

STATE OF MINNESOTA

IN SUPREME COURT

A11-152

OFFICE OF
APPELLATE COURTS

JUN -1 2011

FILED

Sara Hippert, Dave Greer, Linda Markowitz,
Dee Dee Larson, Ben Maas, Gregg Peppin,
Randy Penrod and Charles Roulet,
individually and on behalf of all citizens and
voting residents of Minnesota similarly
situated,

Petitioners,

vs.

Mark Ritchie, Secretary of State of Minnesota;
and Robert Hiivala, Wright County Auditor,
individually and on behalf of all Minnesota
county chief election officers,

Respondents.

O R D E R

By order filed February 14, 2011, petitioners' motion for appointment of a special redistricting panel to hear and decide challenges to the validity of state legislative and congressional districts based on the 2010 Census was granted, but appointment of the panel was stayed to provide an opportunity for enactment of redistricting legislation. On May 18, 2011, petitioners filed a motion to lift the stay and appoint the panel. Subsequently, the legislative session ended without agreement on redistricting legislation by the legislative and executive branches. Respondent Secretary of State Mark Ritchie argues that appointment of a panel is still premature because a special session of the

Legislature “presumably” will be called, presenting another opportunity for legislative and executive agreement on redistricting plans. Although future agreement on redistricting legislation by the legislative and executive branches remains a possibility, in light of the significant duties and responsibilities to be undertaken by the panel and the requirement for completion of redistricting in time for the 2012 election cycle, appointment of a redistricting panel is now necessary and appropriate.

Neither the prior filing of a redistricting action in federal court nor the pendency of a motion to lift the stay in that action negates the responsibility of our state courts with regard to redistricting or the authority of the Chief Justice to appoint a panel. The United States Supreme Court has decided that “reapportionment is primarily the duty and responsibility of the State through its legislature or other body, rather than of a federal court.” *Grove v. Emison*, 507 U.S. 25, 34 (1993) (quoting *Chapman v. Meier*, 420 U.S. 1, 27 (1975)) (internal quotation marks omitted). The primacy of state responsibility for redistricting announced in *Grove* is grounded in constitutional principles. Those principles are controlling here, and their application does not vary based on which lawsuit, state or federal, was filed first.

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that pursuant to Minn. Stat. §§ 2.724, subd. 1, and 480.16 (2010), the following judges are appointed as a special redistricting panel to hear and decide all matters, including all pretrial and trial motions, in connection with the ultimate disposition of the above-entitled action and any additional challenges filed in

state court to the validity of state legislative and congressional districts based on the 2010 Census:

Hon. Wilhelmina M. Wright, presiding judge,

Hon. Ivy S. Bernhardson,

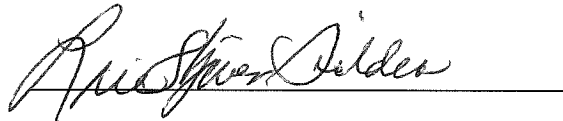
Hon. James B. Florey,

Hon. Edward I. Lynch, and

Hon. John R. Rodenberg.

IT IS FURTHER ORDERED that the special redistricting panel shall order implementation of judicially-determined redistricting plans for state legislative and congressional seats only in the event that the Legislature and Governor have not in a timely manner enacted redistricting plans that satisfy constitutional and statutory requirements. *See White v. Weiser*, 412 U.S. 783, 794 (1973) (“[R]eapportionment is primarily a matter for legislative consideration and determination.” (citation omitted) (internal quotation marks omitted)); Minn. Stat. § 204B.14, subd. 3(d) (2010) (requiring reestablishment of precinct boundaries within 60 days of redistricting or at least 19 weeks before the state primary election, whichever comes first).

Dated: June 1, 2011

A handwritten signature in cursive script, reading "Lorie S. Gildea", written over a horizontal line.

Lorie S. Gildea
Chief Justice