

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

CHRISTOPHER PENTICO, a qualified elector  
of the State of Idaho,

Petitioner,

v.

IDAHO COMMISSION FOR  
REAPPORTIONMENT and LAWERENCE  
DENNEY, Secretary of State of the State of  
Idaho, in his official capacity,

Respondents.

Supreme Court No. 49351-2021

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**PETITIONER'S REPLY BRIEF**

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**TABLE OF CONTENTS**

**Table of Cases and Authorities.....3**

**Argument.....5**

**A. The Respondents’ “Statement of the Case” and “Legal Standard for Congressional Redistricting” contain irrelevant and/or erroneous content.....5**

**B. The Commission’s Final Report was not timely filed with the Secretary of State ....8**

**C. The Commission’s congressional redistricting plan violates Idaho Code § 72-1506(7).....12**

**D. Petitioner is entitled to an award of his reasonable attorney fees and costs pursuant to Idaho Code §§ 12-117 and 12-121.....16**

**Conclusion.....17**

**TABLE OF CASES AND AUTHORITIES**

**CASES**

*Bonneville County v. Ysursa*, 142 Idaho 464, 472, n.8, 129 P.3d 1213, 1221 (2005).....8

*Evenwel v. Abbott*, 578 U.S. 54, 136 S. Ct. 1120, 194 L. Ed. 2d. 291 (2016).....7

*Filer Mutual Telephone Co. v. Idaho State Tax Commission*, 76 Idaho 256, 281 P.2d 478 (1955).....13

*Kirkpatrick v. Preisler*, 394 U.S. 526, 89 S. Ct. 1225, 22 L. Ed. 2d 519 (1969).....7

*Nelson v. Evans*, 166 Idaho 815, 464 P.3d 301 (2020).....13

*State v. Abdullah*, 158 Idaho 386, 348 P.3d 1 (2015).....11

*State v. Rivera*, 131 Idaho 8, 951 P.2d 528 (1998).....13

*State v. Winkler*, 167 Idaho 527, 473 P.3d 796 (2020).....8

*Tennant v. Jefferson County*, 567 U.S. 758, 133 S. Ct. 3, 183 L. Ed. 2d 660 (2012).....7

*Twin Falls Cnty. v. Idaho Comm’n on Redistricting*, 152 Idaho 346, 271 P.3d 1202 (Idaho 2012).....12

*Wright v. Willer*, 111 Idaho 474, 725 P.2d 179 (1986).....10

**IDAHO CONSTITUTIONAL PROVISIONS**

Idaho Constitution, Art. III, Sec. 2.....9, 11

**STATUTES AND RULES**

Idaho Code § 12-117.....16, 17, 18

Idaho Code § 12-121.....16, 17, 18

Idaho Code § 34-301.....5

Idaho Code § 34-306.....14

Idaho Code § 72-1501.....9

Idaho Code § 72-1502.....11

Idaho Code § 72-1506.....6, 7, 12, 13, 14, 15, 17  
Idaho Code § 72-1508.....7, 9

## I. ARGUMENT

### A. The Respondents' "Statement of the Case" and "Legal Standard for Congressional Redistricting" contain irrelevant and/or erroneous content.

Respondents Idaho Commission for Reapportionment (hereinafter also referred to as the "Commission") and Secretary of State Lawrence Denney dedicate a great deal of space in their brief to a tedious recounting of the course of the Commission's meetings, apparently to demonstrate the difficulty of the Commission's task. However, the only issue before this Court is whether the Commission's congressional redistricting plan meets constitutional and statutory requirements. Petitioner is unaware of any conscriptive draft for Commission members, and to his knowledge, none were forced to serve. The number of meetings held and how hard the Commission worked are, frankly, irrelevant in this case.

Further, the Respondents' "Statement of the Case" contains errors and omissions. For instance, it claims that Ada County Clerk Phil McGrane "advised the [C]ommission [sic] to ignore precinct boundaries since the lines would be redrawn anyway at the conclusion of redistricting." However, this was in the context of legislative redistricting only. Moreover, it is unclear how the stated preference of a county clerk is an argument for what the law in Idaho is. A county clerk does not redraw precinct boundaries; Idaho Code § 34-301 reserves that role to boards of county commissioners. Further, it does not appear that Mr. McGrane was acting as the legal representative of the Ada County Board of Commissioners at the time he offered his comments.

