

NEIL C. PARROTT,
P.O. Box 32
Funkstown, Maryland 21734,

and

MDPETITIONS.COM,
P.O. Box 32
Funkstown, Maryland 21734

Plaintiffs,

v.

JOHN MCDONOUGH *in his
official capacity as*
Secretary of State of Maryland
Jeffrey Building 16 Francis Street
Annapolis, Maryland 21401,

and

STATE BOARD OF ELECTIONS
151 West Street, Suite 200
Annapolis, Maryland 21401

and

LINDA H. LAMONE, *in her
official capacity as*
State Administrator of Elections
151 West Street, Suite 200
Annapolis, Maryland 21401

Defendants.

* * * * *

VERIFIED COMPLAINT

Plaintiffs, by and through the undersigned counsel, bring this action to challenge the language of the ballot question for the upcoming referendum on Senate Bill 1, Chapter 1 of the 2011 Special Session of the Maryland General Assembly, also known as the Congressional

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* IN THE
* CIRCUIT COURT
* FOR ANNE ARUNDEL COUNTY

* Case No. :

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Districting Plan (“Senate Bill 1”), to be held on November 6, 2012. Specifically, Plaintiff Neil C. Parrott files this verified complaint for judicial relief and judicial review pursuant to Sections 12-202 and 9-209 of the Elections Law Article of the Maryland Code Annotated. In addition, Plaintiffs Parrott and MDPetitions.com file this verified complaint for declarative and injunctive relief under the Maryland Uniform Declaratory Judgment Act, Section 3-401 of the Courts and Judicial Proceedings Article of the Maryland Code Annotated. As grounds therefor, Plaintiffs allege as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to Sections 1-501 and 3-406 of the Courts and Judicial Proceedings Article of the Maryland Code Annotated and Sections 12-202 and 9-209 of the Elections Law Article of the Maryland Code Annotated.

2. The Court has personal jurisdiction over Defendants pursuant to Sections 6-102 and 6-103 of the Courts and Judicial Proceedings Article of the Maryland Code Annotated.

3. Venue is proper in this Court pursuant to Section 6-201 of the Courts and Judicial Proceedings Article of the Maryland Code Annotated and Section 9-209 of the Elections Law Article of the Maryland Code Annotated.

PARTIES

4. Plaintiff Neil C. Parrott is a citizen and a resident of the State of Maryland and is registered to vote in the State of Maryland. Plaintiff Parrott also is a member of the House of Delegates (District 2B, Washington County) and is the Chairman of MDPetitions.com, an entity that, in 2012, organized and sponsored a successful campaign to petition Senate Bill 1 to referendum.

5. Plaintiff MDPetitions.com is an entity that, in 2012, organized and sponsored a successful campaign to petition Senate Bill 1 to referendum. As the petition sponsor, Plaintiff MDPetitions.com represents not only its own interests and the interests of the organizers and volunteers who worked to make the petition a success, but also the interests of the 59,201 confirmed registered voters who signed the petition in the exercise of their rights under Article XVI, Section 2 of the Maryland Constitution. Plaintiff MDPetitions.com therefore has a unique and compelling interest in ensuring that voters across the State of Maryland are apprised of the true nature of the referendum when they cast their ballots in the November 2012 election.

6. Defendant John McDonough (“the Secretary”) is the Secretary of State of Maryland and is charged by law with the duty of preparing and certifying to the State Board of Elections the language of all statewide ballot questions and of all questions relating to enactments of the General Assembly that are petitioned to referenda. Md. Const., art. XVI, § 5(b); Md. Code Ann., Elec. Law § 7-103(c)(1). The Secretary also is the public official who prepared and certified to the State Board of Elections the ballot question challenged by Plaintiffs.

