



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

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August 22, 2001

The Honorable Mary Kiffmeyer
Secretary of State
180 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1299

OFFICE OF
APPELLATE COURTS

AUG 27 2001

FILED

Re: *Zachman, et al. v. Kiffmeyer, et al.*

Dear Ms. Kiffmeyer:

I am responding to your letter of August 16, 2001.

As you know, the Minnesota Constitution gives to the Legislature "the power to prescribe the bounds of congressional and legislative districts." Minn. Const. art. IV, § 3. The Legislature also has enacted statutes that set March 19, 2002 as the deadline for it to complete legislative redistricting. Minn. Stat. § 204B.14 (2000). In accordance with our Constitution and laws, the Chief Justice has recently reiterated in this very case that "the primacy of the legislative role in the redistricting process be honored and that the judiciary not be drawn prematurely into that process." Order of July 12, 2001, at 1 (quoting Chief Justice's Order of March 2, 2001).

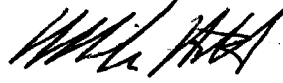
Your insistence that the judiciary, rather than the Legislature, adopt a new redistricting plan (see attached Release of Mary Kiffmeyer, dated July 6, 2001, entitled "Court Should Take Over Redistricting Now") is contrary to the state Constitution and laws and the Chief Justice's Orders. Consistent with the Minnesota Constitution, statutory law and the Chief Justice's Orders in this case, my office has asked the Court to give the Legislature a meaningful opportunity to enact a redistricting plan. As Chief Justice Blatz indicated in her Orders, if the Legislature is unable to agree to a redistricting plan in a timely fashion, the Court can then proceed to adopt a redistricting plan. At this point in time, however, I cannot support the position that the Courts should now take over the redistricting function.

Your letter seems to indicate that because you are the named defendant that you are authorized to set the legal policy of this State. That is incorrect. It is well-settled law that it is the responsibility of the Attorney General to establish the legal policy of the State. See *Slezak v. Ousdigian*, 260 Minn. 303, 110 N.W.2d 1 (1961), *State ex rel. Peterson v. City of Fraser*,

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254 N.W. 776, 191 Minn. 427 (Minn. 1934). With that in mind, the motion filed by this Office in the above-referenced matter will not be withdrawn.

Very truly yours,

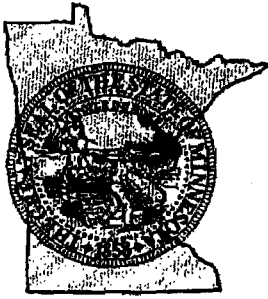


MIKE HATCH
Attorney General
State of Minnesota

Enclosure

cc: The Honorable Edward Toussaint, Jr.
Frederick K. Grittner, Minnesota Supreme Court Administrator
Thomas Heffelfinger, Best & Flanagan
Charles Shreffler, Shreffler Law Firm
Brian Asleson, Wright County Attorney's Office
Amy Klobuchar, Hennepin County Attorney
John French, Faegre & Benson
Mark Peterson, Moss & Barnett
Alan Weinblatt, Weinblatt & Gaylord

AG: 505259, v. 01



Mary Kiffmeyer

MINNESOTA SECRETARY OF STATE

For Release:
6 July 2001

Contact: Kent Kaiser
651-297-8919

Commentary

Court Should Take Over Redistricting Now

By Secretary of State Mary Kiffmeyer

Do you know where you live? You may know your street, city, and state, but do you know your 2002 legislative district? How about your congressional district? If you don't, you're not alone; in fact, *no one* knows.

As a result of the 2000 census, Minnesota is now in the process of "redistricting"—the grouping of people for purposes of representation in government.

The process allows for the state legislature to draw new lines every ten years to produce election districts of relatively similar population. Once the new state-level districts are changed, then local governments go about the process of drawing their new districts—for county board of commissioners, city council, school board, and more. Ultimately, officials are elected to represent the new districts, so it is easy to see why the process causes conflict: political power is at stake. Still, the conflict should not be insurmountable.

Regrettably, though, in the legislative session that just ended, the legislature failed to adopt a redistricting plan. While the House passed a plan of Republican design, and the Senate passed a plan of Democratic design, no conference committee meetings were even held to discuss the radically divergent plans, let alone to forge a compromise for enactment. In light of the stakes involved and the conflict already on display, court challenges are almost guaranteed, no matter what plan the legislature would eventually adopt, thereby delaying resolution even more. Indeed, court resolutions over redistricting are quite common.

While the law permits passage of a redistricting plan as late as next March, prudence would have it enacted long before that deadline.

Our democratic republic benefits from an informed electorate. Voters need information about their new election districts to make good decisions and know the candidates seeking to represent them. Voter confusion and the potential for voting in the wrong location would be reduced if the redistricting plan were implemented sooner rather than later. This would allow election officials more time to notify voters of their new polling place locations and allow voters more time to become educated about their new districts and representation.

-Continued-

It would be a shame if the legislature's or the political parties' inability to agree on a redistricting plan were to result in thousands of confused or under-informed voters.

Understanding this, I recently wrote to the legislature's redistricting committee members, urging them immediately to adopt a plan for the benefit of voters, but to no avail.

There is another solution to this problem: In instances where the legislature appears to be in deadlock over redistricting with no hope of compromise, as clearly is the case this year, the Minnesota Supreme Court has the prerogative to step in at any time and take over the process.

It's time. Left any longer to the legislature, the redistricting process is likely just to chew up valuable time that could be spent in educating voters and simply to waste tax dollars on legislators' expenses. The people of Minnesota deserve better.

Given our state's history on redistricting, it seems like plain common sense that, for the benefit of the voters, the State Supreme Court should step in and take over the process right now.

Mary Kiffmeyer (R-Big Lake Township) is Minnesota's 20th Secretary of State.

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