



No. M2023-01686-SC-R3-CV

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IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

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GARY WYGANT and FRANCIE HUNT,  
*Plaintiffs,*

v.

BILL LEE, et al.,  
*Defendants.*

On Appeal from the Judgment  
of the Davidson County Chancery Court

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**DEFENDANTS' RESPONSE IN OPPOSITION  
TO PLAINTIFF HUNT'S MOTION FOR EXPEDITED APPEAL**

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The Court should deny Francie Hunt's Motion for Expedited Appeal because she has not shown good cause to suspend the normal briefing schedule and because the public interest weighs against rushing toward a final decision in this case.

Largely because the part of the trial-court judgment that Ms. Hunt seeks to defend will likely be reversed on appeal, Defendants have already moved to stay that part of the trial-court judgment. Defendants have also opposed Plaintiff Gary Wygant's motion for expedited appeal, because he, too, has not shown good cause to suspend the normal briefing schedule. In both facets of the appeal, the parties—and the Court—should be given the full amount of time contemplated by the Tennessee

Rules of Appellate Procedure to brief and consider the issues raised by this appeal.

## BACKGROUND

The Tennessee Constitution vests the General Assembly with the responsibility and authority to apportion legislative districts. *See* Tenn. Const. art. II, § 4. The General Assembly carried out that obligation after the most recent decennial census and adopted an updated map for the State Senate.

Ms. Hunt challenged the constitutionality of the Senate Map in a lawsuit initiated in the Davidson County Chancery Court.<sup>1</sup> She claimed that the newly drawn senate districts in Davidson County violate the Tennessee Constitution, which requires that, “[i]n a county having more than one senatorial district, the districts shall be numbered consecutively.” Tenn. Const. art. II, § 3.<sup>2</sup> Ms. Hunt alleged that the four districts in Davidson County are not consecutively numbered and thus are unconstitutional. As a resident of an allegedly misnumbered district, Ms. Hunt sought an order requiring the General Assembly to correct that alleged deficiency by adopting a new map.

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<sup>1</sup> At the outset of the lawsuit, Akilah Moore was the plaintiff challenging the constitutionality of the Senate Map. The chancery court later substituted Ms. Hunt for Ms. Moore.

<sup>2</sup> Plaintiff Gary Wygant challenged the constitutionality of the redistricting map for the Tennessee House of Representatives, but the chancery court upheld the House Map as constitutional. Mr. Wygant appealed that ruling and has moved for an expedited appeal. The State opposed that motion.

The case was tried over three days in April 2023. On November 22, 2023, the chancery court—in a split decision—held that Ms. Hunt had standing, struck down the Senate Map as unconstitutional, and ordered the General Assembly to enact a remedial plan by January 31, 2024. Mem. & Final Order at 1–2, *Wygant v. Lee*, No. 22-287-IV (Davidson Cnty. Chancery Ct. Nov. 22, 2023); *see id.*, Separate Op. of Chancellor Perkins, at 9–17. Chancellor Steven W. Maroney dissented, reasoning that Ms. Hunt lacked standing because she had not pled or proven a legally cognizable injury. *See id.*, Separate Op. of Chancellor Maroney, at 37–46.

Defendants have appealed and moved that this Court stay pending appeal the judgment of the chancery court with respect to the Senate Map. Ms. Hunt now moves to expedite the State’s appeal regarding her challenge to the Senate Map.

### ARGUMENT

The Court should deny Ms. Hunt’s Motion for Expedited Appeal because she has not established “good cause” to suspend the normal briefing schedule.

*First*, there is no need to expedite this appeal because Ms. Hunt will not succeed in defending the chancery-court’s order. As Defendants have explained in support of their motion to stay pending appeal, the panel erred by concluding that Ms. Hunt had standing to bring her constitutional challenge. *See* Mem. Law in Support of Defs.’ Mot. to Stay Pending Appeal at 5–14. Ms. Hunt failed to establish any of the three elements for standing. Most importantly, the trial evidence shows that

Ms. Hunt raised only a generalized grievance about the Constitution not being followed; she did not experience any individualized harm, and thus failed to show the requisite “distinct and palpable” injury. *Id.* at 6–8. Because the panel’s ruling with respect to the Senate Map is likely to be reversed, there is simply no need “to bifurcate the appeal and resolve [Defendants’] challenge to the [panel’s] ruling on [Ms. Hunt’s] standing on an expedited basis.” (Pl. Hunt’s Mot. for Expedited Appeal, 2.)

*Second*, and as Defendants have noted with respect to Mr. Wygant’s motion for expedited appeal, the parties, the Court, and the public would all benefit from the time provided by the normal appeal schedule. *See* Defs.’ Resp. in Opp. to Pl. Wygant’s Mot. for Expedited Appeal at 5–6. The three-judge panel deliberated for over seven months before issuing a decision in this case. The appellate briefing process need not and should not be rushed.

## CONCLUSION

For the reasons stated, Ms. Hunt's Motion for Expedited Appeal should be denied.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Response in Opposition to the Motion for Expedited Appeal has been served by email and U.S. Mail on this the 6th day of December, 2023, on the following:

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