

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

Theresa Norelli & a.

v.

Secretary of State & a.

Case No. 2022-0184

EX PARTE MOTION TO DISMISS CASE OR, ALTERNATIVELY, STAY THE SPECIAL MASTER'S RELEASE OF A PROPOSED CONGRESSIONAL MAP

NOW COMES the President of the New Hampshire Senate, Charles Morse, and the Speaker of the House, Sherman Packard, by and through counsel, and respectfully file this Ex Parte Motion to Dismiss Case or, Alternatively, Stay the Special Master's Release of a Proposed Congressional Map, stating the following in support thereof:

1. By Order dated May 12, 2022, this Court stated, "As stated in our orders of April 11 and May 5, 2022, the court will terminate this proceeding if a congressional redistricting plan is validly enacted by the legislature at any time prior to the close of this case."

2. On May 26, 2022, the Senate and the House both adopted the committee of conference report for Senate Bill 200 ("SB200"), establishing new U.S. Congressional Districts based upon the 2020 census data. Therefore, the legislature has validly enacted a congressional redistricting plan to the full extent of its authority.

3. SB200 has been approved by the Senate President and Speaker, and has been submitted to the Secretary of State to be presented to the Governor.

4. Upon information and belief, the bill will be presented to the Governor by the close of business today, May 26, 2022. Pursuant to Pt. II, Art. 44, of the New Hampshire Constitution, Governor Sununu will then have five days, excluding Sunday, to sign the bill, veto the bill, or allow it to pass without signature.

5. The primary filing period is currently slated to begin on June 1, 2022. As stated in the Secretary of State's April 25, 2022, brief:

“ the Secretary of State believes that the most pertinent date for consideration is June 17, 2022, as the end of the congressional filing period. This is one week beyond the current statutory filing deadline of June 10, 2022. Establishing June 17, 2022, as the end of the congressional filing period would allow for a compressed process, but one consistent with the Secretary of State's regular order.”

Brief for the Secretary of State and the State of New Hampshire, p. 23, April 25, 2022.

6. Based upon the forgoing and pursuant to the Court's May 12, 2022 Order, the President of the Senate and Speaker of the House hereby move that the Court dismiss and terminate this proceeding.

7. In the alternative, the President and Speaker ask that this Court stay the Special Master's release of a proposed congressional map until such time as the Governor has been presented with SB200 and either signs it into law, vetoes it, or allows it to become law without his signature.

8. If the Special Master releases a proposal prior to the Governor's Constitutional consideration of the bill, it will run afoul of the carefully constructed constitutional checks and balances and the separation of powers principles set forth in Pt.

I, Art. 37 of the New Hampshire Constitution. Essentially, the Court’s plan would directly compete with SB200 in the political arena, causing the Governor to consider the Court’s plan against SB200, thereby hindering the constitutional legislative process.

9. The Constitutional lawmaking process does not anticipate that when the Governor is considering an act of the General Court that he will be provided with a judicially created “backup proposal” that allows him to choose a favorite between a legislatively created redistricting map and a judicially created redistricting map.

10. Accordingly, the Court should terminate this proceeding as a result of the valid enactment of a congressional redistricting plan by the legislature that is expected to be presented to the Governor today, May 26, 2022.

11. In the alternative, the Court should stay the Special Master’s release of a proposed congressional map until such time as the Governor has been presented with SB200 and either signs it into law, vetoes it, or allows it to become law without his signature, pursuant to Pt. II, Art. 44.

12. Given the urgent need for action by all branches of the state government, this pleading is being filed as an *ex parte* motion. However, a copy of this pleading is being forwarded to all counsel via the Court’s electronic filing system.

WHEREFORE, the Senate President and Speaker of the House joint pray this Honorable Court:

1. Dismiss and terminate the instant proceedings; or, alternatively

2. Stay the release of the Special Master’s proposal until such time as the Governor has been presented with SB200 and either signs it into law, vetoes it, or allows it to become law without his signature, pursuant to Pt. II, Art. 44; and

3. Grant such other and further relief as the Court deems fair and equitable.

CERTIFICATION

I, Sean R. List, hereby certify that on May 26, 2022, copies of the foregoing were forwarded to all counsel of record through the electronic filing system.

Respectfully submitted,
The Honorable Charles Morse,
President of the N.H. Senate
By his attorney,

Date: May 26, 2022

By: /s/ Richard J. Lehmann
Richard J. Lehmann, Esq.
NH Bar No. 9339
Lehmann Major List, PLLC
6 Garvins Falls Road
Concord, NH 03301
(603)715-8882
rick@nhlawyer.com

&

Respectfully submitted,
The Honorable Sherman Packard,
Speaker of the N.H. House of Representatives
By his attorney,

Date: May 26, 2022

By: /s/ Sean R. List
Sean R. List, Esq.
NH Bar No. 266711

Lehmann Major List, PLLC
6 Garvins Falls Road
Concord, NH 03301
(603)715-8882
sean@nhlawyer.com