On page 5 of the brief, Respondents spend much time discussing various redistricting criteria which Petitioner has not and does not challenge, such as precise numerical equality and dividing counties. However, they strangely insert an assertion about the "traditional division" of Ada County, and the Commission's claim that maintaining such a division would be "less

confusing” to voters, as if Ada County voters are somehow less able to adapt to changes in voting districts than others in this state. This “traditional division of Ada County,” of course, is not an actual constitutional or statutory criterion, but is a background policy preference of the Commissioners which, if anything, improperly guides the redistricting process. Its inclusion here merely serves to muddy the waters in this case.

Respondents allege that the Commission’s separate 5-1 vote to exempt itself from the prohibition on splitting precincts in congressional redistricting was “out of an abundance of caution.” However, the Commission did not offer this convenient *post hoc* rationale at the time of the vote. Final Report, App. III (November 5 Meeting Minutes) at 1<sup>1</sup>. Moreover, the Commission took the vote with respect to congressional redistricting *before* the vote with respect to legislative redistricting, further indicating that the Commission did not, at the time, embrace the Respondents’ late interpretation that the legislative redistricting finding “opens the door” to the unfettered ability to split precincts with respect to congressional redistricting.

Finally, Respondents erroneously allege that Mr. Pentico’s proposed plan, C39, contains “obvious flaws” based apparently only on the assertion that it contains a “jagged, irregular line” and that it divides four cities as opposed to three divided by the Commission’s plan, C03. However, the criteria these complaints are based on are precisely those criteria designed to give much more flexibility in drafting plans. I.C. § 72-1506(4) states that, “[t]o the maximum extent possible, the plan should avoid drawing districts that are oddly shaped.” I.C. § 72-1506(5) provides, “[t]o the maximum extent possible districts shall preserve traditional neighborhoods and

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<sup>1</sup> Counsel for Petitioner note here that they attempted to access the audio/video of the Commission’s meetings on the Commission’s website (<https://legislature.idaho.gov/redistricting/2021/>) in order to verify the content of the minutes and obtain direct quotations from Commission members and witnesses. However, while counsel was able to download at least one video on the morning of January 13, 2022, the links were rendered inoperable by the afternoon. As of 3:39 p.m., the links are unavailable and state that “audio/video not online,” “no audio/video available,” or “audio/video coming soon.”

communities of interest.” The content of these provisions differs greatly from the mandatory language of the criteria contained in the Idaho Constitution and I.C. §§ 72-1506(7) and 72-1508, upon which Mr. Pentico bases his challenge.

Additionally, the legislative history Respondents include in their brief undermines their preferred interpretation of “communities of interest.” The discussion of SB1184 (Respondent’s Brief, App. 2, p. 12) contains a statement from Senator Geddes that, “The most significant is the connection of highways, roads, and interstates which is the link that justifies communities of interest and keeps them together.” Respondents’ single-minded focus on the geographic boundaries of cities as the only relevant criterion is misplaced. There is no reason, for instance, to think that vacant land contained within the city limits of Star or Kuna is more part of the relevant “communities of interest” than homes which lie just outside those limits but are connected to the cities by roads.

Likewise, the Respondents’ “Legal Standard for Congressional Redistricting” speaks extensively to issues which are not before this Court. Respondents cite that the Commission is required to “draw congressional districts with populations as close to perfect equality as possible,” and that while this requirement “does not require that congressional districts be drawn with precise mathematical equality,” it does require the Commission to “justify population differences between districts that could have been avoided by a good-faith effort to achieve absolute equality.” *Evenwel v. Abbott*, 578 U.S. 54, 59, 136 S. Ct. 1120, 1124, 194 L. Ed. 2d. 291 (2016) (citing *Kirkpatrick v. Preisler*, 394 U.S. 526, 530-31, 89 S. Ct. 1225, 22 L. Ed. 2d 519 (1969)); *Tennant v. Jefferson County*, 567 U.S. 758, 759, 133 S. Ct. 3, 5, 183 L. Ed. 2d 660 (2012). The inclusion of these citations are puzzling, given that Mr. Pentico has not challenged the Commission’s plan on the

grounds of not achieving precise numerical equality, and there is no dispute that the plans proffered by both Mr. Pentico and the Commission provide precise numerical equality.

