

FILED
01-12-2024
CLERK OF WISCONSIN
SUPREME COURT

IN THE SUPREME COURT OF WISCONSIN

No. 2023AP1399

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, Carrie Riepl, in their Official Capacities as Members of the Wisconsin Elections 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 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 as Members 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,

Intervenors-Respondents.

**MOTION BY AMICUS MATTHEW PETERING, Ph.D
FOR LEAVE TO SUBMIT PROPOSED REMEDIAL MAP**

Pursuant to Wis. Stat. (Rule) 809.14(1), Amicus Matthew Petering, PhD hereby moves the Court for leave to file a proposed remedial map pursuant to the Court's December 22, 2023 Order in this matter. Petering's proposed remedial map and supporting expert report are submitted with this motion. Petering is providing all related documents and information to the Court, parties, and Court-appointed consultants that the Court has requested parties provide by the same deadline. The proposed map is available at DavesRedistricting.org through a link at www.DistrictSolutions.net/wisconsin-maps.html so it can be fully analyzed and reviewed by the public.

The grounds for the motion are as follows:

As set forth in his November 8, 2023 Amicus Brief, Petering is an Associate Professor of Industrial and Manufacturing Engineering at UW-Milwaukee and the owner of District Solutions, LLC, a Milwaukee-based redistricting consulting company. Petering has decades of experience in developing algorithms. He developed a sophisticated redistricting algorithm named *FastMap*, which produces fair maps based upon objective criteria. Petering's Amicus Brief included an example of a non-partisan remedial map created by his *FastMap* algorithm, and explained why the map satisfied the strict contiguity requirements of the Wisconsin Constitution, met all other legal parameters required for a fair and constitutional map, and scored extremely well regarding political neutrality.

The Court's December 22, 2023 Order states that on or before January 12, 2024, "each party may file a proposed remedial map, one or more supporting expert reports as described below, and other supporting materials, all complying with the parameters set forth in this Court's December 22, 2023 Decision and with the technical specifications and data requirements identified by the December 26, 2023 Letter submitted by Dr. Grofman and Dr. Cervas." The Order does not appear on its face to extend to amicus parties such as Petering. Nonetheless, for the following reasons, Petering contends it is appropriate for

the Court to accept the proposed remedial map submitted with this Motion, along with Petering's own expert report explaining how the proposed map complies with the Court's Decision and the specifications and data requirements set forth by Dr. Grofman and Dr. Cervas.

First, Petering is unaffiliated with any partisan entity. Many parties to this action have a known political or partisan affiliation, and their respective remedial map submissions, rightly or wrongly, may be subject to criticism as having a partisan influence. Petering is acting in this matter on his own accord and on his own dime. He is a lifelong Wisconsin resident, deeply engaged in the process of redistricting, and believes the use of computer algorithms is the most effective, objective, and just way to create fair maps that comply with all legal requirements and also meet the overriding goal of political neutrality.

Second, Petering's submission will add additional remedial options without increasing the burden on the experts or the Court. The December 23, 2023 Memorandum from Dr. Grofman and Dr. Cervas indicate they will make use of the Dave's Redistricting App ("DRA") to review and assess the proposed remedial maps. Petering has used DRA for years, and knows that the site will allow Dr. Grofman and Dr. Cervas to quickly assess the propriety and fairness of Petering's proposed map alongside those submitted by the parties. Accordingly, Petering's additional proposed remedial map will not increase the burden on Dr. Grofman or Dr. Cervas, but rather will simply add one additional independent alternative to their analysis.

Third, other state courts involved in the redistricting process have accepted proposed remedial maps and expert reports from amicus parties. *See, e.g., Carter v. Chapman*, 270 A.3d 444, 453 (Pa. 2022) ("the parties and amici submitted congressional redistricting maps, expert reports, and briefs in support thereof"); *Hall v. Moreno*, 270 P.3d 961, 965 (Co. 2012) (court accepted and considered redistricting maps submitted by amicus parties); *Sincock v. Gately*, 262 F.Supp. 739, 750 (D. Del. 1967) (amicus non-

profit organization in 1967 submitted “a plan for the reapportionment of Delaware based upon extensive data and the use of a computer.”).

Fourth, Petering has a history of producing excellent maps. When the Court required “least change” maps in 2021, he instructed his algorithm to make maps that satisfied “least change” criteria and, as described on page 11 of his November 8, 2023 Amicus Brief, the results were better than those submitted to the Court by parties to the case. The map he submitted with his November 8, 2023 Amicus Brief illustrated the benefits of algorithmic mapmaking but was not his best map. Now, Petering wishes to submit his best assembly and senate map to the Court. This map rigorously complies with all legal requirements and has excellent performance for traditional redistricting criteria. Most importantly, it offers the Court robust partisan neutrality by providing an equal opportunity for both political parties to have proportional representation in the assembly and senate.

For the foregoing reasons, Petering respectfully moves the court to grant him leave to submit a proposed remedial map and accept the map and report filed herewith.

Dated: January 12, 2024

FOX, O’NEILL & SHANNON, S.C.

Electronically signed by Matthew W. O’Neill

MATTHEW W. O’NEILL
State Bar No. 1019269
622 North Water Street, Suite 500
Milwaukee, WI 53202
(414) 273-3939
mwoneill@foslaw.com

Counsel for Amicus Matthew Petering, PhD