

STATE OF MINNESOTA
IN SUPREME COURT

HEARING ON REDISTRICTING
PLANS FOR THE EIGHTH AND NINTH
JUDICIAL DISTRICTS AND PART OF
THE SEVENTH JUDICIAL DISTRICT

O R D E R

50449

WHEREAS, the Judges of the Seventh, Eighth, and Ninth Judicial Districts have submitted to the Supreme Court plans to realign the courts of the districts,

WHEREAS, the Supreme Court wishes to allow public testimony on the redistricting plans,

NOW, THEREFORE, IT IS HEREBY ORDERED that a hearing on the redistricting plans with respect to the Eighth and Ninth Judicial Districts and Clay, Becker, Otter Tail, Wadena, Douglas, and Todd Counties of the Seventh Judicial District shall be held in the Supreme Court Chambers in the State Capitol, Saint Paul, Minnesota, at 9:30 a. m. on Thursday, October 4, 1979.

IT IS FURTHER ORDERED, that advance notice of the hearing be given by the publication of this order once in the Supreme Court edition of FINANCE AND COMMERCE, ST. PAUL LEGAL LEDGER, and BENCH AND BAR.

IT IS FURTHER ORDERED that interested persons show cause, if any they have, why the proposed redistricting plans should not be adopted. All persons desiring to be heard shall file briefs or petitions setting forth their objections, and shall also notify the Clerk of the Supreme Court, in writing, on or before September 27, 1979 of their desire to be heard on the matter.

DATED: August 16, 1979.

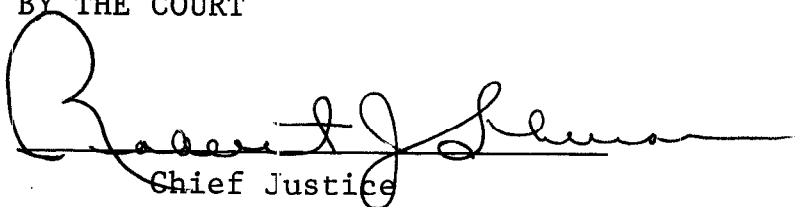
SUPREME COURT

FILED

AUG 17 1979

JOHN McCARTHY
CLERK

BY THE COURT


Chief Justice

STATE OF MINNESOTA

IN SUPREME COURT

HEARING ON REDISTRICTING
PLANS FOR THE EIGHTH AND NINTH
JUDICIAL DISTRICTS AND PART OF
THE SEVENTH JUDICIAL DISTRICT

PETITION IN OPPOSITION TO
REDISTRICTING PLAN

50449

Traditionally the form of government in the United States has been of the people and for the people. The theory has been to maintain the smallest geographical area so that the people would have an opportunity to know the individuals for whom they vote and who hold the various political offices. For that reason, the States were divided into Counties and townships. In addition, the counties were divided into separate election districts for the election of County Commissioners.

The Courts and the judicial branch was also divided into similar small jurisdictions. Every township elected a justice of the peace to judge the persons in the township. The original constitution provided that every county would have a probate judge.

The conclusion is obvious. The people wanted to know the individual whom they elected to judge them.

The present redistricting plan which has been pushed on to the lower courts by the committee chaired by Justice Yetka of the Minnesota Supreme Court is one which takes away from the people the opportunity to know the judges who are to be elected and who will judge them. Single county elective districts have been forbidden from the start. The obvious result is to take from the people the opportunity to know the judge for whom they vote. The purpose is to place control of the judiciary under the Supreme Court and a court administrator.

The creation of this type of judicial mafia, will, in my opinion, be detrimental to all of the people in Minnesota. The people will no longer be able to know the judges whom they elect and judge them. The larger population centers will elect the judges. Eventually, the smaller counties, such as Becker County, will not have a resident judge. That means that the people of Becker County will be judged by individuals who have no interest or responsibility to the people in Becker County. In addition, the judges will have no independence and will be controlled by edicts prepared in the State Court Administrators office and ordered by the Chief Justice of the Supreme Court.

This type of system is foreign to our democratic government. It is more similar to the court system of totalitarian states or governments.

