

FILED

STATE OF MINNESOTA
SPECIAL REDISTRICTING PANEL

October 20, 2021

OFFICE OF
APPELLATE COURTS

A21-0243
A21-0546

Peter S. Wattson, Joseph Mansky, Nancy B. Greenwood, Mary E. Kupper, Douglas W. Backstrom and James E. Hougas III, individually and on behalf of all citizens and voting residents of Minnesota similarly situated, and League of Women Voters Minnesota,

Plaintiffs,

and

Paul Anderson, Ida Lano, Chuck Brusven, Karen Lane, Joel Hineman, Carol Wegner, and Daniel Schonhardt,

Plaintiff-Intervenors

**AFFIDAVIT OF JODY E.
NAHLOVSKY IN SUPPORT OF THE
WATTSON PLAINTIFFS'
PROPOSED CONGRESSIONAL
AND LEGISLATIVE DISTRICTING
PRINCIPLES**

vs.

Steve Simon, Secretary of State of Minnesota; and Kendra Olson, Carver County Elections and Licensing Manager, individually and on behalf of all Minnesota county chief election officers,

Defendants,

and

Frank Sachs, Dagny Heimisdottir, Michael Arulfo, Tanwi Prigge, Jennifer Guertin, Garrison O'Keith McMurtrey, Mara Lee Glubka, Jeffrey Strand, Danielle Main, and Wayne Grimmer,

Plaintiffs,

and

Dr. Bruce Corrie, Shelly Diaz, Alberder
Gillespie, Xiongpaoo Lee, Abdirazak
Mahboub, Aida Simon, Beatriz Winters,
Common Cause, OneMinnesota.org, and
Voices for Racial Justice,

Plaintiff-Intervenors,

vs.

Steve Simon, Secretary of State of
Minnesota,

Defendant.

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

I, Jody E. Nahlovsky, am an Attorney at the James H. Gilbert Law Group, P.L.L.C., the law firm representing Plaintiffs Peter S. Wattson, Joseph Mansky, Nancy B. Greenwood, Mary E. Kupper, Douglas W. Backstrom and James E. Hougas III, individually and on behalf of all citizens and voting residents of Minnesota similarly situated, and League of Women Voters Minnesota, and make this Affidavit in support of their Proposed Congressional and Legislative Redistricting Principles:

1. Attached hereto as **Exhibit A** is a true and correct copy *Beens v. Erdahl*, No. 4-71-Civil-151, Order (D. Minn. Nov. 26, 1971).
2. Attached hereto as **Exhibit B** is a true and correct copy *LaComb v. Growe*, No. 4-81-Civ. 152, Order, No. 4-81-Civ. 414, Order (D. Minn. Dec. 29, 1981)

FURTHER YOUR AFFIANT SAITH NOT

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: October 20, 2021

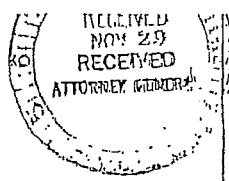
/s/ Jody E. Nahlovsky
Jody E. Nahlovsky

Hennepin County, Minnesota
County and State where document was signed

*Order - size arguments
Proposed ADA
Dillon, Binissal*

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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION



4-71-971

RICHARD A. DEENS, et al

ORDER

v.

4-71-Civil-151

ARLEN ERDANL, et al

The Court having entered its findings and order, dated November 15, 1971, declaring the present legislative apportionment statute of Minnesota, M.S.A. §§2.021 through 2.712, to be invalid and in violation of the Constitution of the United States and enjoining the conduct of future elections thereunder,

NOW THEREFORE, the Court states its intention to adopt a plan of apportioning the Minnesota legislature so that each House and Senate District, for occupancy by a single member, and not overlapping, shall consist of a compact and contiguous area of equal population according to the latest available 1970 census figures which, subservient to the basic principle of equality of population, will respect the integrity of existing boundaries of political subdivisions of the State. Minor deviations not to exceed two percent will be considered if they facilitate the maintenance of such boundaries, but no consideration will be given to the residence of incumbent legislators or the voting pattern of electors. Population estimates will not be an acceptable method of computing the size of a legislative district. Each legislative district must consist of identifiable units from the corrected third count of tapes of the 1970 Federal Census.

Proposals to reduce the size of the Senate and the House have been submitted to the Court. They have sufficient merit to justify

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Garry A. Staben, Clerk
By _____
Deputy

the Court in holding further hearings on this subject. Accordingly, and for the reasons more fully set forth in the attached memorandum, the Court will accept additional briefs on this issue from parties, intervenors and amici on or before 5:00 P.M., Wednesday, December 1, 1971, and will hear oral argument on the issue at 2:00 P.M., Thursday, December 2, 1971, in the Courtroom of the Honorable Edward J. Devitt, Federal Court House, St. Paul, Minnesota. The Court will permit additional amici to file briefs on the matter.