Similarly, Respondents' citation regarding the burden of proving the existence of population differences that could practicably be avoided and the burden-shift to show that the population differences were necessary to achieve a state objective is nonsensical. Neither plan at issue here contains population differences between congressional districts. This is merely a gratuitous citation with no applicability to this case.

Respondents assert that "Pentico similarly bears the burden to prove that the Commission violated Idaho Code given the deference extended to the Commission's judgment," citing *Bonneville County v. Ysursa*, 142 Idaho 464, 472, n.8, 129 P.3d 1213, 1221 (2005). However, the word "deference" appears in a single sentence of that decision, which reads, "[a]nd it would have been helpful for the Commission to better explain why it needed seventy-eight splits when previously less than a third of the number needed to be split (at least in the three years cited), but in light of the degree of deference we must afford the Commission, and in the absence of evidence that the precinct splits have harmed the right to vote, Petitioners have failed to show the Plan must be rejected." *Id.*, at 1223. That "degree of deference" is not defined in the decision, nor do Respondents suggest how this would relate to Mr. Pentico's burden here.

**B. The Commission's Final Report was not timely filed with the Secretary of State.**

This Court held, in *State v. Winkler*, that "[w]hen interpreting constitutional provisions, the fundamental object is to ascertain the intent of the drafters by reading the words as written, employing their natural and ordinary meaning, and construing them to fulfill the intent of the drafters." 167 Idaho 527, 531, 473 P.3d 796, 800 (2020). Despite claiming their interpretation

adheres to the “plain language,” Respondents rely on a highly idiosyncratic reading of the English language in support of their preferred interpretation of the provisions of Art. III, Sec. 2 of the Idaho Constitution and Idaho Code § 72-1508.

Respondents take the position that the word “formed” in Art. III, Sec 2, Subsection (2) of the Idaho Constitution has a different meaning than the word “organize” as used elsewhere in the relevant provisions of the Idaho Constitution and in Idaho Code. This appears to be largely based on the “primary definition” they obtained through the use of an online dictionary service.<sup>2</sup> Astonishingly, citing the very same source, Respondents go on to assert that “organize” “primarily means ‘to **form** into a coherent unity or functioning whole’” [emphasis added]. Another definition from the same source is “to form an organization,” and gives the example, “to form or persuade workers to join a union” (<https://www.merriam-webster.com/dictionary/organize>). In effect, Respondents take the position that the words are synonymous, but that the synonymity runs in only one direction: that which supports their preferred interpretation. To the Respondents’ contention that Mr. Pentico “fails to give the sufficient weight to the constitutional and statutory plain language,” he retorts: “Physician, heal thyself.”

Likewise, it is unclear why Respondents apparently believe that one must indulge in attempts at fallacious grammarian hair-splitting to discern the plain meaning of Idaho Code § 72-1501. Respondents posit that the inclusion of a comma between the words “organized” and “upon” means that the Commission is not, in fact, organized upon the order of the Secretary of State. If the legislature had intended Respondents’ meaning, it would have been incredibly easy to convey by simply substituting the words “after” or “following” for “upon,” such that the sentence would

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<sup>2</sup> It is worth noting here that the first usage example given just under the Respondents’ preferred definition is “*form* the dough into a ball” (<https://www.merriam-webster.com/dictionary/form>). This does not appear to be consistent with the context into which Respondents attempt to shoehorn this definition.

read, “[a] commission for reapportionment shall be organized, after the order of the secretary of state,” or “[a] commission for reapportionment shall be organized, following the order of the secretary of state.” Alternatively, the drafters could have removed any reference to the Secretary of State’s order whatsoever, given that the Idaho Constitution already states that the Commission is “formed on order of the secretary of state.” Interpreting the use of the word “upon” here in the fashion Respondents urge would be to engage in the exact sort of “mere surplusage” that this Court has Court cautioned against. *See Wright v. Willer*, 111 Idaho 474, 476, 725 P.2d 179, 181 (1986).

