

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

IN RE: 2011 REDISTRICTING CASES: )

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Case No. 4FA-11-2209CI

***Order Regarding Riley Plaintiffs' Motion for Reconsideration***

On 24 April 2013 the Alaska Supreme Court responded to the Board's request for clarification of the Alaska Supreme Court's 28 December 2013 order.<sup>1</sup>

On 1 May 2013 the Riley plaintiffs filed a request for a status hearing regarding remand. On 2 May 2013 this court issued an order and held that jurisdiction of this action remains with the Alaska Supreme Court. The court further stated that the Alaska Supreme Court has issued various orders directly to the Board and two, and only two issues, are directly before this court, "Whether Article VI, section 10 of the Alaska Constitution requires public hearings following the adoption of the Board's plan or plans and whether the Board's proposed timeline is sufficient to allow judicial review of the Board's work."<sup>2</sup> The court set a briefing schedule for the parties to respond to those two issues.

On 15 May 2013 the Riley plaintiffs filed a motion for order establishing deadlines and to hold hearings on final plan. On 15 May 2013 the Petersburg plaintiffs filed a motion for adequate timeline and public hearings on final redistricting plan. The Board filed a consolidated opposition on 22 May 2013.

On 30 May 2013 the court issued an order and held that public hearings must be held for a new plan or plans promulgated by the Board and that the Boards' proposed timeline is not sufficient to allow judicial review of the Board's work.

<sup>1</sup> See Alaska Supreme Court Order No. S-14721 issued 24 April 2013.

<sup>2</sup> *Id.*

On 30 May 2013 the Alaska Supreme Court also issued an order and clarified that jurisdiction had been returned to the superior court. The Riley plaintiffs argue that in light of this order, the superior court should set specific deadlines for the Board.

On 4 June 2013 the Riley plaintiffs filed a motion for reconsideration. The court gave the other parties until 10 June 2013 to file a response.

On 10 June 2013 the Petersburg plaintiffs joined in the motion for reconsideration. The Petersburg plaintiffs contend that the court should fashion an order establishing a timeline for the Board's adoption of a *Hickel* Plan based on this court's discussion in footnote 12 of its 30 May 2013 order.

On 10 June 2013 Calista Corporation, Association of Village Council Presidents, and Bristol Bay Native Corporation filed a motion expressing their support for the Riley plaintiffs' motion for reconsideration. These *amici* also urge the court to adopt its suggested schedule in footnote 12 of its 30 May 2013 order and contend that the Board has failed to set forth a schedule for the VRA portion of the plan.

On 10 June 2013 the Fairbanks North Star Borough (FNSB) also filed a motion of support of the Riley plaintiffs' motion for reconsideration.<sup>3</sup> The FNSB argues that it is not clear that the Board intends to comply with the less than ambitious time frame that it has presented to the court. FNSB contends that the Board is not providing public notice of its meeting in a consistent fashion and is no longer using its website to post court pleadings and has not updated its Facebook page and Twitter accounts since 27 August 2012. The FNSB also takes issue with the fact that the Board's timeline does not set forth a schedule for a VRA compliant plan.

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<sup>3</sup> The court notes that the FNSB and the Board both filed their motions after the noon deadline; however, the court will accept both motions.

On 10 June 2013 the Board opposed the motion for reconsideration. The Board argues that there is no legal basis for a motion for reconsideration and also argues that the request is moot because the Board has already adopted a schedule that will allow sufficient time for judicial review and provides for public hearings. The Board's proposed schedule is:

the Board will formally begin work on 12 June 2013;<sup>4</sup>

work sessions are scheduled for the next nine days, culminating in a Board meeting on 21 June 2013, where the Board will formally adopt its draft *Hickel* Plan(s);

*Hickel* Plans from third party groups are due by noon the same day;

all plans will be uploaded to the Board's website to allow for public comment and input;

the Board will hold a public hearing in Anchorage on 28 June 2013, which will be teleconferenced statewide;<sup>5</sup>

public hearings and regional teleconferences are scheduled on 1 July 2013 in Fairbanks and 2 July 2013 in Juneau;

the Board has scheduled meetings for the entire week of 8 July 2013 to consider and adopt its final *Hickel* Plan, which will be accomplished by 12 July 2013 at the latest.

The Board ultimately argues that this tracks the court's proposed schedule very closely.

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<sup>4</sup> The Board notes that this is the soonest date by which it could properly notice the work sessions under the Open Meetings Act.

<sup>5</sup> At this hearing the Board will take presentations on third party plans and allow public testimony.

The court's proposed schedule from footnote 12 of the court's 30 May 2013 order was the following, "the Board shall promulgate *Hickel* plan(s) within 10 days of any appellate decision on the two points contained herein and post those plan(s) on its website. Further this court recommends that the public submit any alternative plan(s) within 10 days thereafter and that public hearings commence on the last day public plan(s) are due. Finally this court recommends the Board be ordered to adopt a *Hickel* plan(s) within 10 days of the commencement of public hearings. This is a 30 day time frame *at this time*."

The court grants the Riley plaintiffs' motion for reconsideration and finds that it is not moot. This court is retaining all jurisdiction in this matter.<sup>6</sup> The court has evaluated the Board's proposed schedule and finds it to be similar to the court's proposed time frame. The *amici* made reference to the fact that the Board has not set a schedule to address compliance with the VRA. If the Board fails to propose a schedule for the VRA portion of the plan in a timely manner, the parties may file a motion with the court and the court will address the issue at that time. The court finds that the Board shall begin work on the VRA portion of the plan immediately after its adoption of its *Hickel* plan.

The court therefore rules as follows:

1. The Riley plaintiffs' motion for reconsideration is therefore GRANTED.
2. The Board's proposed timeline is hereby ORDERED as the required deadline for the *Hickel* process.<sup>7</sup>
3. Under the Alaska Constitution any qualified voter may apply to the superior court to compel the Board to perform its duties under Article VI or to correct any error in redistricting.

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<sup>6</sup> See the Alaska Supreme Court's 30 May 2013 Notice, S-14721. The retention of jurisdiction includes the oversight of any final plan.

<sup>7</sup> The deadline is thus court ordered and violation of the deadline carries with it all remedies available under the rules and common law.

Application to compel correction of any error in redistricting must be filed within thirty days following the adoption of the final redistricting plan and proclamation by the Board.<sup>8</sup> This court urges any qualified voter with an objection to the redistricting plan to file within 10 days of the adoption of the final redistricting plan in order to expedite the judicial review process.

**DATED** at Fairbanks, Alaska, this 11 of June, 2013.



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Michael P. McConahy  
Superior Court Judge

I certify that on 6/11/13  
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<sup>8</sup> See AK Const. Art. 4, §11.