Parties, intervenors and amici desiring to submit briefs shall file six (6) copies with the Clerk of Court in accordance with the time schedule outlined above. The briefs should be addressed to the following questions: (1) Is it within this Court's discretion to significantly reduce the size of the Senate and the House in this proceeding? (2) If the Court has discretion to take such action, should it exercise its discretion? (3) If the Court determines that a reduction in the size of the legislature is desirable, to what size should it reduce the Senate and House?

It is further ORDERED that: the Motion of Jack Fena and Rudy Perpich for leave to appear as amicus curiae for the purpose of submitting a plan of apportionment is hereby granted.

It is further ORDERED that the Motion of the Americans for Democratic Action, Minnesota Chapter, for leave to file a brief as amicus curiae on the question of staggered senatorial terms is hereby granted, provided that such brief is filed with this Court by December 1, 1971. Parties, intervenors and other amici are invited to file briefs on this issue.

It is further ORDERED that the Motion to dismiss Joseph Dixon as a Master, filed by Intervenor Crawford, King and Voss, is hereby denied.

DATED: November 26, 1971.

(signed) Gerald W. Heaney
GERALD W. HEANEY, Judge
United States Court of Appeals

(signed) Edward J. Devitt
EDWARD J. DEVITT, Chief Judge
United States District Court

(signed) Earl R. Larson
EARL R. LARSON, Judge
United States District Court

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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

4-81 Civ. 152

SHARON LaCOMB, JAMES A. WOLLEY,
and PHILLIP R. KRASS, individually
and on behalf of all Citizens and
Voters of the State of Minnesota
similarly situated,

Plaintiffs,

v.

ORDER

JOAN GROWE, Secretary of State
of Minnesota; VERNON T. HOPPE,
Hennepin County Auditor, CHARLES
R. LEFEBVRE, Anoka County Auditor;
THOMAS HENNEN, Scott County Audi-
tor; CARL D. ONISHCHUK, Dakota
County Auditor, on behalf of
themselves and all County Auditors
of the State of Minnesota,

Defendants,

MARTIN JOHNSON, WILLIAM SAVAGE,
and PATRICIA WIRTANEN,

Intervenors.

WHEREAS, by order dated September 28, 1981 the present appor-
tionment of Legislative Districts in Minnesota has been declared
to contravene the United States Constitution Amendment XIV, Sec-
tion 1 and Article IV, Section 3 of the minnesota Constitution;
and

WHEREAS, the parties have submitted suggested criteria to be
employed in the formulation of a constitutional plan of legisla-
tive apportionment; and

WHEREAS, the parties have commented on the suggested criteria;

NOW, THEREFORE, on the basis of all of the files, records and
proceedings and the arguments of counsel,

IT IS ORDERED That plans for apportioning the Minnesota
Legislature shall be consistent with the following criteria:

1. There shall be sixty-seven (67) Senate districts and
one hundred thirty-four (134) House districts. The population

1 of the districts will be as nearly equal as possible. Minor
2 deviations in population equality not to exceed plus or minus two
3 percent (2%) will be permitted when necessary to facilitate
4 recognition of the other criteria. Accordingly, the maximum
5 permissible deviation for Senate districts is plus or minus 1,217
6 people and the maximum permissible deviation for House districts
7 is plus or minus 608 people.

8 2. The districts shall be single member, compact and con-
9 tiguous.

10 3. No House district shall be divided in the formation of
11 a Senate district.

12 4. The integrity of existing boundaries of political
13 subdivisions of the State will be respected to the extent practi-
14 cable to minimize division in the formation of a district.

15 5. Districts shall preserve the voting strength of minority
16 populations and will, wherever possible, increase the probability
17 of minority representation from areas of sizable concentrations
18 of minority population.

19 IT IS FURTHER ORDERED That apportionment plans may recognize
20 the preservation of communities of interest in the formation of
21 districts. To the extent any consideration is given to a com-
22 munity of interest, the data or information upon which the con-
23 sideration is based shall be identified.

24 IT IS FINALLY ORDERED That any plan of apportionment submit-
25 ted to the court comply with the following format.

26 The following will be submitted with any proposed apportion-
27 ment plan in triplicate:

28 1. The following maps on which proposed district lines
29 shall be drawn and district numbers entered.

30 a. A map of the state, showing minor civil
31 division boundaries in counties that are split
32 between districts.

1 b. A map of the outer metropolitan area showing
2 minor civil division boundaries and census tract
boundaries.