Commission Chairman Bart Davis’ comments after Commissioner Thomas Dayley tested positive for COVID-19 illustrate that even he perceived Mr. Pentico’s interpretation of the 90-day deadline to be correct. The minutes of the Commission’s November 4 meeting reflect that, “Cochair Davis explained that Commissioner Dayley had tested positive for COVID-19 and had possibly exposed several commissioners and staff members. He stated that because the commission **could not delay**, the commission would create a special meeting for the following day, and some commissioners would be joining electronically” [emphasis added]. Final Report, App. III (November 4 Meeting Minutes) at 1. Why would Mr. Davis believe any delay was impossible on November 4, 2021 if the Commission had until November 30, 2021 to file its Final Report with the Secretary of State, especially given the fact that the Commission was able to complete its final report only six days later, on November 10, 2021? Even under the most cautious COVID-19 quarantine procedures, the Commission should have had plenty of time.

There is an important policy consideration underlying the requirement that the Commission to deliver its Final Report to the Idaho Secretary of State within 90 days of the Secretary of State’s Order: there is simply no other recourse or remedy which would necessitate redistricting be done in a timely manner. There is no other constitutional or statutory requirement that the Commission

expeditiously hold its first meeting. Obviously, any delay in the redistricting process can have disastrous downstream effects: county commissioners must wait redraw new precinct boundaries, county clerks must wait to canvass new precincts, incumbents and challengers must wait to find out which districts in which they are eligible to run, and voters must wait to intelligently vet candidates for public office. This cannot be what the Legislature and the people intended, and Respondents have produced no argument that it was.

Respondents accuse Mr. Pentico of assuming bad faith of commissions for reapportionment in that they would “delay to such an extent that it would destroy Idaho’s democracy.” While this Court “presumes regularity in the performance of official duties by public officers” (*State v. Abdullah*, 158 Idaho 386, 447, 348 P.3d 1, 62 (2015)), it cannot ignore the fact that irregularities can and do happen. For instance, an appointing authority could refuse to appoint a member of the Commission, or a member or members could stage a “walkout,” as happened to the 2011 Commission meeting. While Art. III, Sec. 2, Subsection (2) of the Idaho Constitution and I.C. § 72-1502 provide for the Supreme Court to appoint a member in such an instance after fifteen (15) days, there is no mechanism to ensure that this happens. Further, under Respondents’ preferred interpretation, an indefinite delay by the Commission would be precisely “regular.”

Additionally, we have seen that *force majeure* occurrences can quickly upend established institutions in unpredictable ways, such as how the COVID-19 pandemic forced the postponement of trials for incarcerated criminal defendants. Not having a procedure in place to protect against these foreseen and unforeseen delays is precisely what could make Respondents’ hysterical fears of “destroying Idaho’s democracy” come true.

Respondents also ignore the fact that Petitioner’s interpretation has precedent. After the 2010 census results were released, then-Secretary of State Ben Ysursa issued his Order organizing

the 2011 Idaho Commission for Reapportionment on June 7, 2011. *Twin Falls Cnty. v. Idaho Comm'n on Redistricting*, 152 Idaho 346, 271 P.3d 1202, 1203. That Commission held its first meeting the very same day (<https://legislature.idaho.gov/redistricting/2011/meetings/>), as opposed to the nearly three weeks the 2021 Commission waited to hold its first meeting after the Order of the Secretary of State. However, the 2011 Commission was unable to complete its work within the 90-day deadline and was dissolved, and a new Commission was organized to complete the work.

Finally, Respondents attempt to criticize Mr. Pentico for allegedly “further delaying matters.” To the contrary, Mr. Pentico is exercising his right as a duly registered voter of the state of Idaho to challenge an illegal redistricting plan in the only manner and venue provided to him. If any party has delayed the Idaho electoral process, the Commission has done so by failing to adopt a constitutionally and statutorily compliant map when it was provided.