The Supreme Court, under the present law, has the authority to combine the county court districts for administrative purposes. It has chosen not to use that authority. Therefore, it has no experience criteria to use in determining what combination of counties would improve the judicial administration of the courts.

For these reasons I am opposed to the court redistricting plan now being considered by the Supreme Court.



Sigwel Wood
Becker County Judge

Dated at Detroit Lakes,
Minnesota, this 29th day
of August, 1979.

7th Judicial District

OFFICE OF THE CLERK
Supreme Court of Minnesota
St. Paul, Minn.

JOHN MCCARTHY
CLERK
WAYNE TSCHIMPERLE
DEPUTY

12 September 1979

Ms. Susan Saetre
Judicial Planning Committee
40 N. Milton
St. Paul, MN

Dear Ms. Saetre:

Re: 7th, 8th, 9th Judicial Districts
Hearing 10-4-79

Enclosed please find a communication from
Mr. Roger Nierengarten, dated September 6th, which
our office was directed by your Mr. Harmon to forward
to you. Please reply directly to Mr. Nierengarten.

Sincerely,

John McCarthy
John McCarthy, Clerk

cc: Roger Nierengarten

NIERENGARTEN LAW OFFICES

SUITE 101 SEIFERT BUILDING

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P. O. BOX 339

ST. CLOUD, MINNESOTA 56301

ROGER J. NIERENGARTEN
WILLIAM J. SCHROEDER III

TELEPHONE 251-3602
AREA CODE 612

Send to
Susan Sastre
Judicial Planning
Committee
40 N. Millan

September 6, 1979

John McCarten
Clerk of Supreme Court
State of Minnesota
St. Paul, MN 55101

Dear Mr. McCarthy:

I have received in the mail an order of Chief Justice Sheran noting a hearing in Supreme Court chambers on October 4, relative to redistricting plans with respect to the 8th and 9th Judicial Districts and the western half of the 7th Judicial District.

Some confusion reigns as a result of said order. As you may be aware, the State Judicial Planning Committee, which I believe was established by the Supreme Court, had asked the 7th and 10th Judicial Districts to create special redistricting committees which would jointly meet to resolve, or at least make recommendations, on redistricting of those two districts.

The two special committees were appointed and they met on August 20 in the courthouse in St. Cloud. Minutes of that meeting are enclosed herewith. You will please note that on page two thereof, I had inquired as to why the Judicial Planning Committee redistricting sub-committee had recommended only a partial plan for the 7th Judicial District. I then suggested that the district should not be considered piecemeal but must be looked at as a whole.

It does seem to me that the proposed plans submitted to the Supreme Court by the judges of the 7th, 8th and 9th Districts to realign the courts of these districts, should not be acted upon by the Supreme Court until the Court has received the final recommendations of the special redistricting committees of the 7th and 10th Judicial Districts.

John McCarten
Page Two
September 6, 1979

We have here in the 7th District another committee appointed by the district bar president to represent the bar of the 7th Judicial District. We have met several times and we have already made a proposal on redistricting. A copy of this letter goes to members of that committee so that they may be cognizant of the present status on redistricting matters.

At this time, I rather doubt I can be at the October 4th hearing. If not, I will ask a member of our 7th District bar committee to appear.

Very truly,

Roger J. Nierengarten

RJN:csr

cc: Honorable Donald Gray
Honorable Paul Hoffman
Honorable Charles Kennedy
Honorable Gaylord Saetre
Honorable Willard Lorette
Mr. Paul Flora, Esq.
Mr. Richard R. Quinlivan, Esq.
Mr. Charles W. Kennedy, Jr., Esq.
Mr. Ralph Tillit, Esq.
Mr. Robert W. Irvine, Esq.
Mr. John Simonett, Esq.
Mr. Richard L. Pemberton, Esq.

M I N U T E S

SPECIAL REDISTRICTING COMMITTEE MONDAY, AUGUST 20, 1979 STEARNS COUNTY COURTHOUSE, ST. CLOUD, MN.