3 c. A map of each municipality not wholly within
4 one district or containing more than one whole
5 district, showing census tract or enumeration dis-
trict, block groups or block boundaries, as avail-
able.

6 d. A map of the inner metropolitan area, showing
7 census tract boundaries.

8 e. Where census tracts are split, sections of
city maps showing block boundaries.

9 f. With respect to each category of this para-
10 graph (1), the parties shall by stipulation agree
on the base maps to be used.

11 2. A table showing the name or number designation and pop-
12 ulation of all component units and subunits, where units are sub-
13 divided between districts, of proposed districts, listed verti-
14 cally. For example, whole counties, where not split, shall be
15 listed. Where a county is split, the county name shall be listed,
16 followed by the names and populations of the minor civil divi-
sions of that county within the proposed district. Where a minor
civil division is split, its name shall be listed followed by the
19 census tract numbers or enumeration district identifications and
20 populations, within the proposed district. Where a census tract
21 is split, the census tract name shall be shown, followed by the
22 block group number and population. Where a block group is split,
23 block numbers and population shall be listed.

24 For each split unit or subunit within a district, a subtotal
25 shall be shown.

26 For each district, the total population shall be shown.
27 Adding machine tapes or other evidence of the addition shall be
28 attached. The numerical deviation from the average (ideal) dis-
29 trict size, and the percentage deviation carried out to two
30 decimal places shall be calculated.

31 As an annex to this table, another table shall be prepared
32 showing how the parts of any split unit or subunit described

above assigned to each district add up to equal the population of the next higher unit, including a final addition of the districts to a state total, with an explanation of discrepancy or failure to close, if any.

3. A summary of all district totals, separately for each house of the legislature, ranked by percentage deviation, showing the district number, the population, the population deviation and the percentage deviation.

4. A calculation of the population required to elect a majority of each body.

5. A calculation of the ratio between the highest and lowest population district.

6. A calculation of the mean deviation of all districts.

The court is proceeding pursuant to its Order of October 1, 1981 to prepare itself to reapportion the State under the announced schedule should that become necessary. For that purpose, Special Masters have been appointed, computer equipment like that used by the State has been ordered, and clerical personnel have been employed.

The court, however, again emphasizes that the responsibility for reapportionment lies with the legislative and executive branches of the State. Only if they fail to meet their responsibility within the existing time schedule will the court undertake the task.

DATED: December 29, 1981.

GERALD W. HEANEY
United States Circuit Judge

Donald D. Alsop
DONALD D. ALSOP
United States District Judge

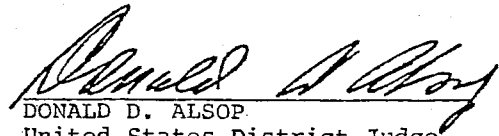
Harry H. MacLaughlin
HARRY H. MacLAUGHLIN
United States District Judge

CONCURRING

The court's order sets forth and adopts basic reapportionment criteria about which there exists no genuine controversy. It provides that all districts be single member, be compact, be contiguous, preserve the voting strength of minority populations, respect boundaries of political subdivisions, and contain a degree of population equality. The order further provides that plans may recognize the preservation of "communities of interest."

In concurring with the criteria as adopted, I write separately to state my view that any plan meeting the stated criteria should not be reviewed by any further standard, unless or until a statement thereof has been adopted by a majority of the court.

DATED: December 29, 1981.


DONALD D. ALSOP
United States District Judge

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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

SHARON LaCOMB, JAMES A. WOLLEY,
and PHILLIP R. KRASS, individually
and on behalf of all Citizens and
Voters of the State of Minnesota
similarly situated,

4-81 Civ. 414

Plaintiffs,

v.

ORDER

JOAN GROWE, Secretary of State
of Minnesota; VERNON T. HOPPE,
Hennepin County Auditor, CHARLES
R. LEFEBVRE, Anoka County Auditor;
CARL D. ONISHCHUK, Dakota County
Auditor, on behalf of themselves
and all County Auditors of the
State of Minnesota,

Defendants,

MARTIN JOHNSON, WILLIAM SAVAGE,
and PATRICIA WIRTANEN,

Intervenors.

WHEREAS, by Order dated September 14, 1981, the present ap-
portionment of Congressional Districts in Minnesota has been
declared unconstitutional; and

WHEREAS, the parties have submitted suggested criteria to be
employed in the formulation of a constitutional plan of con-
gressional apportionment; and

WHEREAS, the parties have commented on the suggested cri-
teria;

NOW, THEREFORE, on the basis of all of the files, records
and proceedings and the arguments of counsel,

IT IS ORDERED That plans for apportioning the Minnesota Con-
gressional Districts shall be consistent with the following cri-
teria:

1. There shall be eight (8) districts. The population of
the districts shall be as nearly equal as possible. The maximum

1 permissible deviation from population equality will be plus or
2 minus one-quarter of one percent (.25%), or 1,274 people.