**C. The Commission’s congressional redistricting plan violates Idaho Code § 72-1506(7).**

Respondents allege that Idaho Code § 72-1506(7) allows the Commission, by making a finding that it cannot complete its duties for a legislative district by fully complying with the requirement to retain local voting precinct boundary lines, to also exempt itself from the requirement to retain those boundary lines with respect to legislative districts. To the contrary, this interpretation commits the exact same violations of the canons of statutory interpretation which the Respondents allege of Mr. Pentico.

The plain language of the statute permits the Commission to determine, by an affirmative vote of at least five (5) members, that it cannot complete its duties for a legislative district by fully complying with the requirement to retain local voting precinct boundary lines. If it does so, “this

subsection shall not apply to the commission or legislative redistricting plan it shall adopt.” It is unclear and incomprehensible to Mr. Pentico how the Respondents interpret the “plain meaning” of the statute to refer to a congressional redistricting plan that it does not mention.

Further, the Court “must give effect to all the words and provisions of the statute so that none will be void, superfluous, or redundant.” *Nelson v. Evans*, 166 Idaho 815, 820, 464 P.3d 301, 306 (2020). This is precisely what Respondents’ reading of the statute does: if the legislature intended to allow the finding vis-à-vis legislative redistricting to remove I.C. § 72-1506(7) prohibition on splitting precincts in legislative redistricting, it could have simply ended the statute with “this subsection shall not apply to the commission.” Because the Commission handles both legislative and congressional redistricting, this would achieve the effect the Respondents seek. But this is not what the legislature did. Interpreting the statute in the manner the Respondents do renders the usage of “legislative redistricting plan it shall adopt” both superfluous and redundant.

Respondents assert that use of the word “or” between “commission” and “legislative redistricting plan” means that they are two different and unlike things. This, however, results in absurdity and produces an unreasonable result. *See State v. Rivera*, 131 Idaho 8, 10, 951 P.2d 528, 530 (1998) (citing *Filer Mutual Telephone Co. v. Idaho State Tax Commission*, 76 Idaho 256, 261, 281 P.2d 478, 481 (1955)). The legislative redistricting plan is adopted by the commission; in effect, it is its creation.<sup>3</sup> To treat the legislative redistricting plan as something completely apart from the commission which adopted it flies in the face of reason.

Public policy considerations undergird Mr. Pentico’s interpretation of I.C. § 72-1506(7). Splitting precincts is inherently disruptive to the electoral process, as it requires county commissioners to redraw precincts and county clerks to canvass them, both of which impose costs

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<sup>3</sup> This is especially true here, where the Commission did not adopt a publicly submitted plan, but adopted its own after the time for public participation had closed.

and delays. Cognizant of this reality, the legislature sought to minimize the splitting of precincts by only allowing the Commission to do so with respect to legislative redistricting and, even then, only on a 5-1 vote that carrying out its legislative redistricting duties without splitting precincts is impossible. It makes sense that splitting precincts in legislative redistricting be allowed under exigent circumstances; the geographic complexity of Idaho, the distribution of population, and the size of legislative districts could feasibly make it nearly impossible to create a legislative map without splitting precincts. This does not, however, hold true for congressional redistricting. Idaho has only two congressional districts, which can be divided into precisely equal populations. Given the size and population numbers of congressional districts in Idaho, there is no need to split precincts in creating a workable congressional map. Indeed, this is exactly what Mr. Pentico accomplished. Based on the level of vitriol in their brief, one might wonder whether Respondents are miffed he was able to do so with only a mathematics degree, a computer, and an internet connection, *sans* the staff and resources at the Commission's disposal.

None of the legislative history proffered by Respondents directly supports their position. Of course, the legislature "contemplated" that the prohibition on splitting precincts could be waived; it is just that the Legislature only contemplated it with respect to legislative districts. Further, a quick review of the amendments to I.C. § 72-1506(7) confirms that Mr. Pentico's interpretation was a conscious policy choice by the legislature. Subsection (7) originally read, "District boundaries should retain the local voting precinct boundary lines to the extent those lines comply with the provisions of section 34-306, Idaho Code." Respondents' Brief, App. 2, p. 2. The use of the permissive "should" would allow precisely the sort of freewheeling carving up of precincts Respondents advocate. Cognizant of the dangers of allowing an unelected body such as the Commission to overly impose the aforementioned costs and delays on counties, the legislature

amended the statute to change “should” to “shall,” but provide a carveout with respect to legislative redistricting. The legislature’s choice to specifically add reference to “duties for a legislative district” and “legislative redistricting plan it shall adopt,” and not end the statute with “shall not apply to the commission” must have been intentional and should be respected.