7. Defendant State Board of Elections (“the State Board of Elections”) is a state agency that is charged by law with the duty of certifying the content and the arrangement of ballots used in general elections, including the language of ballot questions petitioned to referenda, as well as publicly displaying and printing certified ballots. Md. Code Ann., Elec. Law § 9-207(a). The State Board of Elections also is the state agency that will certify the content and arrangement of the ballots containing the language of the ballot question challenged by Plaintiff, as well as publicly display and print the ballots containing the language of the ballot question challenged.

8. Defendant Linda H. Lamone (“the Administrator”) is the State Administrator of Elections and is charged by law with the duty of employing and supervising the staff of the State Board of Elections and performing all duties and exercising all powers assigned by law to the State Administrator or delegated by the State Board of Elections. Md. Code Ann., Elec. Law § 2-103(b).

BACKGROUND

9. On October 20, 2011, the Maryland General Assembly, sitting in special session, enacted Senate Bill 1 as an emergency measure and Governor Martin O’Malley signed it into law later that day. Senate Bill 1 specifically establishes the districts that will be used for the election of Maryland’s eight representatives in the United States House of Representatives following the 2010 census. The legislation describes each district by identifying the counties, election districts, precincts, and/or census designations for the areas that are included in each district.

10. Plaintiff MDPetitions.com, as the sponsor, and Plaintiff Parrott, in his capacity as Chairman of Plaintiff MDPetitions.com, subsequently organized and led a successful campaign to petition Senate Bill 1 to referendum in the November 2012 general election.

11. On July 20, 2012, the Administrator certified that the petition had qualified Senate Bill 1 to be placed on the November 2012 general election ballot.

12. Plaintiff MDPetitions.com subsequently intervened and successfully defended litigation challenging the Administrator’s certification of the referendum petition. On August 10, 2012, the Circuit Court for Anne Arundel County entered a judgment in the matter captioned *Whitley, et al. v. Maryland State Board of Elections, et al.*, Case No. 02-C-12-171365, declaring that the petition was legally sufficient to refer Senate Bill 1 to referendum and ordering that the

enactment be placed on the November 2012 general election ballot. On August 17, 2012, the Court of Appeals of Maryland issued a per curiam order in the matter captioned *Whitley, et al. v. Maryland State Board of Elections, et al.*, No 133 (September Term, 2011), affirming the lower court's judgment.

13. Because Senate Bill 1 was enacted as an emergency measure, it took effect immediately. For this same reason, Senate Bill 1 remains in force notwithstanding the fact that it is subject to referendum in the November 2012 general election. As a result, Maryland voters will be voting the districts created by Senate Bill 1 on November 6, 2012.

14. In a mere sixty words, the short title and purpose paragraph of the legislative title of Senate Bill 1 succinctly describes the purpose of the forty-two page enactment as follows:

AN ACT concerning Congressional Districting Plan FOR the purpose of establishing the composition of the eight districts in the State of Maryland for the election of members to the United States House of Representatives; specifying certain ward, election district, and precinct boundaries; making this Act an emergency measure; and generally relating to the reconfiguration of congressional districts in the State.

15. By law, if the text of an enactment subject to referendum contains more than 200 words, the Secretary must prepare and certify the language of a ballot question in such form as to present the purpose of the enactment concisely and intelligently. Md. Const., art. XVI, § 5(b); Md. Code Ann., Elec. Law § 7-103. In addition, the language of a ballot question prepared and certified by the Secretary may be distinct from the legislative title of the enactment, but in any case, the legislative title is sufficient. Md. Const., art. XVI, § 5(b). Moreover, the Secretary must prepare and certify the language of a ballot question to the State Board of Elections not later than the third Monday in August. Md. Code Ann., Elec. Law § 7-103(c)(1). This year, the Secretary was required to act by August 20, 2012.

16. On August 20, 2012, one business day after the Court of Appeals of Maryland affirmed the referral of Senate Bill 1 to referendum, the Secretary prepared and certified to the State Board of Elections the following language for the ballot question for Senate Bill 1:

Establishes the boundaries for the State's eight United States Congressional Districts based on recent census figures, as required by the United States Constitution.