The first meeting of the Special Redistricting Committee was held Monday, August 20, 1979 in the Stearns County Courthouse in St. Cloud, Minnesota. Judge Carroll Larson called the meeting to order at 3:40 P.M. Members present were Ramond E. Thomes, Hillis Meyers, Stanley R. Wheaton, Honorable Charles Kennedy, Honorable Willard Lorrette, Honorable J. B. Gunderson, Roger Nierengarten, Richard A. Beens, William Van Diest, and Paul McAlpine. Also present were James Slette, Seventh District Administrator; F. Dale Kasperek, Tenth District Administrator; John McGibbon, Sherburne County Attorney; Lyle Smith, County Commissioner Sherburne County; and Susan Saetre and Greg Lang, staff to the Judicial Planning Committee.

The first item of business undertaken by the committee was the election of a chairman. The acting chairman, Judge Larson, called for nominations. Mr. Nierengarten moved that Judge Larson, be nominated for the chair. The motion was seconded by Judge Lorrette. The nominations were closed and a vote was taken. Judge Larson was elected chairman by unanimous vote.

The next item of business was a discussion of the history of the Seventh and Tenth Judicial Districts and the reason for the formation of the Special Redistricting Committee. The chairman called upon Susan Saetre to acquaint the membership with the background leading to the appointment of this committee. Ms. Saetre began by reviewing the geographical boundaries of the two judicial districts and the two instances in which county courts overlap both of the judicial districts. The discussions held by the Supreme Court's Redistricting Committee were also discussed by Ms. Saetre and she explained how that committee had referred the matter of redistricting to the Judicial Planning Committee. She then explained that the Judicial Planning Committee's Redistricting Subcommittee had considered the Seventh Judicial District and had made recommendations regarding the western portion, because in that area the people affected by redistricting had been in agreement. However she pointed out that in the boundary areas of the Seventh and Tenth Judicial Districts there was not total agreement and therefore the subcommittee had decided to seek recommendations from a special committee composed of individuals representing the two judicial districts. She then explained how the chairman of the subcommittee, Judge Gerald Kalina, had requested appointments from each of the chief judges of the two judicial districts. Those

individuals present are the members appointed by the chief judges, upon recommendations from the judges, the Bar Association and the Minnesota Association of Counties.

A general discussion of the problems currently being encountered in each of the judicial districts and the potential for new problems which may be caused by redistricting ensued. Judge Larson stated to the members that there is always a problem when a multi-county county court is created because it will pose election problems for an incumbent judge. He explained that this would especially be the case if a small county where the resident judge chambered was combined with a larger county thereby forcing the judge to run for election in an election district in which he was not well known.

Mr. Nierengarten asked why the Judicial Planning Committee's Redistricting Subcommittee had recommended only a partial plan for the Seventh Judicial District. He stated that the district could not be considered piecemeal, but must be looked at as a whole. The chairman referred the question to Susan Saetre who responded that she was in agreement with what he said. However, the redistricting which had been recommended for the western portion of the Seventh Judicial District did not materially alter the judicial working force available for that portion of the judicial district or for the entire judicial district. Furthermore, she indicated that the recommendations were made primarily because the individuals directly affected were in general agreement as to the proposed redistricting. This, she stated, was in direct contrast to the issue regarding the boundaries between the Seventh and Tenth Judicial Districts where there are considerable differences of opinion. In addition, it was imperative that action be taken in the Todd-Douglas-Wadena District since the 1980 election would affect the judges.

Judge Gunderson stated that if the two-county court of Mille Lacs and Kanabec were to be split and the counties aligned with different districts, the question would arise as to where Judge Paulson would serve. This two county court currently shares the services of one judge. Judge Gunderson was convinced that the additional workload, which would be required if Kanabec were to join other county courts in the Tenth Judicial District without the benefit of a judge, would cause a substantial shortage of judicial work force.

The St. Cloud area, posed Judge Lorrette, raises different questions than those which are found in the Mille Lacs and Kanabec area. Legislators with whom Judge Lorrette has talked have indicated that the County Court Act, which provided for the tri-county court serving the City of St. Cloud, was designed to make it easier for litigants to utilize the services of the court and also to provide for more simple administration. He continued pointing out that Sherburne County, one of the counties of the tri-county court, cannot administratively be torn between the Seventh Judicial District and the Tenth Judicial District. If the tri-county court is going to function effectively, he stated that the counties must be within the same judicial district.