3 2. The districts shall be single member, compact and con-
4 tiguous.

5 3. The integrity of existing boundaries of political sub-
6 divisions of the State will be respected to the extent prac-
7 ticable to minimize division in the formation of a district.

8 4. Districts shall preserve the voting strength of min-
9 ority populations and will, wherever possible, increase the pro-
10 bability of minority representation from areas of sizable con-
11 centrations of minority population.

12 IT IS FURTHER ORDERED That apportionment plans may recognize
13 the preservation of communities of interest in the formation of
14 districts. To the extent any consideration is given to a com-
15 munity of interest, the data or information upon which the con-
16 sideration is based shall be identified.

17 IT IS FURTHER ORDERED That any plan of apportionment sub-
18 mitted to the Court comply with the following format.

19 The following will be submitted with any proposed apportion-
20 ment plan in triplicate:

21 1. The following maps on which proposed district lines
22 shall be drawn and district numbers entered.

23 a. A map of the state, showing minor civil
24 division boundaries in counties that are split
between districts.

25 b. A map of the outer metropolitan area
26 showing minor civil division boundaries and
census tract boundaries.

27 c. A map of each municipality not wholly
28 within one district or which contains more
29 than one whole district, showing census
tract or enumeration district, block groups
or block boundaries, as available.

30 d. A map of the inner metropolitan area,
31 showing census tract boundaries.

32 e. Where census tracts are split, sections
of city maps showing block boundaries.

1
2 f. With respect to each category in this
3 paragraph (1), the parties shall agree by
4 stipulation on the base maps to be used.

5
6 2. A table showing the name or number designation and
7 populations of all component units and subunits, where units are
8 subdivided between districts, of proposed districts, listed
9 vertically. For example, whole counties, where not split, shall
10 be listed. Where a county is split, the county name shall be
11 listed, followed by the names and populations of the minor civil
12 divisions of that county within the proposed district. Where a
13 minor civil division is split, its name shall be listed followed
14 by the census tract numbers or the enumeration district identifi-
15 cations and populations within the proposed district. Where a
16 census tract is split, the census tract name shall be shown, fol-
17 lowed by the block group number and population. Where a block
18 group is split, block numbers and population shall be listed.

19 For each split unit or subunit within a district, a subtotal
20 shall be shown.

21 For each district, the total population shall be shown.
22 Adding machine tapes or other evidence of the addition shall be
23 attached. The numerical deviation from the average (ideal) dis-
24 trict size, and the percentage deviation carried out to two
25 decimal places shall be calculated.

26 As an annex to this table, another table shall be prepared
27 showing how the parts of any split unit or subunit described
28 above assigned to each district add up to equal the population of
29 the next higher unit, including a final addition of districts to
30 a state total, with an explanation of discrepancy or failure to
31 close, if any.

32 3. A summary of all district totals ranked by percentage
deviation, showing the district number, the population, the popu-
lation deviation and the percentage deviation.


4. A calculation of the ratio between the highest and lowest population districts.

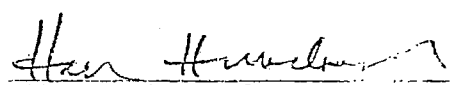
5. A calculation of the mean deviation of all districts.

The court is proceeding pursuant to its order of October 8, 1981 to prepare itself to reapportion the State under the announced schedule should that become necessary. For that purpose, Special Masters have been appointed, computer equipment like that used by the State has been ordered, and clerical personnel have been employed.

The court, however, again emphasizes that the responsibility for reapportionment lies within the legislative and executive branches of the State. Only if they fail to meet their responsibility within the existing time schedule will this court undertake the task.

GERALD W. HEANEY
United States Circuit Judge


DONALD D. ALSOP
United States District Judge


HARRY H. MacLAUGHLIN
United States District Judge

DATED: December 29, 1981.


CONCURRING

The court's order sets forth and adopts basic reapportionment criteria about which there exists no genuine controversy. It provides that all districts be single member, be compact, be contiguous, preserve the voting strength of minority populations, respect boundaries of political subdivisions, and contain a

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In concurring with the criteria as adopted, I write separately to state my view that any plan meeting the stated criteria should not be reviewed by any further standard, unless or until a statement thereof has been adopted by a majority of the court.

DATED: December 29, 1981.


DONALD D. ALSOP
United States District Judge