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110 EAST MAIN STREET, SUITE 215  
 P.O. BOX 1688  
 MADISON, WI 53701-1688

TELEPHONE (608) 266-1880  
 FACSIMILE (608) 267-0640  
 Web Site: www.wicourts.gov

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**SUPREME COURT**

April 3, 2024

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You are hereby notified that the Court has issued the following order:

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No. 2023AP1399-OA      Clarke v. Wisconsin Elections Commission

A "Motion for Clarification of Opinion and Order as it Relates to Recall and Special Elections," having been filed by respondents, the Wisconsin Elections Commission (WEC) et al., and responses to the motion having been filed by (1) intervenor-respondent, the Wisconsin Legislature, and the Republican Senator respondents; (2) intervenor-respondent, Billie Johnson et al.; (3) the Democratic Senator respondents; (4) petitioners, Rebecca Clarke et al.; (5) intervenors-petitioners, Stephen Joseph Wright et al.; and (6) intervenor-petitioner, Governor Tony Evers;

IT IS ORDERED that the Motion for Clarification of Opinion and Order as it Relates to Recall and Special Elections is denied. On December 22, 2023, we enjoined the "Elections Commission from using [the prior] legislative maps in all future elections" because the maps violated the Wisconsin Constitution. Clarke v. WEC, 2023 WI 79, ¶3, 410 Wis. 2d 1, 998 N.W.2d 370. Based on the submissions before us, we decline to further clarify or amend the opinion and order.

Subsequent to our December 22 order, the Legislature enacted 2023 Wisconsin Act 94, enacting new state legislative districts maps, and the Governor signed them into law. Act 94 is not before us in the Clarke case and any examination of these maps departs from the relief

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requested in Clarke v. WEC. We will "not depart from our general practice that this court will not offer an advisory opinion or make a pronouncement based on hypothetical facts." State ex rel. Collison v. City of Milwaukee Bd. of Rev., 2021 WI 48, ¶46, 397 Wis. 2d 246, 960 N.W.2d 1. As a threshold matter, it is WEC, not this court that has the "overall statutory responsibility for the administration of Wisconsin's elections." Democratic Nat'l Committee v. Bostelmann, 488 F.Supp.3d 776, 796 (W.D. Wis. 2020) (citing Wis. Stat. § 5.05(1)).

ANNETTE KINGSLAND ZIEGLER, C.J. (*concurring*). I concur that this matter should be denied. The court should simply state the motion is denied, without more. See Clarke v. WEC, No. 2023AP1399-OA, unpublished order (Mar. 19, 2024) (Ziegler, C.J., dissenting).

I am authorized to state that REBECCA GRASSL BRADLEY, J., joins this concurrence.

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Samuel A. Christensen  
Clerk of Supreme Court

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Richard M. Esenberg  
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Elizabeth Deutsch  
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Electronic Notice

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Electronic Notice

Tony Wilkin Gibart  
Adam Voskuil  
Daniel P. Gustafson

Brian P. Keenan  
Electronic Notice

Midwest Environmental Advocates  
634 W. Main St. Suite 201  
Madison, WI 53703

Faye B. Hipsman  
Electronic Notice

Robert Yablon  
Bryna Godar

Mel Barnes  
Electronic Notice

State Democracy Research Initiative  
University of Wisconsin Law School  
975 Bascom Mall  
Madison, WI 53706

Sarah A. Zylstra  
Electronic Notice

Matthew W. O'Neill  
Fox, O'Neill & Shannon, S.C.  
622 North Water Street  
Milwaukee, WI 53202

Dax L. Goldstein  
Electronic Notice

Margo S. Kirchner  
Wisconsin Justice Initiative, Inc.  
P.O. Box 100705  
Milwaukee, WI 53210

Christine P. Sun  
Electronic Notice

John B. Hill  
Electronic Notice

Daniel J. Schneider  
2707 W. Augusta Blvd., Unit 2  
Chicago, IL 60622

Jessica Amunson  
Electronic Notice

Nathan J. Kane  
WMC Litigation Center  
501 East Washington Avenue  
Madison, Wisconsin 53703

Sam Hirsch  
Electronic Notice

Arjun Ramamurti  
Electronic Notice

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Samuel T. Ward-Packard  
Elias Law Group LLP  
250 Mass. Ave. NW, Suite 400  
Washington, D.C. 20001

Barry J. Blonien  
David M. Oppenheim  
Bock Hatch & Oppenheim, LLC  
203 N. LaSalle St., Ste. 2100  
Chicago, IL 60601

Nicholas E. Fairweather  
Hawks Quindel S.C.  
409 E Main Street  
Madison, WI 53703

Abha Khanna  
Elias Law Group LLP  
1700 Seventh Ave., Suite 2100  
Seattle, WA 98101

William K. Hancock  
Julie Zuckerbrod  
Elias Law Group LLP  
250 Mass. Ave. NW, Suite 400  
Washington, D.C. 20001

Jonathan B. Miller  
Michael Adame  
Public Rights Project  
490 43rd Street, #115  
Oakland, CA 94609

Prof. Jonathan Cervas  
Carnegie Mellon Institute for Strategy and  
Technology  
5000 Forbes Ave.  
Pittsburgh, PA 15213

Prof. Bernard Grofman  
UC Irvine School of Social Sciences  
5229 Social Science Plaza B  
Irvine, CA 92697

Dixon R. Gahnz  
Lawton Cates, S.C.  
P.O. Box 2965  
Madison, WI 53703