Mr. Beens requested the source of the guidelines the subcommittee must follow in reaching their conclusions. Susan Saetre responded that the guidelines were established by the Supreme Court. Mr. Beens then requested the following information to assist the committee in its deliberations:

1. A complete list of the judges in the two judicial districts, their ages, years of service, their retirement dates, caseload of each county, population of each county, population projections and such other statistics as may be necessary for this committee to reach its decisions.

The chairman instructed Susan Saetre to provide the statistics for the members prior to the next meeting of the committee so that they could be fully prepared to discuss the issues.

Judge Larson wished to emphasize for the membership that the total number of judges available within a judicial district is important. He stressed that the greater the number of judges, the more flexibility there would be to provide for vacations, sickness and other times when one or more judges may be away from the bench. He added that in some instances, the total population within a judicial district is a determinant in assessing the number of judges necessary. Judge Gunderson added that windshield time cannot be overlooked in determining the number of judges. Mr. McAlpine questioned if the caseload of a judge is an accurate measurement of the workload. Mr. Kasperek volunteered an answer to this question. He stated that efforts are underway to establish an empirical method to accurately measure the workload of individual judges and courts so that the system could make accurate projections of the need for new judgeships in the future. Unfortunately, he pointed out, these methods were not yet perfected and therefore the caseloads could only provide a rule of thumb measurement for the committee's use.

Mr. Kasperek suggested that the committee should define its problems before it attempted to reorganize merely for the sake of reorganizing. Judge Lorrette responded that the problem is Sherburne County and the issue of whether or not it should be included in the Seventh Judicial District or the Tenth Judicial District or if a new district entitled the Eleventh Judicial District should be established. Judge Kennedy, directing a question to Mr. Kasperek, asked if that answered the problem. Mr. Kasperek responded "yes" and "no". He queried whether legislation could be passed providing for civil litigation arising within the City of St. Cloud to be venued in the Stearns County Courthouse as is now provided by the County Court Act for misdemeanor criminal matters. Judge Lorrette pointed out that this was an interesting proposition, but that unfortunately it really did not answer the problem. One of the primary problems was the cost of providing the court services. What this would result in is that the Stearns County Treasury would carry the

bulk of the costs of providing legal services to the residents of Sherburne County without Sherburne County paying their fair share. He emphasized also that the purpose of the courts is to serve the citizens. Severing the City of St. Cloud in more ways than it already is in the judicial system would be a tremendous disservice to the residents of the city and to the residents of the surrounding areas. To remove Sherburne County from the tri-county court would result in a great inconvenience for those people living in the St. Cloud and surrounding areas. Dissolving the tri-county court is not an alternative that this committee can reasonably consider.

Mr. Nierengarten stated that the bar association believes that the system has functioned very well in the past and that there is no reason for changing it.

Directing a question to Jim Slette, Judge Kennedy asked if he was aware of any problems due to the district overlap. Mr. Slette responded that he knew of none that would be eliminated by redistricting any of the courts.

Judge Lorrette asked the membership if any of them thought that the addition of Sherburne to the Seventh Judicial District or to an Eleventh Judicial District would cause any severe problems. Judge Larson responded that this would eliminate the convenience of the Buffalo, Elk River caseload. Judge Lorrette queried if in fact the Tenth District had not been seeking additional judges. Mr. Kasperek responded "yes", but added that the removal of Sherburne County would leave Wright County separated from the balance of the Tenth Judicial District. He also stated that it would result in the loss of necessary judgeships because there are no judges chambered in Sherburne County. Judge Lorrette suggested that perhaps if Sherburne and Wright were both removed from the Tenth Judicial District and if one additional judge was added to the Tenth District that this would solve the problem. Judge Gunderson suggested that perhaps the Eleventh District should be formed of the following counties: Morrison, Benton, Mille Lacs, Kanabec, Stearns, Sherburne and Wright Counties. Judge Larson stated that they couldn't pull a judicial district out from under the chief judge. The Chief Judge of the Tenth Judicial District chambers in Sherburne County. As the Chief Judge, however, he added that upon his retirement in 1983 it might be very possible.

Summarizing his views, Judge Lorrette stated that there were three alternatives which he could see: They are:

1. Recommend no changes in district boundaries and handle the administrative problems through legislation;
2. Divide the county court districts along present judicial district lines; or
3. Create a new judicial district composed of those counties which are adjacent to the district boundaries and which are causing the current administrative problems.

