

NO. 02-1580

IN THE SUPREME COURT OF THE UNITED STATES

RICHARD VIETH, *et al.*,

Appellants

v.

ROBERT C. JUBELIRER and JOHN M. PERZEL, *et al.*,

Appellees

*On Appeal from the United States District Court
for the Middle District of Pennsylvania*

**MOTION OF APPELLEES CORTÉS AND ACCURTI
FOR DIVIDED ARGUMENT**

The Attorney General of Pennsylvania, on behalf of appellees Cortés and Accurti and pursuant to this Court's Rule 28.4, hereby moves for divided argument in this appeal, for the following reasons:

This action attacks the constitutionality of the Pennsylvania statute which redrew the Commonwealth's congressional districts after the 2000 census, on the ground that the statute is a partisan gerrymander. The issues in this appeal include what, if any, limits the Constitution places on partisan gerrymandering; whether such claims are justiciable at all; and ultimately, whether Pennsylvania's statute violates the Constitution.

Two sets of appellees, separately represented, have briefed this appeal,¹ and those parties represent different interests and have taken different approaches to this case. Appellees Cortés and

¹A third set of appellees, the Governor and Lieutenant Governor of Pennsylvania, are likewise separately represented but have not participated in briefing.

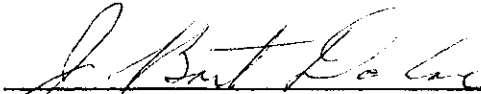
Accurti are officials from Pennsylvania's executive branch, which is under a Democratic administration. They are represented by the Commonwealth's Attorney General, who is also charged under Pennsylvania law with defending the constitutionality of the Commonwealth's statutes. These appellees have focused in their brief on the broad questions of the proper constitutional standard for evaluating claims of partisan gerrymandering, and on the shortcomings of the standard proposed by the appellants.

Appellees Jubelirer and Perzel, on the other hand, are the leaders of the Pennsylvania Senate and House, respectively, and hold their positions by virtue of Republican control of those chambers. Their brief focuses on the specific provisions of Pennsylvania's plan, explaining why it does not constitute an unconstitutional partisan gerrymander, and whether such claims ought to be justiciable at all.

Thus, while both sets of appellees support affirmance of the district court's order, they bring different perspectives to the case, and we believe that oral argument from both will aid the Court in the proper disposition of this appeal. We have advised Appellees Jubelirer and Perzel of this motion and they agree that argument should be divided as requested.

We therefore move that the Court allow divided argument by the appellees, and allot fifteen minutes each to the executive and legislative appellees.

Respectfully submitted,



J. Bart DeLone, Senior Deputy Attorney General
Counsel for Appellees Cortés and Accurti

Dated: October 30 , 2003

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CERTIFICATE OF SERVICE

I certify that on October 30, 2003, and in accordance with Supreme Court Rule 29, I caused to be served a copy of the Motion of Appellees Cortés and Accurti for Divided Argument on the following in the manner indicated:

Fax and First class mail

Paul M. Smith
Thomas J. Perrelli
Daniel Mach
Brian P. Hauck
JENNER & BLOCK, L.L.C.
601 Thirteenth Street, NW
Washington, D.C. 20005
(202) 639-6000
Counsel for Appellants

Fax and First class mail

Robert B. Hoffman
REED SMITH LLP
213 Market Street, 9th Floor
PO Box 11844
Harrisburg, PA 17108
(717) 257-3042
Counsel for Appellants

Fax and First class mail

Leslie Anne Miller
General Counsel
Office of General Counsel
225 Main Capitol Building
Harrisburg, PA 17120
(717) 772-8570

*Counsel for Appellees, Governor Rendell
and Lieutenant Governor Knoll*

Fax and First class mail

John P. Krill, Jr.
KIRKPATRICK & LOCKHART LLP
240 North Third Street
Harrisburg, PA 17101
(717) 231-4500

Counsel for Legislative Appellees



J. BART DeLONE
Senior Deputy Attorney General

Office of Attorney General
Appellate Litigation Section
15th Floor, Strawberry Square
Harrisburg, PA 17120
(717) 783-3226 - Direct
(717) 772-4526 - Fax

Counsel for Appellees Cortés and Accurti