

SUPREME COURT
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JAN 2 1979
JOHN McCARTHY
CLERK

49543

STATE OF MINNESOTA

IN SUPREME COURT

In the Matter of the Redistricting
Plan of The Eighth Judicial District

Petition for Rehearing

By

The Kandiyohi County Bar Association

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Comes now the Kandiyohi County Bar Association and respectfully petitions the Court for a re-hearing in the above entitled matter on the following grounds:

1. The Court exceeded the powers granted to it by terminating the position held by the Honorable M. A. Wahlstrand.

The statute, Section 487.01, Subdiv. 5(4), specifically provides that Kandiyohi County shall elect two county court judges. While Subd. 6 of said Section 487.01 provides that the Court may combine two or more county court districts, that part of the statute, Subd. 7 which deals with the reduction in the number of judges, provides that the reduction in the number of judges may be had only upon the recommendation of all the county boards of the counties involved.

2. The implied strained construction placed on Subdivision 6 of Section 487.01 by the Court ignores the plain mandate of the statute that districts may be combined only "for the more effective administration of justice."

There is no evidence before the Court which even tends to show that there will be a more effective administration of justice by the elimination of a position filled by a judge who heretofore has been demonstrated to be busy, active, and keeping abreast of court calendars. If this order is to be permitted to stand, the administration of justice in Kandiyohi County will be impaired.

3. The order of the Court is perverse and self-contradictory.

The plan which the Court adopts contains the following: "The plan proposed herein is a tentative plan subject to hearings to be held in each of the proposed county court districts and it is anticipated that legislators, county commissioners, law enforcement officials, members of the Bar and interested citizen organizations would be invited to these hearings and their comments and proposals taken into consideration before the adoption of a final plan." The Court, by its summary adoption of a plan which contains within itself extensive provisions for hearing at which local people affected be given a full opportunity to be heard, without providing for said hearings before the Plan is effective, constitutes an arbitrary exercise of judicial power unwarranted in both the Plan and the law.

4. The order of the Court ignores the proper timing contained in the Plan it adopted.

The Plan provides that it be in effect for the county court judges election in November, 1980. By its order terminating the position held by Judge Wahlstrand effective December 31, 1978, the Court completely ignores this part of the plan adopted by it and is also therefore perverse and self-contradictory.

5. The statutory goal of the "more effective administration of justice" can be had only by diligent searching of the facts and the giving of the opportunity for people affected to be heard in their areas.

The administration of justice is of primary concern to the people affected. Courts, lawyers, and legislators have a concern also, but this must yield to the concerns of the citizen who looks to the court for the resolution of his disputes and for the proper consideration of his rights.

The facts upon which a proper determination of whether the administration of justice will be served, can be determined only by appropriate hearings at which the operation of the courts involved can be subject to proper fact-finding procedures. It involves facts which cannot be properly obtained through affidavits, or computerized data which all too often ignore the human factors.

6. The Plan as amended by the Court will be wasteful of judicial time.

The evidence before the Court, and the geographical data embraced in the supplement to the Plan adopted by the Court, indicates that a considerable amount of time of judges will now be spent in the transport of judges to Willmar on a daily basis. This is wasteful of judicial time and is not a wise stewardship of judicial time and ability.

7. The basis for determining whether there are too many judges in a judicial district embracing 13 counties extending to distances of 151 miles between county seats is not a relevant consideration for determining the needs of a three county part of such district.

The Court seems to be guided by considerations of the number of judges in the Eighth Judicial District. It is submitted that by basing its decision on the number of judges needed in such a large district, of disparate population density, is unfair, and does not address itself to local needs.

8. The Court did not properly address itself to the functions of judges on the district court level as against the functions of county court judges.

Three district court judges serving the Eighth Judicial District have thirteen counties under their jurisdiction. To assume that the residence of a district court judge in an area of the district makes him available for the handling of county court business is to belie the responsibility of district court judges in other parts of the district. To assume that district court judges are available to handle county court business is to ignore the basic facts of judicial responsibility in the trial and handling of major court cases.

We therefore respectfully request the Court to rescind its order and to enter an order providing the following:

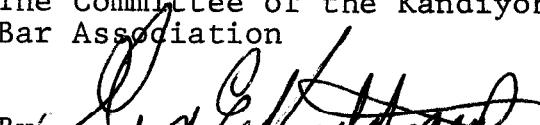
1. Establishing a commission or referee of the Court to hold hearings in Kandiyohi, Meeker, and Swift Counties as provided in the Plan, and thereupon having the matter re-heard by the Court;
2. Delineating the legal issues raised and requesting the judges and the lawyers to address themselves to such issues by briefs filed with the Court and at oral argument upon such re-hearing;
3. Referring the Plan to the Eighth Judicial District judges and the bar for further consideration in the light of facts developed and the judicial determination of the legal principles applicable.

Dated this 29th day of December, A. D. 1978.

Respectfully submitted,

The Committee of the Kandiyohi County
Bar Association

By


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