FILED
02-19-2024
CLERK OF WISCONSIN
SUPREME COURT

STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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February 19, 2024

VIA ELECTRONIC FILING

Mr. Samuel A. Christenson
Clerk, Wisconsin Supreme Court
Post Office Box 1688
Madison, WI 53701-1688

Re: *Rebecca Clarke, et al. v. Wisconsin Elections Commission, et al.*,
Case No. 23AP1399-OA

Dear Clerk Christenson:

Earlier today, Governor Evers signed into law Wisconsin Senate Bill 488, which creates new legislative districts for the Wisconsin Assembly and Senate.[1] The bipartisan enactment of SB 488 is a historic moment. For the first time in more than a decade, Wisconsinites will be able to exercise their fundamental right to vote in districts that are constitutional, fair, and reflect the will of the people.

The Assembly and Senate districts enacted by SB 488 are identical to the proposed redistricting plans submitted by the Governor in this case.[2] The Court's consultants concluded in their February 1, 2024, Report that the Governor's maps "satisfy contiguity requirements," Report at 8, meet all "good government criteria - of population equality, political subunit splits, and compactness," *id.* at 21, "create a competitive environment," *id.* at 23, and "reflect the political competitiveness of the state." *Id.*

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[1] *See* Governor's Signing Statement on Legislative Redistricting, (Feb. 19, 2024) (attached).

[2] *See* Memorandum: Evers *Clarke* submission and Senate Substitute Amendment 1 to Senate Bill 488, Legislative Reference Bureau (Feb. 12, 2024), *available at* https://www.wispolitics.com/wp-content/uploads/2024/02/240213Overall.pdf.

Although SB 488 is now law, this action is not over. The Court should retain jurisdiction over this matter to entertain motions or address other proceedings. Last year, the Court held that the then-current *Johnson III* legislative maps violated the Wisconsin Constitution, *Clarke v. Wisconsin Elections Comm'n*, 2023 WI 79, ¶ 3, 410 Wis. 2d 1, 998 N.W.2d 370, and "enjoin[ed] the Wisconsin Elections Commission from using [those] legislative maps in all future elections." *Id.* ¶ 56. That injunction is still in effect and applies to "the use of the legislative maps as a whole, rather than only the non-contiguous districts." *Id.* While the districts in SB 488 will apply for the 2024 primary and general elections, it is unsettled what maps will apply to special or recall elections prior to the November 2024 General Election.[3] Because there will be at least one special election to fill Senate District 4,[4] there is still at least one issue for the Court to resolve regarding what maps will apply to that election. Further, other special elections may become necessary prior to the November General Election. For example, should a vacancy occur in the Legislature before the second Tuesday in May, Wis. Stat. § 8.50(4)(d) requires holding a special election prior to the 2024 General Election, as opposed to concurrently with it.

The Governor stands ready to assist this Court in any further briefing it might order or to provide it any additional information needed to address the issues raised in this litigation.

Sincerely,

Electronically signed by Anthony D. Russomanno

Anthony D. Russomanno
Assistant Attorney General

cc: All parties vie e-file

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[3] *See* 2023 Senate Bill 488, § 2 (relating to legislative redistricting); *see also* Memorandum: Initial applicability provision under SSA1 to SB488, Legislative Reference Bureau (Feb. 13, 2024), *available at* https://www.wispolitics.com/wp-content/uploads/2024/02/240214LRB.pdf.

[4] Scott Bauer, *Gov. Evers appoints longtime state Sen. Lena Taylor to be Milwaukee judge*, Associated Press (Jan. 26, 2024), https://apnews.com/article/wisconsin-senate-judge-lena-taylor-evers-3c6112f66c93c2a251752dae8c6a1d77.

Tony Evers
Office of the Governor | State of Wisconsin

February 19, 2024

Signing Statement - Senate Bill 488

It is a new day in Wisconsin, and today is a beautiful day for democracy.

Today I am signing into law fair legislative maps for our state. Fair maps that are long overdue, and fair maps the people of Wisconsin have long been clear they want.

When I ran for this office in 2018, I promised I'd never stop working to secure fair maps for Wisconsin. After a bipartisan vote in both chambers those maps—maps I drew and submitted to our State Supreme Court—are on my desk.

In December, the Wisconsin Supreme Court struck down Republicans' most recent gerrymandered maps, ruling that they were unconstitutional and that no further elections could be conducted under those maps. Absent my action today, Wisconsin currently has no legislative maps in place for elections this year. The Court said it would accept maps for them to consider and that they'd hire nonpartisan, independent experts to review the maps that were submitted.

Those experts reviewed the maps submitted in litigation, including my maps that sit before me now as Senate Bill 488. Those Court-appointed experts concluded maps submitted by Republicans in the Legislature and their allies were both "partisan gerrymanders." In other words, more of the same. On the other hand, the experts concluded the other submissions scored well, including on partisan fairness metrics. My maps, they said, "reflect the political competitiveness of the state." They said, "The four other submitted plans are similar on most criteria" and are "nearly indistinguishable."

I now have the opportunity to sign the fair maps I submitted to the Court into law. My maps that I'm signing today are fair, responsive, and reflect the will of the people.

I believe, as I've often said, that the people should get to choose their elected officials, not the other way around. And under the maps I'm signing today, I am making good on that promise.

This is a great day for Wisconsin, and there is much to celebrate. And there is also much more work to do. I will continue to fight for a fair, independent, and nonpartisan redistricting process for Wisconsin, because while this bill gives us fair maps for our legislative districts now, the people deserve the guarantee that fair maps will always be the outcome when our state redistricts after each federal census.

Today is a victory, not for me or any political party, but for our state and for the people of Wisconsin, who've spent a decade demanding more and demanding better of us as elected officials. I am proud to deliver fair legislative maps by signing this bill into law.

Tony Evers
Governor