Again, Respondent’s claim that the separate votes to make the 5-1 finding with respect to both congressional redistricting and legislative redistricting were only taken “out of an abundance of caution” are unconvincing. It simply would not make sense for the Commission to take the congressional redistricting vote first if it genuinely believed that legislative redistricting was the key, and the former were merely a cautious afterthought. Moreover, impossibility is binary; it is not a question of “caution.” Any claim by the Commission that it was “impossible” for it to design a constitutionally and statutorily compliant congressional district map without splitting precincts is without merit in fact. The Commission was aware just such a map as early as September 25, 2021, as evidenced by the written comments on the submitted maps contained within Appendix XII of the Commission’s Final Report and the Affidavit of Petitioner Christopher Pentico in Support of Petitioner’s Reply Brief, attached hereto as Exhibit A.

Respondents complain that Mr. Pentico’s map is “oddly shaped” and allegedly violative of I.C. § 75-1506(4) because it contains an “elephant trunk district line.” Respondents’ Brief, p. 21.<sup>4</sup> Respondents’ apparent attempt to provide an objective definition for the nebulous “oddly shaped” standard fails. A standard under which any shape which can be analogized to a recognizable object is more reminiscent of cloud-gazing, reading tea leaves, or a Rorschach test than competent legal analysis. Commissioner Nels Mitchell pointed out that some degree of odd shapes are inevitable simply because Idaho counties can be oddly shaped. Final Report, App. III (November 3 Meeting

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<sup>4</sup> This paragraph of Respondent’s brief also contains a non-existent citation to Final Report, App. XII at 36. Appendix XII has approximately half that many pages, so it is entirely unclear to what Respondents refer.

Minutes at 1). Mr. Pentico could just as easily point out that the Commission's preferred map, C03, contains an oddly shaped "rhinoceros horn" district line which cleaves most of Boise and Garden City from the rest of Ada County, but he recognizes this is no legally relevant standard at all.

**D. Petitioner is entitled to an award of his reasonable attorney fees and costs pursuant to Idaho Code §§ 12-117 and 12-121.**

Respondents point out that Mr. Pentico did not argue for attorney fees against the Idaho Secretary of State. This is correct; Mr. Pentico alleges no improper action by Secretary Denney and named him in his official capacity only to seek a writ of prohibition restraining his potential future transmission of the Commission's Final Report and its flawed congressional redistricting plan to the President of the Idaho Senate and the Speaker of the Idaho House of Representatives.

Respondents' inclusion of a quotation from Benjamin Cover from Betsy Z. Russell's Idaho Press-Tribune article mentioning Mr. Pentico's case is mystifying at best. It is immediately apparent that Mr. Cover would not qualify as an expert witness to testify to these matters. While the article asserts that Mr. Cover "studies redistricting," the list of "selected publications" on his University of Idaho College of Law website contains a single article related to electoral redistricting, "Quantifying Political Gerrymandering: An Evaluation of the Efficiency Gap Proposal" (<https://www.uidaho.edu/law/people/faculty/bcover>). A word-search of this article reveals that the word "Idaho" appears 77 times in the document; 73 of these instances are a result of Mr. Cover's University of Idaho email address appearing on every page of the 71-page document. One instance is a footnote reference to Mr. Cover's affiliation with the University and one is a footnote reference to the Political Science, Economics, and Geography Working Group at the University of Idaho. One instance is a reference to Idaho having two congressional districts.

Finally, once instance is found in a list of states which were apportioned more than one but fewer than eight representatives in 2010.<sup>5</sup> It is entirely unclear to Petitioner what relevant expertise Mr. Cover possesses which is germane to the issues before this Court, or how his peculiar opinion that Mr. Pentico's arguments are "technical" and it is "unclear" if the Court will embrace them constitutes any sort of argument for this Court to consider. If this is the best authority Respondents can muster, it is thin gruel, indeed.

