

**IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE**

**GARY WYGANT  
AND FRANCIE HUNT,**

**Plaintiffs,**

**v.**

**BILL LEE, Governor,  
TRE HARGETT, Secretary of  
State, and MARK GOINS,  
Coordinator of Elections  
In Their Official Capacities Only,**

**Defendants,**

**Case No:**

**On Appeal from the Three-Judge  
Panel, Chancery Court of Davidson  
County, Case Number 22-0287-IV**

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**MOTION FOR EXPEDITED APPEAL**

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Pursuant to Rule 2 of the Tennessee Rules of Appellate Procedure, Plaintiff Gary Wygant hereby moves the Supreme Court to suspend the default schedule set forth in the Rules and to expedite the hearing of Plaintiff Wygant’s appeal such that the appeal can be resolved by January 2024, prior to the deadlines applicable to the 2024 elections for the Tennessee House of Representatives. Defendants have notified Plaintiffs they intend to oppose this Motion.

Plaintiff Wygant challenges the constitutionality of the Tennessee House of Representatives reapportionment map enacted by the General Assembly in 2022.

The Tennessee Constitution prohibits dividing counties when apportioning legislative seats (Tenn. Const., Art. II, §5). After the United States Supreme Court articulated the “one person, one vote standard,” this Court reconciled the conflict between these two constitutional requirements by holding that defendants in constitutional reapportionment challenges must prove that a challenged act crosses “as few county lines as is necessary to comply with the federal constitutional requirements.” *Lockert v. Crowell*, 631 S.W.2d 702, 715 (Tenn. 1982). Plaintiff Wygant appeals the dismissal of his claims because Defendants wholly failed to meet their burden of proof at trial.<sup>1</sup>

At trial, Defendants withheld all evidence concerning the non-public process of drafting the Enacted House Map based on the attorney-client privilege. Defendants, therefore, provided no fact evidence at trial demonstrating that the Enacted House Map meets the *Lockert* standard. Defendants’ expert witness also agreed with Plaintiffs’ expert witness that the General Assembly could have enacted a map that split at least 6 fewer counties than the Enacted House Map’s total of 30 split counties, while complying with all other federal and state law in equal or better measure than the Enacted House Map. In sum, Defendants agreed at trial that the Enacted House Map could have crossed significantly fewer county lines while still

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<sup>1</sup> Plaintiff Wygant also challenges the portion of the trial court’s decision that circumscribed the scope of his standing.

complying with federal constitutional requirements. On this record, the trial court's dismissal of Plaintiff Wygant's challenge should be reversed because the Enacted House Map violates the Tennessee Constitution, as interpreted by this Court.

Plaintiff Wygant seeks an expedited appeal because this matter can and should be conclusively resolved prior to the 2024 House of Representatives elections. Should Plaintiff Wygant prevail on appeal, the public will benefit immensely by voting in 2024 in newly constituted House districts that comply with the Constitution. If Plaintiff Wygant instead prevails after a standard-schedule appeal, the result will be that Tennesseans will have voted in two separate elections (2022 and 2024) for House districts that violate the Tennessee Constitution. To avoid this result, and to provide all Tennesseans with finality on this issue, the Court should expedite this appeal to ensure final judgment in January 2024 before all deadlines related to the 2024 elections.<sup>2</sup>

To ensure resolution of this appeal with sufficient time for a new House reapportionment map to apply for the 2024 elections, Plaintiff Wygant proposes the following deadlines apply to the appeal:

**Primary Appellate Briefs:** December 8, 2023;

**Response Briefs:** December 22, 2023;

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<sup>2</sup> In 2024, qualifying petitions for candidates for the Tennessee House of Representatives will be available beginning on February 5, 2024, and the deadline to qualify to run for a House seat is April 4, 2024.

**Reply Briefs:** January 8, 2024;

**Hearing:** Week of January 8, 2024.<sup>3</sup>

Dated: November 29, 2023

Respectfully Submitted,

/s/ Scott P. Tift

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<sup>3</sup> The Parties jointly filed the trial transcript in the trial court on May 16, 2023. Plaintiff Wygant proposes that the trial court clerk should be ordered to prepare and submit the trial record on or before December 6, 2023.

**CERTIFICATE OF SERVICE**

Pursuant to Rules 5 and 20 of the Tennessee Rules of Appellate Procedure, I hereby certify that a true and accurate copy of the foregoing *Motion for Expedited Appeal* has been served on the following individuals by placing the same, postage prepaid in the United States Mail on this the 29th day of November, 2023 and by sending the same to the following individuals by electronic mail.

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