17. Instead of using the sixty word short title and purpose paragraph of the legislative title, the language of the ballot question prepared and certified by the Secretary is a mere twenty-three words and omits any reference to the fact that Senate Bill 1 makes material changes to existing congressional districts or that it was enacted as an emergency measure and consequently had immediate effect, among other substantial omissions.

18. By law, the State Board of Elections must prepare and certify the content and arrangement of the general election ballot at least 55 days before the November 6, 2012 election, or by September 11, 2012. Md. Code Ann., Elec. Law § 9-207(a)(2)(i).

19. On or about August 22, 2012, Plaintiff Parrott spoke with representatives of both the Secretary and the State Board of Elections. Although the representative for the Secretary indicated that Plaintiff Parrott could write a letter to the Secretary requesting that the language of the ballot question be revised, the representative also indicated, that since the date for certification of the language of the ballot question had passed, the Secretary would not be able to revise the language of the ballot question already certified. The representative of the State Board of Elections indicated that the State Board of Elections could not change the language of the ballot question prepared and certified by the Secretary on August 20, 2012. Consequently, both representatives effectively confirmed to Plaintiff Parrott that no changes would be made to the language of the ballot question prepared and certified by the Secretary on August 20, 2012 and

that the State Board of Elections would certify the content and arrangement of the general election ballot on or before September 11, 2012 using the language prepared and certified by the Secretary on August 20, 2012.

20. According to an analysis conducted by *The Washington Post* using data obtained from the U.S. Census and the Maryland Department of Planning, Senate Bill 1 removed approximately 1.6 million Marylanders from their previous congressional district and placed them in a different district. According to this same analysis, 49 percent of Marylanders in the Sixth Congressional District were removed from their previous congressional district and placed in a different congressional district, as were 42 percent of Marylanders in the Fourth Congressional District, 40 percent of Marylanders in the Eighth Congressional District, and 33 percent of Marylanders in the Third Congressional District. In total, 27 percent of Marylanders were removed from their previous congressional district and placed in a different congressional district.

21. In 1962, a fifty-four word ballot question was used for a referendum on an enactment of the General Assembly that created a new congressional district and made certain changes to two existing congressional districts in the State of Maryland. The language of the 1962 ballot question was:

An act relating to the Congressional Districts in the State of Maryland which provides that the State be divided into eight districts instead of seven and that the Eighth Congressional District shall be composed of Howard and Prince George's Counties and making certain changes in the Third and Fifth Congressional Districts of this State.

22. By contrast, the language of the ballot question for Senate Bill 1 makes no reference to any changes to the boundaries of the congressional districts made by the enactment. Nor does it contain any readily understandable geographic references to the new boundaries

created by Senate Bill I or any reference to the map prepared by the Governor and approved by the General Assembly depicting these new boundaries.

COUNT I – JUDICIAL RELIEF

23. Plaintiff Parrott hereby refers to and incorporates by reference the allegations contained in paragraphs 1-22 above as if fully stated herein.

24. The language of the ballot question prepared and certified by the Secretary on August 20, 2012 does not concisely or intelligently present the purpose of Senate Bill 1 and is inconsistent with and contrary to Maryland law, including but not limited to Article XVI, Section 5(b) of the Maryland Constitution and Sections 7-103(b)(4) and 9-203 of the Elections Law Article of the Maryland Constitution.

25. If the Secretary is not ordered to revise and recertify the language of the ballot question, the outcome of the referendum may be different, as the language of the ballot question is not posed in an accurate and non-misleading manner, does not provide the clarity and objectivity required to permit an average voter to exercise an intelligent choice in a meaningful way, does not present a clear, unambiguous and understandable statement of the full and complete nature of the issue, and otherwise does not apprise voters of the true nature of the legislation upon which they are voting.

26. Plaintiff Parrott has no other timely and adequate remedy.

COUNT II - JUDICIAL REVIEW

27. Plaintiff Parrott hereby refers to and incorporates by reference the allegations contained in paragraphs 1-26 as if fully stated herein.

