

FILED
11-08-2023
CLERK OF WISCONSIN
SUPREME COURT

Supreme Court of Wisconsin

NO. 2023AP001399 - 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,

vs.

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 Election Commission; MEAGAN WOLFE, in her
official capacity as the 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
CABRALGUEVARA, VAN H. WANGGAARD, JESSE L. JAMES,
ROMAINE ROBERT QUINN, DIANNE H. HESSELBEIN,
CORY TOMCZYK, JEFF SMITH AND CHRIS KAPENGA, in
their official capacities as members of the Wisconsin Senate.,
Respondents.

MOTION FOR LEAVE TO FILE A NON-PARTY BRIEF

Jo Ellen Burke, Jennie Tunkieicz, and John Persa (“Amici”), by and through their attorneys, request permission pursuant to Wis. Stat. (Rule) § 809.19(7) to file a non-party brief in this case on the question of whether the adoption of the existing state legislative maps violated the Wisconsin Constitution’s separation of powers. In support of their motion, Amici state as follows:

1. Amici are all citizens of the United States and residents of the State of Wisconsin. Amici are registered to vote in Wisconsin and intend to participate in the 2024 election.
2. In March and April of last year, this Court judicially enacted maps of districts for the Senate, Assembly, and congressional delegation. *See Johnson v. Wis. Elections Comm’n (Johnson II)*, 2022 WI 14, 400 Wis. 2d 626, 971 N.W.2d 402; *see also Johnson v. Wis. Elections Comm’n (Johnson III)*, 2022 WI 19, 401 Wis. 2d 198, 972 N.W.2d 559. In doing so, this Court used “the least change approach.” *Johnson III*, 2022 WI 19, ¶ 3.

3. Amici seek to provide argument on the separation of powers concerns raised by the least-change approach that governed both the state legislative maps at issue in this case and Wisconsin's congressional redistricting plan, which is not currently before this Court but was adopted pursuant to the same method.
4. Amici would aid the Court's decision-making process by providing context and clarity on the separation of powers implications of the least-change approach previously used by this Court.
5. On October 6, 2023, the Court issued an order in this case stating: "any non-party that wishes to file a non-party brief amicus curiae addressing the four questions set forth above must file a motion for leave of the court to file a non-party brief pursuant to the requirements of Wis. Stat. § (Rule) 809.19(7)."

6. Consistent with the Court's October 6, 2023 Order, Amici respectfully submit this motion for leave to file the enclosed non-party brief.

WHEREFORE, Amici respectfully request that this Court grant its motion for leave to file the enclosed non-party brief in this case.

Dated: November 8, 2023

Respectfully submitted,

Electronically signed by
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and John Persa

*Motion for Admission *Pro Hac Vice*
Forthcoming