

STATE OF MINNESOTA
SPECIAL REDISTRICTING PANEL

CO-01-160

Susan M. Zachman, Maryland Lucky R.
Rosenbloom, Victor L.M. Gomez, Gregory G.
Edcen, Jeffrey E. Karlson, Diana V. Bratlie,
Brian J. LeClair and Gregory J. Ravenhorst,
individually and on behalf of all citizens and
voting residents of Minnesota similarly situated,

Plaintiffs,

v.

Mary Kiffmeyer, Secretary of State of Minnesota;
and Doug Gruber, Wright County Auditor,
individually and on behalf of all Minnesota
county chief election officers,

Defendants.

**INTERVENORS'
MEMORANDUM IN
OPPOSITION TO
PLAINTIFFS' MOTION FOR A
SCHEDULING ORDER**

Congressman Martin Olav Sabo, Congressman James L. Oberstar, Congressman
William P. Luther, Congresswoman Betty McCullum, Minnesota Senate Majority Leader
Senator Roger D. Moe, and Minnesota House Minority Leader Representative Thomas W. Pugh
(hereafter, the "Intervenors") oppose the Plaintiffs' Motion for Entry of a Scheduling Order for
the reason that, if it is granted, the proposed schedule would entirely deprive them of their
constitutional right to Congressional and legislative redistricting of the State of Minnesota by the
legislative branch of government. Despite the fact that Legislature of the State of Minnesota is

not in session and will not reconvene until January 28, 2002, the proposed schedule calls for resolution of this matter via a five-day trial commencing on December 17, 2001.¹

Plaintiffs' motion asks this Panel to violate the legislature's constitutional redistricting priority, as set forth in the two orders of Chief Justice Blatz which led to the establishment of the Panel. In her order granting plaintiffs' motion for appointment of a special redistricting panel but staying its appointment, dated March 2, 2001, the Chief Justice stated, "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 rule in the redistricting process be honored and that the judiciary not be drawn prematurely into that process."

In her order establishing this Panel, dated July 12, 2001, the Chief Justice repeated these words and added, that "the special redistricting panel shall release a redistricting plan that satisfies constitutional and statutory requirements only in the event a legislative redistricting plan is not enacted in a timely manner." Plaintiffs' motion would flout these clear directives of the Chief Justice by entirely depriving the legislature of any opportunity to adopt a redistricting plan.

Plaintiffs seek to justify this proposed deprivation of the legislature's constitutional authority on the basis of a letter written to legislators by Secretary of State Kiffmeyer. Quite apart from the fact that this letter does not constitute admissible evidence, it does not stand for the proposition plaintiffs assert. Plaintiffs extrapolate from the Secretary's

¹ In addition to opposing the entire concept of plaintiffs' proposed scheduling order, the Intervenor objects to many of its specific elements. For example, in this extraordinary proceeding, it is inappropriate to incorporate routine discovery procedures, or to resolve the matter by trial, and a trial by jury would obviously violate the objective of the Chief Justice in establishing the Special Redistricting Panel.

comments about "prudent public policy" requiring a redistricting plan long before March 2002 to a "real deadline" of January 1, 2002. No such deadline appears in the Secretary's letter.

In any event, the Secretary's views on "prudent public policy" for legislative consideration, based on her understandable concern for the orderly administration of elections by her office, were not directed to the judiciary and cannot override the law or the constitution. As plaintiffs' Memorandum of Law acknowledges (at p. 2) the statutory deadline for redistricting is March 19, 2002, and Secretary Kiffmeyer's letter recognizes that the law permits passage of a plan as late as March 2002.

This means that the legislature has ample time in 2002, when it reconvenes, to adopt a redistricting plan within the time prescribed by law. The constitutional precepts enunciated by Chief Justice Blatz in her orders of March 2, 2001, and July 12, 2001, compel the conclusion that the judicial branch of our state government must allow the legislative branch to take full advantage of this opportunity.

For the foregoing reasons, the Intervenor respectfully asks that Plaintiffs' Motion to Entry of a Scheduling Order be denied.

Respectfully submitted,

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