25-101(a).

As soon as the Legislature enacted SB 355, Plaintiffs sued to enjoin the use of SB 355 in the upcoming elections. This Court consolidated the three cases in Wyandotte County. Defendants moved to dismiss all three cases, and those motions were denied. The district court held a trial on April 4, 5, 6, and 11. At the close of Plaintiffs’ case, Defendants moved for judgment. That motion too was denied.

On April 25, the district court ruled for Plaintiffs. The court held that SB 355 constitutes both an unlawful political gerrymander and an unlawful racial gerrymander under various provisions of the Kansas Constitution. The district court accordingly permanently enjoined Defendants from preparing or administering any primary or general congressional election under SB 355, and further ordered that the “Legislature shall enact a remedial plan in conformity with this opinion as expeditiously as possible.”

7. Concise statement of the issues proposed to be raised. You will not be bound by this statement but should include issues now contemplated. Avoid general statements such as “the judgment is not supported by the law.”

Did the district court lack jurisdiction under the U.S. Constitution’s Elections Clause to determine the validity of the congressional reapportionment?

Did the district court lack jurisdiction under the Kansas Constitution to determine the validity of the congressional reapportionment?

Are Plaintiffs' political gerrymandering claims nonjusticiable?

Did Plaintiffs fail to prove an unconstitutional political gerrymander, assuming such a claim is justiciable?

Did Plaintiffs fail to prove a racial gerrymandering claim?

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2022, I electronically filed this document with the Clerk of the Court using the Court's electronic filing system, which will send a notice of electronic filing to all counsel of record, and copies were sent via email to:

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