



OFFICE OF THE CLERK
Supreme Court of Wisconsin

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

FILED
04-03-2024
CLERK OF WISCONSIN
SUPREME COURT

April 3, 2024

To:

Daniel S. Lenz
Electronic Notice

Douglas M. Poland
Electronic Notice

Scott B. Thompson
Electronic Notice

Jeffrey A. Mandell
Electronic Notice

Elizabeth M. Pierson
Electronic Notice

Rachel A. Snyder
Electronic Notice

*Distribution List Continued on Pages 3-5

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

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

Page 2

April 3, 2024

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

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.

Samuel A. Christensen
Clerk of Supreme Court

Page 3

April 3, 2024

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

Distribution List Continued:

T.R. Edwards
Electronic Notice

Hayden Johnson
Electronic Notice

Mark P. Gaber
Electronic Notice

Nicholas O. Stephanopoulos
Electronic Notice

Ruth M. Greenwood
Electronic Notice

John Freedman
Electronic Notice

Steven C. Kilpatrick
Electronic Notice

Elisabeth S. Theodore
Electronic Notice

Charlotte Gibson
Electronic Notice

Rachel C. Tucker
Electronic Notice

Karla Z. Keckhaver
Electronic Notice

Daniel M. Vitagliano
Electronic Notice

Jessie Augustyn
Electronic Notice

Taylor A.R. Meehan
Electronic Notice

Tamara Packard
Electronic Notice

Kevin M. St. John
Electronic Notice

Eduardo E. Castro
Electronic Notice

Matthew H. Frederick
Electronic Notice

Annabelle E. Harless
Electronic Notice

Scott A. Keller
Electronic Notice

Brent Ferguson
Electronic Notice

Gabriela Gonzalez-Araiza
Electronic Notice

Benjamin Phillips
Electronic Notice

Adam K. Mortara
Electronic Notice

Shannon Grammel
Electronic Notice

Page 4

April 3, 2024

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

Richard M. Esenberg
Electronic Notice

Elizabeth Deutsch
Electronic Notice

Luke N. Berg
Electronic Notice

Michael R. Ortega
Electronic Notice

Nathalie E. Burmeister
Electronic Notice

C'Zar Bernstein
Electronic Notice

Anthony D. Russomanno
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

Page 5

April 3, 2024

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

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