28. The content and arrangement of the ballot, which the State Board of Elections and the Administrator are required to certify on or before September 11, 2012 and subsequently

publicly display and print, is erroneous insofar as it contains the unlawful language of the ballot question prepared and certified by the Secretary on August 20, 2012.

29. Judicial review of the content and arrangement of the ballot is necessary to correct the erroneous ballot.

COUNT III – DECLARATORY AND INJUNCTIVE RELIEF

30. Plaintiffs hereby refer to and incorporate by reference the allegations contained in paragraphs 1-29 as if fully stated herein.

31. As a registered voter and as chairman of Plaintiff MDPetitions.com and Plaintiff MDPetitions.com, as the petition sponsor, Plaintiffs have a unique and specific interest in the language of the ballot question being sufficient to ensure that voters across the State of Maryland are apprised of the true nature of the referendum when they cast their ballots in the November 2012 election.

32. Plaintiffs assert that the language of the ballot question prepared and certified by the Secretary on August 20, 2012 does not concisely or intelligently present the purpose of Senate Bill 1 and is inconsistent with and contrary to Maryland law.

33. On information and belief, Defendants believe the language of the ballot question prepared and certified by the Secretary on August 20, 2012 does not concisely or intelligently present the purpose of Senate Bill 1 and is inconsistent with and contrary to Maryland law.

34. There exists an actual controversy of a justiciable nature between Plaintiffs and Defendants, within the jurisdiction of this Court, involving the rights and liabilities of the parties.

35. If the language of the ballot question prepared and certified by the Secretary on August 20, 2012 is not declared inconsistent with and contrary to Maryland law and the State Board of Elections and the Administrator are not enjoined from certifying, displaying, or printing

any ballot containing the language of the ballot question certified by the Secretary on August 20, 2012, voters across the State of Maryland will not be apprised of the true nature of the referendum when they cast their ballots in the November 2012 election.

36. A declaratory judgment will terminate this controversy.

37. An order enjoining the State Board of Elections and the Administrator is necessary to prevent them from certifying, displaying, or printing any ballot containing the language of the ballot question certified by the Secretary on August 20, 2012, which does not concisely or intelligently present the purpose of Senate Bill 1 and is inconsistent with and contrary to Maryland law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

A. Order the Secretary to prepare and certify to the Administrator and the State Board of Elections revised language of the ballot question that complies with the requirements of the law;

B. Order that the State Board of Elections and the Administrator be prohibited from certifying, displaying, or printing any ballot containing the language of the ballot question certified by the Secretary on August 20, 2012;

C. Order the State Board of Elections and the Administrator to certify, display, and print a revised ballot after the Secretary has prepared and certified revised language of the ballot question that complies with the requirements of the law;

D. Declare the language of the ballot question prepared and certified by the Secretary on August 20, 2012 to be inconsistent with and contrary to Maryland law and enjoin the State Board of Elections and the Administrator from certifying, displaying, or printing any ballot containing the language of the ballot question certified by the Secretary on August 20, 2012; and

E. Grant such other relief as this Court may deem just and proper.

Dated: August 29, 2012

Respectfully Submitted,

JUDICIAL WATCH, INC.

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Fax: (202) 646-5199

Attorneys for Plaintiff

VERIFICATION

I solemnly affirm under the penalties of perjury that the contents of the paper are true to the best of my knowledge, information, and belief. Executed on August ____, 2012 in Hagerstown, Maryland.

Neil C. Parrott

E. Grant such other relief as this Court may deem just and proper.

Dated: August 29, 2012

Respectfully Submitted,

JUDICIAL WATCH, INC.



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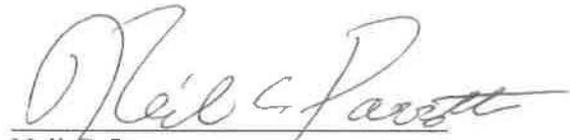
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Attorneys for Plaintiff

VERIFICATION

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Neil C. Parrott