

STATE OF MINNESOTA
IN SUPREME COURT

OFFICE OF
APPELLATE COURTS

JAN 26 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.

Defendant Secretary of State Mark Ritchie opposes the petition to appoint a special redistricting panel at this time in the above-referenced matter.

Such an appointment is premature. The Legislature must first be given adequate opportunity to redistrict as it deems appropriate. The Legislature convened just this month and the 2011 legislative session is presently scheduled to end on May 23, 2011. It is simply premature for a court to consider Petitioners' claims. *See Zachman v. Kiffmeyer*, No. C0-01-160 (Mar. 2, 2001, Order of Chief Justice Blatz) (copy attached).

As stated by Chief Justice Blatz:

A11-152

**RESPONDENT MARK RITCHIE'S
RESPONSE TO PETITION FOR
APPOINTMENT OF SPECIAL
REDISTRICTING PANEL**

While the need to have state legislative and congressional district lines drawn in time for the 2002 election cycle imposes undeniable time constraints on this process, it is important that the primacy of the legislative role in the redistricting process be honored and that the judiciary not be drawn prematurely into that process.

Id. at 5. See also *Maryland Citizens for a Representative General Assembly v. Governor of Maryland*, 429 F.2d 606, 609-612 (4th Cir. 1970) (dismissing complaint for declaratory and injunctive relief regarding reapportionment of Maryland state districts because State of Maryland had not yet had adequate opportunity to act on redistricting plan).

As Petitioners note, in the *Cotlow* case the order appointing a redistricting panel was issued on June 4, 1991. (Petition at 2). The Order appointing the panel in *Zachman* was issued on July 12, 2001, *Zachman v. Kiffmeyer*, No. C0-01-160 (copy attached), and even then Chief Justice Blatz stated that the special redistricting panel shall redistrict “only in the event a legislative redistricting plan is not enacted in a timely manner.” *Id.* at 2.

If and when a Panel is appointed, the panel should hear the case in Ramsey County. *Cf.* Minn. Stat. § 209.045 (providing for venue in Ramsey County of three-judge panel assigned by chief justice of Supreme Court to hear statewide election contest).

Dated: January 26, 2011

Respectfully submitted,

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AG: #2761325-v1