

Supreme Court of Wisconsin

No. 2021AP1450-OA

BILLIE JOHNSON, ERIC O'KEEFE, ED PERKINS AND RONALD ZAHN,

Petitioners,

BLACK LEADERS ORGANIZING FOR COMMUNITIES, VOCES DE LA FRONTERA, LEAGUE OF WOMEN VOTERS OF WISCONSIN, CINDY FALLONA, LAUREN STEPHENSON, REBECCA ALWIN, CONGRESSMAN GLENN GROTHMAN, CONGRESSMAN MIKE GALLAGHER, CONGRESSMAN BRYAN STEIL, CONGRESSMAN TOM TIFFANY, CONGRESSMAN SCOTT FITZGERALD, LISA HUNTER, JACOB ZABEL, JENNIFER OH, JOHN PERSA, GERALDINE SCHERTZ, KATHLEEN QUALHEIM, GARY KRENZ, SARAH J. HAMILTON, STEPHEN JOSEPH WRIGHT, JEAN-LUC THIFFEAULT, AND SOMESH JHA,

Intervenors-Petitioners,

v.

WISCONSIN ELECTIONS COMMISSION, MARGE BOSTELMANN IN HER OFFICIAL CAPACITY AS A MEMBER OF THE WISCONSIN ELECTIONS COMMISSION, DON MILLIS IN HIS OFFICIAL CAPACITY AS A MEMBER OF THE WISCONSIN ELECTIONS COMMISSION, ANN JACOBS IN HER OFFICIAL CAPACITY AS A MEMBER OF THE WISCONSIN ELECTIONS COMMISSION, CARRIE RIEPL IN HER OFFICIAL CAPACITY AS A MEMBER OF THE WISCONSIN ELECTIONS COMMISSION, ROBERT SPINDELL, JR. IN HIS OFFICIAL CAPACITY AS A MEMBER OF THE WISCONSIN ELECTIONS COMMISSION, AND MARK THOMSEN IN HIS OFFICIAL CAPACITY AS A MEMBER OF THE WISCONSIN ELECTIONS COMMISSION,

Respondents,

THE WISCONSIN LEGISLATURE, GOVERNOR TONY EVERS, IN HIS OFFICIAL CAPACITY, AND DIANNE HESSELBEIN, SENATE DEMOCRATIC MINORITY LEADER, ON BEHALF OF THE SENATE DEMOCRATIC CAUCUS,

Intervenors-Respondents.

INTERVENORS-PETITIONERS LISA HUNTER, JACOB ZABEL, AND JOHN PERSA'S MOTION FOR RELIEF FROM JUDGMENT

Pursuant to Wisconsin Statutes § 806.07(1)(g) and (h), Intervenor-Petitioners Lisa Hunter, Jacob Zabel, and John Persa (the “Hunter Intervenor-Petitioners”) respectfully move the Court for relief from its March 3, 2022, decision and judgment (the “*Johnson II*” decision) adopting a congressional map as an impasse remedy.¹ That decision and judgment were based upon the Court’s November 30, 2021, determination (“*Johnson I*”) that the parties’ redistricting plans would be evaluated using the “least change” standard. On December 22, 2023, this Court “overrule[d] any portions of *Johnson I*, *Johnson II*, and *Johnson III* that mandate a least change approach.” *Clarke v. Wis. Elections Comm’n*, 2023 WI 79, ¶¶ 61–63. The Court denied reconsideration of that decision on January 11, 2024. Order re: Motion for Reconsideration, *Clarke v. Wis. Elections Comm’n*, No. 2023AP1399-OA (Jan. 11, 2024).

Relief from the *Johnson II* judgment is warranted in light of *Clarke*. The *Johnson II* congressional map’s “prospective application” to control Wisconsin’s congressional elections for the

¹ Intervenor-Petitioners Jennifer Oh, Geraldine Schertz, and Kathleen Qualheim are no longer seeking relief in this action.

In the caption, Wisconsin Elections Commissioners Don Millis and Carrie Riepl have been substituted as Respondents in place of their predecessors in office, Julie Glancey and Dean Knudson. Senate Democratic Minority Leader Dianne Hesselbein has been substituted as Intervenor-Respondent in place of her predecessor in office, Janet Bewley. *See* Wis. Stat. § 803.10(4).

balance of the decade is “no longer equitable,” Wis. Stat. § 806.07(1)(g), and relief is also justified for several “other reasons,” *id.* § (h). Accordingly, on the grounds set forth in more detail in the accompanying memorandum, the Court should:

- (1) Grant the Hunter Intervenors-Petitioners relief from the *Johnson II* judgment imposing Wisconsin’s current congressional map as a prospective impasse remedy;
- (2) Permit the parties to submit remedial congressional plans that satisfy Wisconsin’s judicial redistricting criteria for congressional maps as clarified by *Clarke*; and
- (3) Adopt a plan satisfying those criteria as Wisconsin’s congressional map for the remainder of the decade as soon as practicable, and in time for the 2024 congressional elections.

Dated: January 16, 2024

By: Electronically signed by
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Respectfully submitted,

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**Admitted pro hac vice*

***Pro hac vice application
forthcoming*

CERTIFICATE OF SERVICE

I certify that on this 16th day of January, 2024, I caused a copy of this motion to be served upon counsel for each of the parties via email.

Dated: January 16, 2024

By: Electronically signed by
Diane M. Welsh

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