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Attorney for Petitioners

IN THE SUPREME COURT OF THE STATE OF IDAHO

LAWERENCE DENNEY, SPEAKER)	
OF THE IDAHO HOUSE OF)	
REPRESENTATIVES, and NORM)	Supreme Court Docket No.
SEMANKO, CHAIRMAN OF THE)	
IDAHO REPUBLICAN PARTY)	
)	PETITION FOR WRIT OF MANDAMUS
Petitioners,)	
vs.)	
BEN YSURSA, Secretary of State of)	
the State of Idaho,)	
)	
Respondent.)	

COME NOW the Petitioners, The Honorable Lawrence Denney, Speaker of the Idaho House of Representatives, and Norm Semanko, Chairman of the Idaho Republican Party and submit the following Petition For a Writ of Mandate directed to Ben Ysursa, Secretary of the State of Idaho, and in support of their Petition, state as follows:

JURISDICTION

1. The Idaho Supreme Court has original jurisdiction over this matter pursuant to Article III, §2 (5), of the Idaho Constitution. Idaho Appellate Rule 5 authorizes any person to

apply to the Supreme Court for the issuance of any extraordinary writ or other proceeding over which the Supreme Court has original jurisdiction.

PETITIONERS

2. Petitioner The Honorable Lawrence Denney is a duly elected State Representative and the Speaker of the Idaho House of Representatives.

3. Petitioner Norm Semanko is the duly elected and acting Chairman of the Idaho Republican Party and its State Central Committee.

RESPONDENT

5. Respondent Ben Ysursa is the Secretary of State for the State of Idaho and has statutory responsibilities regarding the conduct of elections throughout the State of Idaho, and with the formation of a Commission for Reapportionment. Respondent Ysursa is required by Idaho Code §72-1502 to issue an order officially recognizing a vacancy on the Commission for Reapportionment when such a vacancy exists.

REDISTRICTING

7. On January 18, 2012, this Court issued its Decision in *Twin Falls County, et.al., v. Idaho Commission on Redistricting*, Supreme Court Docket No. 39373, declaring that the 2011 Reapportionment Plan adopted by the Idaho Commission for Reapportionment was unconstitutional and ordering that the Commission issue a revised plan.

8. Following issuance of that decision, Respondent Ysursa issued a statement that the Commission would be reconvened on January 26, 2012.

9. The Idaho Constitution, Article III, §2(2) provides that:

“The commission shall be composed of six members. The leaders of the two largest political parties of each house of the legislature shall each designate one member and the state chairmen of the two largest political parties, determined by the vote cast for governor in the last gubernatorial election, shall each designate one member.”

10. Pursuant to the foregoing authority, in September, 2011, The Honorable Lawrence Denney as Speaker of the Idaho House of Representatives and Norm Semanko, as Chairman of the Idaho Republican Party designated Dolores Crow and Randy Hansen, respectively, to serve as members of the Commission.

11. Following this Court’s decision in the *Twin Falls* case, *supra*, Petitioners asked Dolores Crow and Randy Hansen to resign from their designated positions. Each of them refused to do so. Petitioner Lawrence Denney then notified Dolores Crow that he was terminating her employment and service as a Commissioner, and was designating another person to serve in that position. Petitioner Norm Semanko similarly notified Randy Hansen that he was terminating his employment and service as a Commissioner, and was designating another person to serve in that position.

12. Petitioners met with Brian Kane, Assistant Attorney General and with Respondent Secretary of State Ben Ysursa and advised them that they had terminated Commissioners Crow and Hansen, and intended to designate other persons to serve in their place. Respondent advised Petitioners that he would not acknowledge their authority to terminate the Commissioners’ employment and would not declare vacancies on the Commission for Reapportionment pursuant to Idaho Code §72-1502. The language of that Code Section is mandatory and the Secretary’s duty in regard to declaring a vacancy is ministerial and not discretionary. The law states:

“Should a vacancy on the commission occur during the tenure of a commission, the secretary of state shall issue an order officially recognizing such vacancy. The vacancy shall be filled by the original appointing authority within fifteen (15) days of the order.”

13. Respondent further advised Petitioners that notwithstanding the firing of two Republican Commissioners and the resulting two (2) vacancies on the Commission, that the Commission would still be reconvened on January 26, 2012, even if there were only four (4) Commissioners remaining. He further advised the Petitioners that four (4) Commissioners, three (3) appointed by the Democratic Party, and one (1) appointed by the Republican Party, would constitute a quorum and be authorized to adopt a new Reapportionment Plan.

14. Respondent’s actions and threatened course of action violates Article III, §2 of the Idaho Constitution and Idaho Code §72-1502 by depriving the Petitioners of their Constitutional right to designate members of the Commission for Reapportionment and their corresponding right to remove members they previously designated.

15. Petitioners have no plain, speedy, and adequate remedy at law to protect their Constitutional rights in this matter. Petitioners will suffer irreparable harm if this Court does not issue an order requiring the Respondent Secretary of State to comply with the Idaho Constitution and statutory authority by declaring two (2) vacancies on the Commission for Reapportionment and accepting the two (2) substitute designees of the Petitioners prior to reconvening the Commission.

PRAYER FOR RELIEF

For all of the reasons set forth above, Petitioners respectfully pray for relief as follows:

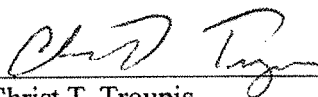
A. That the Idaho Supreme Court immediately issue an appropriate Writ of Mandate ordering Respondent Ben Ysursa, Idaho Secretary of State, to declare two (2) vacancies in the Petitioner for Writ of Mandate

office of Commissioner for Reapportionment by reason of the termination of the designation of Dolores Crow and Randy Hansen as designees of the Petitioners; and

B. That the Idaho Supreme Court order the Respondent to accept the designation by Petitioners of two (2) substitute designee Commissioners for Reapportionment; and

C. For such further and other relief as the Court deems just and necessary.

DATED this 24th day of January, 2012



Christ T. Troupis
Attorney for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24 day of January, 2012, a true and accurate copy of the foregoing was hand delivered to the following:

Brian Kane, Deputy Attorney General
Office of the Attorney General of the State of Idaho
700 West Jefferson,
P.O. Box 83720
Boise, Idaho 83720-0080

Ben Ysursa,
Secretary of State of the State of Idaho
700 West Jefferson, Room E205
P.O. Box 83720
Boise, Idaho 83720-0080

