

JAN 27 2011

STATE OF MINNESOTA
IN SUPREME COURT

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.

A11-152

PETITIONERS' REPLY TO
RESPONDENT MARK
RITCHIE'S OPPOSITION TO
PETITION FOR
APPOINTMENT OF
SPECIAL REDISTRICTING
PANEL

Petitioners Sara Hippert, Dave Greer, Linda Markowitz, Dee Dee Larson, Ben Maas, Gregg Peppin, Randy Penrod and Charles Roulet ("Petitioners"), through their undersigned counsel, submit this Reply to Respondent Mark Ritchie's Response to Petition for Appointment of Special Redistricting Panel. Respondent Ritchie argues that the Petition is "premature" because "the Minnesota Legislature must first be given opportunity to redistrict as it deems appropriate". Paragraph 1 of the Petition clearly recognized the primacy of the legislative and executive role in redistricting matters. The Petition simply requests that a panel be appointed now to be ready to act quickly in the very likely event (given Minnesota's divided government) that Minnesota's Republican Legislature and Democrat Governor fail to agree on legislative and/or congressional redistricting plans.

Respondent fails to note that the March 2, 2001 Order of Chief Justice Blatz attached to Respondent's Response *granted* the request for appointment of a panel (thereby consolidating all redistricting matters in a single forum) (paragraph 2 of the Order) but then stayed all action until legislative and executive failure to adopt a plan (paragraph 3 of the Order). Although Petitioners would be amicable to a similar course of action in this matter, there are two (2) important reasons (discussed in greater detail in the Petition) favoring appointment of a panel earlier rather than later this time around.

The most important reason for quick action is the pending federal district court action, *Audrey Britton et al. v. Mark Ritchie et al.*, Civil Action No: 11-cv-93 (the "Federal Litigation") requesting the federal district court to redress Minnesota's currently unconstitutional congressional and legislative district boundaries. (Petition, ¶ 2.) A three (3) judge panel has already been appointed in the Federal Litigation, which has the very real possibility of usurping the primary role of Minnesota authorities (legislative, executive and judicial) in drawing Minnesota's congressional and legislative boundaries. *Grove v. Emison*, 507 U.S. 25 (1993).

Additionally, Minnesota's statutory deadline for completing redistricting, established at Minn. Stat. § 204B.14, subd. 1a, is four (4) weeks *earlier* than in 2002. (Petition, ¶ 6.) The statutory deadline is based on the primary, which now occurs in August (not September). Thus, the statutory deadline for completing redistricting is February 21, 2012 (in 2002, the deadline was March 22). (Petition, ¶ 7.) The panel in 2011-2012 will therefore have four (4) fewer weeks to complete its work than the panel in 2001-2001.

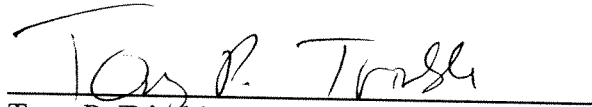
Finally, Respondent has already orally (through the Minnesota Attorney General) expressed his intent to file a motion to dismiss Petitioner's Wright County action. Petitioners believe that such a motion, if filed, should be heard by the special redistricting panel and *not* the Wright County

District Court. Petitioners also agree with Respondent that, once a panel is appointed, that Ramsey County is an appropriate venue for all proceedings.

For the foregoing reasons, Petitioners request the Chief Justice to act quickly in appointing a special redistricting panel under Minn. Stat. § 2.724, to hear and decide all matters or actions relative to Minnesota legislative and congressional redistricting based on the 2010 Census. The Panel should be appointed and set a scheduling order (for intervention, adoption of redistricting criteria and submission of plans) so Minnesota courts are ready to act expeditiously if and when Minnesota's Republican Legislature and Democrat Governor fail to agree on legislative and/or congressional redistricting plans.

Respectfully submitted,

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