

No. 2021AP1450-OA

In the Supreme Court of Wisconsin

BILLIE JOHNSON, ERIC O'KEEFE, ED PERKINS *and* RONALD ZAHN,
PETITIONERS,

BLACK LEADERS ORGANIZING FOR COMMUNITIES, VOCES DE LA
FRONTERA, LEAGUE OF WOMEN VOTERS OF WISCONSIN, CINDY FALLONA,
LAUREN STEPHENSON, REBECCA ALWIN, CONGRESSMAN GLENN
GROTHMAN, CONGRESSMAN MIKE GALLAGHER, CONGRESSMAN BRYAN
STEIL, CONGRESSMAN TOM TIFFANY, CONGRESSMAN SCOTT FITZGERALD,
LISA HUNTER, JACOB ZABEL, JENNIFER OH, JOHN PERSA, GERALDINE
SCHERTZ, KATHLEEN QUALHEIM, GARY KRENZ, SARAH J. HAMILTON,
STEPHEN JOSEPH WRIGHT, JEAN-LUC THIFFEAULT, *and* SOMESH JHA,
INTERVENORS-PETITIONERS,

v.

WISCONSIN ELECTIONS COMMISSION, MARGE BOSTELMANN, IN HER
OFFICIAL CAPACITY AS A MEMBER OF THE WISCONSIN ELECTIONS
COMMISSION, JULIE GLANCEY, IN HER OFFICIAL CAPACITY AS A MEMBER OF
THE WISCONSIN ELECTIONS COMMISSION, ANN JACOBS, IN HER OFFICIAL
CAPACITY AS A MEMBER OF THE WISCONSIN ELECTIONS COMMISSION,
DEAN KNUDSON, IN HIS OFFICIAL CAPACITY AS A MEMBER OF THE
WISCONSIN ELECTIONS COMMISSION, ROBERT SPINDELL, JR., IN HIS
OFFICIAL CAPACITY AS A MEMBER OF THE WISCONSIN ELECTIONS
COMMISSION, *and* MARK THOMSEN, IN HIS OFFICIAL CAPACITY AS A
MEMBER OF THE WISCONSIN ELECTIONS COMMISSION,
RESPONDENTS,

THE WISCONSIN LEGISLATURE, GOVERNOR TONY EVERS, IN HIS OFFICIAL
CAPACITY, *and* JANET BEWLEY, SENATE DEMOCRATIC MINORITY LEADER,
ON BEHALF OF THE SENATE DEMOCRATIC CAUCUS,
INTERVENORS-RESPONDENTS.

**THE CONGRESSMEN'S MOTION FOR RECONSIDERATION
OF THIS COURT'S MARCH 3, 2022 OPINION AND ORDER,
REQUESTING AN ORDER PERMITTING ALL PARTIES TO
SUBMIT CORE-RETENTION-MAXIMIZATION
CONGRESSIONAL MAPS**

1. Pending before this Court is the Congressmen's March 7 Emergency Motion For An Order Both Staying This Court's Judgment Pending Their Filing Of A Petition For Certiorari With The U.S. Supreme Court And Permitting All Parties To Submit Equipopulous, Core-Retention-Maximization Congressional Maps. *See* Emergency Mot. Of The Congressmen, *Johnson v. Wis. Elections Comm'n*, No.2021AP1450-OA (Wis. Mar. 7, 2022) (hereinafter "March 7 Motion"). In their March 7 Motion, the Congressmen respectfully requested that this Court *both* stay its March 3, 2022 Opinion and Order adopting the Governor's Map as the remedial congressional map for the State *and* permit "all parties to submit, within a 24-hour period, congressional maps that maximize core retention." March 7 Motion at 2.

2. Today, the U.S. Supreme Court denied the Congressmen's Emergency Application For Stay Pending Petition For Writ Of Certiorari. *See* Order In Pending Case, *Grothman v. Wis. Elections Comm'n*, No. 21A490, 2022 WL 851726 (U.S. Mar. 23, 2022).

3. The Congressmen believe that the request in their March 7 Motion for this Court to allow the parties to submit new congressional maps that comply with this Court's March 3 Opinion and Order's core-retention-maximization rule remains pending here, notwithstanding the U.S. Supreme Court's Order.

4. But to the extent this Court disagrees and concludes that the U.S. Supreme Court's Order moots the Congressmen's Motion—and out of an abundance of caution, Wis. Stat. § (Rule) 809.64—the Congressmen now move for reconsideration of this Court's March 3 Opinion and Order, *id.*, and reaffirm their request that this Court permit the parties to submit new proposed congressional maps under the core-retention-maximization methodology under this Court's March 3 Opinion and Order.

5. As the Congressmen explained in their March 7 Motion, submitting “an equipopulous, core-retention-only-map is a trivially easy endeavor,” which would allow the parties to submit a proposed congressional map that far outperforms the Governor's Map on core retention. March 7 Motion at 2–3. Indeed, it is beyond

any dispute that such a map can easily be drawn in less than an hour's time, scoring a 98.15% core-retention rate and moving just over one-third of the people that the Governor's Map moves. Intervenor-Pet'rs Congressmen's Letter Submitting Suppl. Authority. *Johnson v. Wis. Elections Comm'n*, No. 2021AP1450-OA (Mar. 16, 2022).

6. Notably, both before this Court and the U.S. Supreme Court, no party has disputed the Congressmen's claim that such a core-retention-maximization map would not possibly raise any concerns under the Equal Protection Clause, the Voting Rights Act, or any other federal or state limitation, given the extremely limited changes that such a map would make. See March 7 Motion at 3; Emergency Application For Stay Pending Petition For Writ Of Certiorari Or, In The Alternative, A Petition For A Writ Of Certiorari And Summary Reversal at 37, *Grothman v. Wis. Elections Comm'n*, No.21A490 (U.S. Mar. 9, 2022).*


* Available at <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/21a490.html>.

7. Moreover, as the U.S. Supreme Court explained today with regard to the state-legislative maps, there is still “sufficient time” for this Court “to adopt maps consistent with the timetable for Wisconsin’s August 9th primary election.” *Wis. Legislature v. Wis. Elections Comm’n*, No. 21A471, 2022 WL 851720, at *1 (U.S. Mar. 23, 2022) (per curiam). Thus, this Court ordering submission of new congressional maps under this Court’s March 3 Opinion and Order would create no election-administration difficulties.

8. Finally, the Congressmen respectfully submit that the people of Wisconsin would benefit greatly from this Court’s adoption of a remedial congressional map that far outperforms the Governor’s Map on core retention, especially when adopting such a far-superior map for the People would harm no one. As this Court recognized in its March 3 Opinion and Order, Wisconsin’s next map is slated to govern the State’s elections for the next ten years, see *Johnson v. Wis. Elections Comm’n*, 2022 WI 14, ¶ 1, and the People deserve a map that complies with the core-retention-maximization rule that this Court announced on March 3.

For the foregoing reasons, the Congressmen respectfully request that this Court grant this Motion.

Dated: March 23, 2022.



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