The chairman stated that it would be appropriate for the members of the committee to review the materials which would be mailed to them by Ms. Saetre for their discussion at the next meeting. He stated that the availability of population and caseload statistics and the identification of judgeships would be of assistance in their determinations. The next meeting was set for Monday, September 17, 1979 at 3:30 P.M. in the Stearns County Courthouse.

Judge Lorrette recommended that Mr. Smith of the Sherburne County Board be added to the committee membership. Mr. Smith who was in attendance, declined to accept the invitation, but stated that he would appreciate being notified of the meetings and would attend them to keep himself informed. It was suggested that the judges of Mille Lacs, Kanabec and Morrison Counties as well as the chairman of the board of each of those counties also be notified of the meeting dates and invited to attend.

The meeting adjourned at 5:10 P.M.

Respectfully submitted,


Gregory A. Lang

50449

LAW OFFICES

ARVESEN, DONOHO, LUNDEEN, HOFF, SVINGEN & ENGLISH

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ATTORNEYS AT LAW

September 25, 1979

Mr. John McCarthy
Clerk of Supreme Court
State Capitol
St. Paul, MN 55101

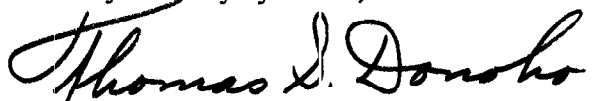
Re: Hearing on Redistricting Plans for
the Eighth and Ninth Judicial Districts
and Part of the Seventh Judicial District
No. 50449

Dear Mr. McCarthy:

I herewith file with you a Petition in the above matter on behalf of the Otter Tail County Bar Association as authorized by a motion of the said Association at its meeting in Fergus Falls, Minnesota, on September 21, 1979.

I also hereby notify you that I would like to appear in connection with this Petition at the hearing set for 9:30 A.M. on Thursday, October 4.

Very truly yours,


Thomas S. Donoho

dkg

Enc.

STATE OF MINNESOTA
IN SUPREME COURT

HEARING ON REDISTRICTING
PLANS FOR THE EIGHTH AND NINTH
JUDICIAL DISTRICTS AND PART OF
THE SEVENTH JUDICIAL DISTRICT

PETITION

The Otter Tail County Bar Association hereby respectfully petitions the Supreme Court and alleges as follows:

I.

That the Otter Tail County Bar Association, pursuant to action taken at a meeting thereof on September 21, 1979, alleges that it is not in the best interests of the people of the County of Otter Tail to adopt any plan for redistricting the County Courts as contained in the Court's Order of August 16, 1979, insofar as the same applies to the County Courts of Clay, Becker and Otter Tail Counties.

II.

Petitioner further alleges that such redistricting is not needed for administrative purposes to accomplish the balancing of the work loads of the County Court judges in Clay, Becker and Otter Tail Counties inasmuch as the same is now being effectively handled by assignments from the Seventh Judicial District Court administrator's office.

III.

Petitioner further alleges that the only thing that will be accomplished by the proposed plan is to permit the most populous county to dominate the process of judicial selection in the future as the result of the greater familiarity of the voters of the said county with local lawyers in that county.

IV.

If the foregoing should occur and lawyers from the most populous county dominate the County Court bench in the three

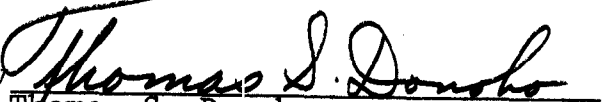
counties involved, it has been established by experience that the availability of judicial services in the less populous counties will be adversely affected despite the assignment of chambers.

WHEREFORE, petitioner prays that the Court deny the proposed plan insofar as the same would provide for the combination of Clay, Becker and Otter Tail Counties into a single County Court District and provide for district-wide election of the judges thereof.

Dated: September 25, 1979.

OTTER TAIL COUNTY BAR ASSOCIATION
Petitioner

By



Thomas S. Donoho
Attorney for Petitioner
125 South Mill Street
Fergus Falls, MN 56537
Telephone No. (218) 736-5456