

# Democrats ask Virginia Supreme Court to reject GOP redistricting special master nominees as biased

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*The redistricting effort shifted to the Virginia Supreme Court, which is housed at Ninth and Franklin streets, after the state redistricting commission found itself deadlocked.*

By [Frank Green](#)

Senate Democrats are asking the Virginia Supreme Court to reject three redistricting special master candidates nominated by Republicans on Nov. 1, accusing them of having “disqualifying conflicts of interest.”

“We urge the Court to reject the minority leaders’ nominees and direct them to resubmit new, unbiased nominees. We do not send this letter lightly, but these three nominees cannot lawfully serve and their mere nomination undermines public confidence in these critical, once-a-decade proceedings to redraw Virginia’s electoral maps,” Senate Majority Leader Dick Saslaw wrote to the clerk of the high court on Monday.

A constitutional amendment approved by voters last year called for a bipartisan Virginia Redistricting Commission to redraw the state’s legislative and congressional districts with new census data. The effort ended in a partisan deadlock last month and, under the amendment, the job went to the Virginia Supreme Court.

The high court asked leaders of both parties in the House of Delegates and Senate to nominate three qualified special masters — from which the court would pick two — to assist the justices. Saslaw’s letter contends that the Democrats’ nominees

have academic backgrounds and experience as redistricting special masters in Virginia and elsewhere unlike the Republican nominees.

In response, Jeff Ryer, spokesman for the Republican Senate Caucus, wrote in an email to the Richmond Times-Dispatch that “the Democrat nominees for special master are all extreme-left academics with well-demonstrated records of considering one and only one criteria when it comes to drawing district lines: What will benefit Democrats most. These desperate and brazenly transparent efforts by Senate Democrats — who are responsible for the current tortured lines of Senate districts — to influence and direct the Supreme Court of Virginia are inappropriate, outrageous, and shameless.”

The Republicans nominated:

- Thomas Bryan, a former statistician for the U.S. Census Bureau who founded a demographic analysis consulting firm for bipartisan clients, including expert witness services in state and local redistricting cases;
- Adam Kincaid, previously the redistricting coordinator for the National Republican Congressional Committee and now the executive director of the National Republican Redistricting Trust and Fair Lines America; and
- Adam Foltz, who served as the primary redistricting map drawer for the Wisconsin State Assembly Republican Caucus during the 2011-12 cycle, prepared Wisconsin’s defense against challenges to district maps and who is now a legislative analyst for the Texas Legislative Council and is working to draft new maps.

In his letter to the court on Monday, Saslaw cited the court’s own rule, which states in part that those “persons appointed to serve as special masters should have the requisite qualifications and experience to serve as a special master and should have no conflicts of interest.”

Among other things, Saslaw’s letter complains that Kincaid is president of the National Republican Redistricting Trust and has publicly touted the group as one

that created a Republican coalition “capable of dominating American politics for years to come.”

Bryan received \$20,000 in consulting fees from the Virginia Senate Republican Caucus; and Foltz was said to be one of the drafters of Wisconsin’s 2010 legislative maps found by a three-judge federal panel in 2016 to be an “unconstitutional political gerrymander.”

The Democrats contend: “Here, there can be no doubt that the records and prior conduct of the minority’s special master nominees ‘create in reasonable minds a perception’ that their ability to carry out their responsibilities ‘with integrity and impartiality is impaired.’”

Saslaw asserted, “What reasonable person could expect Mr. Kincaid or Mr. Foltz — both of whom have been found by courts to have engaged in extreme gerrymandering to advantage Republicans — to be impartial here? What reasonable person could expect Mr. Bryan — who recently worked as a paid consultant to Virginia Senate Republicans — to be disinterested? What reasonable person could expect Mr. Kincaid — who is on the payroll of the Republican National Committee and whose job is to coordinate gerrymandering in favor of Republicans across the country — to propose a map that does not ‘unduly favor’ Republicans?”

The Democrats nominated:

- Bernard N. Grofman, a professor of political science at the University of California, Irvine, who served as special master to courts in drawing Virginia congressional districts in 2015 and the Virginia House of Delegates districts in 2018;
- Nathaniel Persily, a professor at the Stanford Law School who has served as a court-appointed special master for state legislative and congressional maps in other states; and

- Bruce E. Cain, a professor at the School of Humanities and Sciences at Stanford University who served as a court-appointed special master to draw state legislative districts in Arizona in 2002 and has been a redistricting consultant to government agencies including the Attorney General of Maryland.

Ryer told The Times-Dispatch last week that “they’re all college professors. Can you name another profession in this country that has a higher level of support for the Democratic Party?”

“Neither side,” he said, “is going to put forward individuals that they think are not going to do a fantastic job for them.”

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