Respondents also criticize Mr. Pentico for his alleged failure to inform the Commission of their erroneous interpretations of Idaho law. As previously discussed, Mr. Pentico's comments submitted along with his plan clearly state that it splits zero precincts. Further, he could not have known that the Commission would attempt to split precincts in congressional redistricting in violation of Idaho law. At the time the Commission, without basis in law, exempted itself from Idaho Code § 72-1506(7)'s prohibition on splitting precincts in congressional redistricting and adopted its flawed map, it had already closed the time for public comment, legally curtailing Mr. Pentico's ability to offer that observation. Respondents' aspersions regarding Mr. Pentico are meritless.

For the reasons discussed in Petitioner's Opening Brief, Mr. Pentico is entitled to an award of his reasonable attorney fees and costs pursuant to I.C. § 12-117 because the Commission acted without a reasonable basis in fact or law, and pursuant to I.C. § 12-121 because the Commission's defense in this case is frivolous, unreasonable, and without foundation.

## **II. CONCLUSION**

For the foregoing reasons, Petitioner Christopher Pentico respectfully requests that this honorable Court declare congressional redistricting plan C03 unlawful and unconstitutional, and

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<sup>5</sup> <https://law.yale.edu/sites/default/files/area/center/liman/document/ssrn-id3019540.pdf>.

issue a Writ of Prohibition restraining the Idaho Secretary of State from transmitting a copy of the Commission's final report and proposed plans to the President of the Idaho Senate and the Speaker of the Idaho House of Representatives. Further, Petitioner respectfully requests that the Court remand with instruction to the Commission to adopt a congressional redistricting plan which meets all statutory and constitutional criteria for congressional reapportionment. Finally, Petitioner requests an award of his reasonable attorney fees and costs pursuant to Idaho Code §§ 12-117 and 12-121.

DATED this 13<sup>th</sup> day of January, 2022.

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## CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2022, a true and correct copy of the foregoing PETITIONER'S REPLY BRIEF was served upon the following persons by the method(s) indicated below:

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# **EXHIBIT A**

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**IN THE SUPREME COURT OF THE STATE OF IDAHO**

CHRISTOPHER PENTICO, a qualified elector  
of the State of Idaho,

Petitioner,

vs.

IDAHO COMMISSION FOR  
REAPPORTIONMENT and LAWERENCE  
DENNEY, Secretary of State of the State of  
Idaho, in his official capacity,

Respondents.

Supreme Court No. 49351-2021

**AFFIDAVIT OF PETITIONER  
CHRISTOPHER PENTICO IN  
SUPPORT OF PETITIONER'S REPLY  
BRIEF**

STATE OF IDAHO            )  
                                          ) ss.  
County of Ada             )

Christopher Pentico, being first sworn, states as follows:

1. I am over the age of 18, and I am competent to testify truthfully to the matters herein.

2. I am the Petitioner in this matter and, as such, have personal knowledge of the facts contained herein.

3. On or about September 25, 2021, I submitted a proposed plan and map for congressional redistricting to the Respondent Idaho Commission on Reapportionment. My submission included my written comments.

4. My proposed congressional redistricting plan and map was given the identifying name of "C-039" by the Commission.

5. My written comments appear on page 6 in Appendix XII of the Commission's Final Report.

6. Those comments, as included in Appendix XII, read as follows:

"The deviation for both districts is zero people. Only Ada County is shared with Congressional Districts 1 and 2. Both districts are contiguous. Zero precincts are split"

7. I also submitted three legislative redistricting plans and maps with comments to the Commission and the comments also appear in Appendix XII. My comments for two of those plans/maps include the statement "No precincts are split."

8. I declare under penalty of perjury that the foregoing is true and correct.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Christopher C Pentico  
Christopher Pentico  
Petitioner

SUBSCRIBED AND SWORN TO before me this 11<sup>th</sup> day of January, 2022.



Tanner James Smith  
Notary Public for Idaho  
Residing at: Ada County  
My commission expires: 02-16-2027