

STATE OF MINNESOTA
SPECIAL REDISTRICTING PANEL
CO-01-160

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

Plaintiffs,

and

Patricia Cotlow, Thomas L. Weisbecker, Theresa
Silka, Geri Boice, William English, Benjamin
Gross, Thomas R. Dietz, John Raplinger,
individually and on behalf of all citizens and
voting residents of Minnesota similarly situated,

Plaintiffs-Intervenors,

and

Jesse Ventura,

Plaintiff-Intervenor,

and

Roger D. Moe, Thomas W. Pugh, Betty McCollum,
Martin Olav Sabo, Bill Luther, Collin C. Peterson
and James L. Oberstar,

Plaintiffs-Intervenors,

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.

**PLAINTIFF
INTERVENOR JESSE
VENTURA'S RESPONSE
TO STATEMENTS
OF UNRESOLVED
ISSUES RELATING
TO CRITERIA**

INTRODUCTION

The parties to this action, having stipulated to certain redistricting principles, each filed statements in support of additional criteria. Plaintiff-Intervenor Jesse Ventura now submits this Response to Statements of Unresolved Issues Relating to Criteria.

ARGUMENT

I. The Panel Should Not Protect Incumbents by Adopting a Criterion Regarding “Preserving the Cores of Existing Districts” or “Minimizing Change to Existing Boundaries” or “Maintaining Constituent-Legislator Relations”

Partisan considerations are improper in the context of judicial redistricting. Fletcher v. Golder, 959 F.2d 106, 109 (8th Cir. 1992). Although political considerations are inevitable when state legislatures draft redistricting plans, partisan political motivation is irrelevant when a plan is court-drawn or court-adopted. Fletcher, 959 F.2d at 109; see Wyche v. Madison Parish Police Jury, 635 F.2d 1151, 1160 (5th Cir. 1981) (“Wyche I”) (holding court is forbidden from considering purely political considerations, which are appropriate for legislative bodies). The judicial redistricting process should be “a fastidiously neutral and objective one, free of all political considerations.” White v. Weiser, 412 U.S. 783, 799 (1973) (Marshall, J., concurring in part).

All parties agree that “incumbency protection” is not a proper judicial redistricting criteria. See Criteria Stipulation at 3 (stating “[t]he districts must not be drawn for the purpose of protecting or defeating an incumbent”). Indeed, Minnesota courts consistently have refused to adopt incumbency protection or other similarly politically-charged redistricting criteria. See Cotlow v. Growe, No. C8-91-985 (Minn. Special Redistricting Panel Dec. 9, 1991) (available at <http://www.senate.leg.state.mn.us/departments/scr/redist/cotlo129.htm>) (holding past voting behavior and residency of incumbents shall not be used as criteria); Emison v. Growe, 782 F. Supp. 427, 445-46 (D. Minn. 1992), rev’d on other grounds, 507 U.S. 25 (1993) (stating judicial plan was developed without regard to residence of incumbents and without regard to

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partisanship); LaComb v. Growe, 541 F. Supp. 160, 165 (D. Minn. 1982) (commenting draft of initial district lines was done without reference to residence of incumbents); Beens v. Erdahl, 336 F. Supp. 715, 719 (D. Minn. 1972) (noting no consideration was given to residence of incumbent legislators or to voting pattern of electors); see also Wyche v. Madison Parish Police Jury, 769 F.2d 265, 268 (5th Cir. 1985) (“Wyche II”) (holding “protection of incumbents ... [has] no place in a plan formulated by the courts”).

The proposed “preserving the cores of existing districts” criterion seeks to “minimize change in existing boundaries” and “maintain constituent-legislator” relations. Moe Plaintiffs-Intervenors’ Proposed Redistricting Principles at 13-14. That criterion is politically motivated and designed primarily to protect incumbents. See Good v. Austin, 800 F. Supp. 557, 564 (E. & W.D. Mich. 1992) (holding that “the maintenance of the geographic and population cores of existing districts is a criteria designed primarily to protect incumbents ... criteria that are so laden with political considerations are inappropriate ... in the formulation of a judicial districting plan”). This court should decline to adopt a criterion on “preserving the cores of existing districts” or other criteria chiefly designed to protect the status quo because such criteria favor incumbents and improperly introduce politics into the judicial redistricting process.

II. Adoption of a Political Competitiveness Criterion Will Prevent the Infusion of Political Considerations Into the Judicial Redistricting Process

Plaintiff-Intervenor Ventura requests that the Panel adopt the following criterion:

9. **POLITICAL COMPETITIVENESS.** Political considerations, including but not limited to previous or projected electorate voting behavior and residency of incumbents, shall not be used in the development of any redistricting plan. Exclusion of such considerations will increase the probability that politically competitive districts will result.

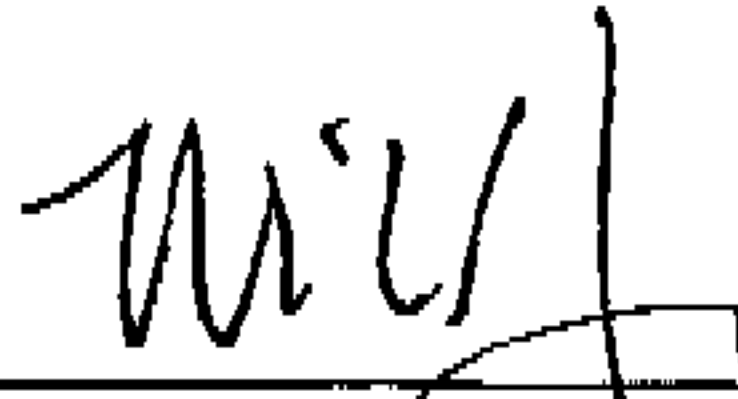
Several parties object to the adoption of a “political competitiveness” criterion on grounds that term is vague, unreliable, and may be used by parties for political gain. Cotlow Plaintiffs-Intervenors’ Memorandum Regarding Redistricting Criteria at 8-9; Zachman Plaintiffs’

Statement of Unresolved Issues Regarding Criteria at 9-10. But those parties misunderstand the proposed criterion. Plaintiff-Intervenor Ventura asks this Panel to reject all partisan considerations in drafting its redistricting plan. Rather, this Panel should focus on the objective criteria of creating contiguous and compact districts of equal population and, where consistent with those goals, recognizing political and geographic boundaries and other communities of interest. If the Panel ignores partisan considerations, the redistricting process inevitably will result in politically competitive districts. See Emison v. Grove, 782 F. Supp. 427 (D. Minn. 1992), rev'd on other grounds, 507 U.S. 25 (1993) (holding “[a]dherence to principles of compactness and population equality, and respect for governmental boundaries insures that partisan gerrymandering is reduced or eliminated”).

Competitive districts encourage and foster the democratic process. By contrast, gerrymandered districts result in elections decided at the primary, leaving large numbers of voters with no incentive to participate in the general election. A redistricting plan drawn without the usual infusion of partisan motivation will correct this problem and lead to a healthier democratic process. By adopting “political competitiveness” as a criterion, this Panel will remove partisan motivations from the process and create a neutral, objectively fair redistricting plan.

Dated: November 21, 2001

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