FILED
10-16-2023
CLERK OF WISCONSIN
SUPREME COURT

STATE OF WISCONSIN

IN SUPREME COURT

Case No. 2023AP1399-OA

REBECCA CLARKE, RUBEN ANTHONY, TERRY DAWSON, DANA GLASSTEIN, ANN GROVES-LLOYD, CARL HUJET, JERRY IVERSON, TIA JOHNSON, ANGIE KIRST, SELIKA LAWTON, FABIAN MALDONADO, ANNEMARIE MCCLELLAN, JAMES MCNETT, BRITTANY MURIELLO, ELA JOOSTEN (PARI) SCHILS, NATHANIEL SLACK, MARY SMITH-JOHNSON, DENISE SWEET, and GABRIELLE YOUNG,

Petitioners,

GOVERNOR TONY EVERS IN HIS OFFICIAL CAPACITY, NATHAN ATKINSON, STEPHEN JOSEPH WRIGHT, GARY KRENZ, SARAH J. HAMILTON, JEAN-LUC THIFFEAULT, SOMESH JHA, JOANNE KANE, and LEAH DUDLEY,

Intervenors-Petitioners,

v.

WISCONSIN ELECTIONS COMMISSION; DON MILLIS, ROBERT F. SPINDELL, JR., MARK L. THOMSEN, ANN S. JACOBS, MARGE BOSTELMANN, JOSEPH J. CZARNEZKI, IN THEIR OFFICIAL CAPACITIES AS MEMBERS OF THE WISCONSIN ELECTIONS COMMISSION; AND MEAGAN WOLFE, IN HER OFFICIAL CAPACITY AS ADMINISTRATOR OF THE WISCONSIN ELECTIONS COMMISSION; ANDRE JACQUE, TIM CARPENTER, ROB HUTTON, CHRIS LARSON, DEVIN LEMAHIEU, STEPHEN L. NASS, JOHN JAGLER, MARK SPREITZER, HOWARD MARKLEIN, RACHAEL CABRAL-GUEVARA, VAN H. WANGGAARD, JESSE L. JAMES, ROMAINE ROBERT QUINN, DIANNE H. HESSELBEIN, CORY TOMCZYK, JEFF SMITH, AND CHRIS KAPENGA, IN THEIR OFFICIAL CAPACITIES OF THE WISCONSIN SENATE,

Respondents,

WISCONSIN LEGISLATURE, BILLIE JOHNSON, CHRIS GOEBEL, ED PERKINS, ERIC O'KEEFE, JOE SANFELIPPO, TERRY MOULTON, ROBERT JENSEN, RON ZAHN, RUTH ELMER, and RUTH STRECK,

Intervenor-Respondents.

RESPONSE OF WISCONSIN ELECTIONS COMMISSION AND ITS COMMISSIONERS AND ADMINISTRATOR TO COURT ORDER OF OCTOBER 6, 2023

The Commission Respondents in this matter—the Wisconsin Elections Commission; Don Millis, Robert F. Spindell, Jr., Mark L. Thomsen, Ann S. Jacobs, Marge Bostelmann, Joseph J. Czarnezki, in their official capacities as members of the Commission; and Meagan Wolfe, in her official capacity as administrator of the Commission—by undersigned counsel, submit the following statement in response to the Court's order of October 6, 2023:

The Court has enumerated four questions and directed the parties, by noon on October 16, 2023, to file either a brief addressing them or a statement that no brief will be filed. As noted in their prior response to the original action petition, the Commission respondents have no role or interest in determining where legislative district boundaries are located and thus take no position on the merits of the claims in the petition, including Issues 4 and 5. Accordingly, the Commission respondents do not intend to file a brief on the questions posed by the Court.

The Commission respondents reiterate that their primary concern is to ensure that any litigation involving electoral district boundaries is conducted in a way that takes into account relevant administrative limitations and statutory deadlines, so that the litigation does not disrupt or

impair the proper, efficient, and effective administration of the 2024 election calendar. In particular, the process for circulating candidate nomination petitions for the November 2024 general election begins on April 15, 2024. If this litigation results in any changes to existing district maps, Commission staff would be required to record the new boundaries in the statewide election management system and integrate the new districting data with existing voter registration and address data in advance of that petition circulation process. Any new maps thus would need to be in place by March 15, 2024, to permit the prerequisite steps to be completed before the petition circulation process begins on April 15, 2024.

The Court has scheduled oral argument in this matter on Tuesday, November 21, 2023. If the Court were to find a constitutional violation, any subsequent remedial proceedings should be scheduled consistent with the above time parameters. The Commission respondents remain prepared to provide more specific calendar information and additional explanation at an appropriate time, if requested by the Court.

Dated this 16th day of October 2023.

Respectfully submitted,

ERIC J. WILSON
Deputy Attorney General of
Wisconsin

Electronically signed by:

Steven C. Kilpatrick
STEVEN C. KILPATRICK
Assistant Attorney General
State Bar #1025452

KARLA Z. KECKHAVER
Assistant Attorney General
State Bar #1028242

THOMAS C. BELLAVIA
Assistant Attorney General
State Bar #1030182

CHARLOTTE GIBSON
Assistant Attorney General
State Bar #1038845

Attorneys for Wisconsin Elections Commission, Don Millis, Robert F. Spindell, Jr., Mark L. Thomsen, Ann S. Jacobs, Marge Bostelmann, Joseph J. Czarnezki, and Meagan Wolfe

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 266-1792 (SCK)
(608) 264-6365 (KZK)
(608) 266-8690 (TCB)
(608) 957-5218 (CG)
(608) 294-2907 (Fax)
kilpatricksc@doj.state.wi.us
keckhaverkz@doj.state.wi.us
bellaviatc@doj.state.wi.us
gibsoncj@doj.state.wi.us

CERTIFICATE OF EFILE/SERVICE

I certify that in compliance with Wis. Stat. § 801.18(6), I electronically filed this *Response of Wisconsin Elections Commission and Its Commissioners and Administrator to Court Order of October 6, 2023,* with the clerk of court using the Wisconsin Appellate Court Electronic Filing System, which will accomplish electronic notice and service for all participants who are registered users.

Dated this 16th day of October 2023.

Electronically signed by:

Steven C. Kilpatrick
STEVEN C. KILPATRICK
Assistant Attorney General