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# Supreme Court of Wisconsin

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January 10, 2022

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

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No. 2021AP1450-OA     Johnson v. Wisconsin Elections Commission

On December 30, 2020, intervenors-petitioners, Congressmen Glen Grothman, Mike Gallagher, Bryan Steil, Tom Tiffany, and Scott Fitzgerald (“Congressmen”) filed a motion for leave to submit an alternative version of their proposed remedial congressional map. The Congressmen’s motion indicates that they stand by the map they submitted on December 15, 2021, but acknowledge that some of the other proposed maps propose retaining a narrow configuration for District 3, so they offer an alternative version of a congressional map that would do this as well.

By order dated January 4, 2022, the court permitted the parties to respond to the Congressmen’s motion. Responses opposing the motion were filed by intervenor-respondent, Governor Tony Evers, intervenor-respondent, Senator Janey Bewley, intervenors-petitioners, Citizens Mathematicians and Scientists, intervenors-petitioners, Hunter, et al., and intervenors-

petitioners, Black Leaders Organizing for Communities, et al. (“BLOC”). The Legislature filed a letter taking no position on the motion.

Also pending before the court is a motion filed on January 3, 2022 by intervenors-petitioners, BLOC, et al., seeking leave to file a corrected version of their proposed remedial assembly and senate maps, and a motion filed on January 6, 2022 by intervenor-respondent, Governor Tony Evers, seeking leave to file a corrected version of his proposed remedial assembly and senate maps.

Our order of November 17, 2021, provided that parties could submit only a single set of maps and provided a process by which parties could file a motion to amend their maps. Consistent with our order, Governor Evers and BLOC brought motions to amend their maps. They ask us to disregard their initial maps and consider only their maps as amended. Because our prior order plainly contemplated this type of motion, both are properly granted.

The Congressmen's motion, however, is different-in-kind. It is not a motion to amend a previously submitted map. Rather, the Congressmen ask us to consider an alternative map while expressly standing by their initial map. In essence, the Congressmen ask us to accept two congressional maps from them, while accepting only one such map from every other party. This plainly runs afoul of our direction that each party may submit only a single set of maps. Therefore,

IT IS ORDERED that the motion of intervenors-petitioners, Congressmen Glen Grothman, Mike Gallagher, Bryan Steil, Tom Tiffany, and Scott Fitzgerald (“Congressmen”) is denied. The Congressmen's map, submitted as Exhibit A to its motion is not accepted and will not be further considered by the court;

IT IS FURTHER ORDERED that the motion of intervenors-petitioners, Black Leaders Organizing for Communities, et al., is granted. The corrected assembly and senate maps filed as Exhibits C and D to their January 3, 2022 motion shall replace the maps previously filed by these intervenors-petitioners on December 15, 2020; and

IT IS FURTHER ORDERED that the motion of intervenor-respondent, Governor Tony Evers, is granted. The corrected assembly and senate maps filed in Attachment C to his January 6, 2022 motion shall replace the maps previously filed by Governor Evers on December 15, 2020.

PATIENCE DRAKE ROGGENSACK, J. (*dissenting*). Redistricting is a new challenge for this court, and as such I would accept all assistance from all parties. The majority seems to hold this view for Governor Evers and the BLOC plaintiffs, but a different view for the Congressmen.

I don't know whether the second map the Congressmen would like to submit will be helpful or not. It is possible that it would have provided no more than what we actually will hear in rebuttal during oral arguments later this month.

In addition, I have already reviewed Governor Evers' map and that of the BLOC plaintiffs, as I assume most justices have. Therefore, the court is permitting Governor Evers and the BLOC plaintiffs to file second maps that have very significant changes. For example, Governor Evers'

- Original Assembly map had 174 Municipal splits, but his "corrected" map has 115 Municipal splits.
- His Senate map had 118 Municipal splits, but his "corrected" map has 76 Municipal splits.
- His original Assembly map also had 80 Town splits, but his "corrected" map has 50 Town splits.
- His original Senate map also had 55 Town Splits but his "corrected" map has 32.

The Governor is not making minor "corrections."

As explained above, I have studied the maps already submitted. Therefore, we should permit all to refile their maps or no party should do so. Because I would treat all parties the same and grant all three motions, I respectfully dissent from the portion of this Order that denies the Congressmen's motion.

I am authorized to state that Chief Justice ANNETTE KINGSLAND ZIEGLER and Justice REBECCA GRASSL BRADLEY join this dissent.

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