

IN THE SUPREME COURT OF FLORIDA

THE LEAGUE OF WOMEN
VOTERS OF FLORIDA, INC., *et al.*,

Appellants,

Case No. SC14-1905
L.T. Case No. 2012-CA-000412
L.T. Case No. 2012-CA-000490

v.

KEN DETZNER, in his official
capacity as Florida Secretary of State,
et al.,

Appellees.

_____ /

**THE FLORIDA HOUSE OF REPRESENTATIVES’
MOTION FOR FURTHER RELINQUISHMENT OF JURISDICTION**

Appellee, the Florida House of Representatives, respectfully requests that this Court relinquish jurisdiction to the trial court for a period of 60 days from the date of the order on this motion to develop a factual record and recommend for adoption by this Court a provisional congressional redistricting plan for the State of Florida.

1. On July 9, 2015, this Court invalidated eight congressional districts and relinquished jurisdiction to the trial court for a period of 100 days with directions that the trial court (1) require the Legislature to redraw the invalid districts and all other affected districts; (2) hold a hearing at which all parties may present

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arguments and evidence for or against the redrawn plan; and (3) enter an order that recommends either approval or disapproval of the redrawn plan. *See Op.* at 7-8.

2. On August 10, 2015, the Legislature convened in special session to amend Florida’s congressional districts in a manner consistent with this Court’s opinion. The Legislature was unable to agree upon and did not enact a remedial congressional redistricting plan, and adjourned as scheduled on August 21, 2015.

3. Here, the express purpose of this Court’s earlier relinquishment of jurisdiction was to authorize the trial court to review a remedial plan enacted by the Legislature and to recommend approval or disapproval of the enacted plan. Because the Legislature did not enact a remedial plan, the trial court cannot fulfill the purpose of this Court’s relinquishment, and, without a further relinquishment by this Court, has no authority to undertake any additional remedial proceedings.¹

¹ When an appellate court relinquishes jurisdiction to a trial court, the trial court has no authority to decide matters outside the scope of the express purposes stated in the appellate court’s order of relinquishment. Fla. R. App. P. 9.600(b) (providing that an appellate court may permit a lower court to proceed with “specifically stated matters” during an appeal); *Hart v. Wachovia Bank, Nat’l Ass’n*, 159 So. 3d 244, 247 (Fla. 1st DCA 2015) (“When a trial court . . . exceeds the scope of the ‘specifically stated matters’ authorized by the appellate court . . . , the trial court acts without jurisdiction, and thus, any order is invalid.”); *Hernandez v. Hernandez*, 924 So. 2d 853, 855 (Fla. 2d DCA 2006) (“[O]ur relinquishment of jurisdiction was for the express purpose of setting temporary child support Thus, the trial court acted outside the jurisdiction it had been granted, rendering this later order void”); *Palma Sola Harbour Condo., Inc. v. Huber*, 374 So. 2d 1135, 1138 (Fla. 2d DCA 1979) (“The trial court’s order was beyond the scope of ‘specifically stated matters’ this court authorized for consideration on its relinquishment of jurisdiction and consequently was invalid.”); *see also Yampol v.*

4. At this time, the House does not anticipate that the Legislature will enact a remedial plan in advance of the 2016 elections. The House therefore requests that this Court initiate proceedings toward the judicial adoption of a provisional redistricting plan as a precaution to ensure that a valid redistricting plan will be in place before the period for candidate qualifying begins at noon on June 20, 2016. Judicial proceedings to establish a redistricting plan should be conducted without prejudice to the inherent authority of the Legislature at any time during or after those proceedings to reconvene and enact valid redistricting legislation, and any plan adopted by the Court should expressly be an interim or provisional plan that will remain in place only until superseded by subsequent legislation. *See, e.g., Reynolds v. Sims*, 377 U.S. 533, 586 (1964) (“[T]he court below acted with proper judicial restraint, after the Alabama Legislature had failed to act effectively in remedying the constitutional deficiencies in the State's legislative apportionment scheme, in ordering its own temporary reapportionment plan into effect, at a time sufficiently early to permit the holding of elections pursuant to that plan without great difficulty, and in prescribing a plan admittedly provisional in purpose so as not to usurp the primary responsibility for reapportionment which rests with the legislature.”); *Legislature v. Reinecke*, 492 P.2d 385, 386-87 (Cal. 1972) (“[W]e

Turnberry Isle S. Condo. Ass'n, Inc., 137 So. 3d 1124, 1125 (Fla. 3d DCA 2014); *Hoffman v. Crosby*, 908 So. 2d 1111, 1113 (Fla. 1st DCA 2005); *Dep't of Health & Rehab. Servs. v. Davenport*, 609 So. 2d 137, 138 (Fla. 4th DCA 1992); *Palm Beach Cnty. v. Boca Dev. Assocs., Ltd.*, 485 So. 2d 449, 450 (Fla. 4th DCA 1986).

urge the Legislature and the Governor, in the exercise of their shared legislative power to enact laws, to enact reapportionment measures in time for the 1972 elections, and thus to render unnecessary the use of our temporary plans.” (citation omitted)). These conditions are essential to ensure that the constitutional authority of the Legislature to consider and adopt legislation is respected and preserved.

5. Under these conditions, and to facilitate the development of a record for this Court’s benefit, the House requests that the Court relinquish jurisdiction to the trial court for a period of 60 days from the date of the order on this motion to:

- solicit proposed remedial plans from the parties;
- authorize discovery relative to any proposed remedial plans;
- allow briefing;
- conduct an evidentiary hearing at which the parties may present evidence and argument for or against any proposed remedial plans;
- recommend to this Court the adoption of one of the proposed remedial plans; and
- set forth findings of fact and conclusions of law that support its recommendation.²

All remedial proceedings should be expeditious but orderly and consistent with principles of due process. *See Perry v. Del Rio*, 67 S.W.3d 85, 93-95 (Tex. 2001).

² A 60-day period would not cause substantial delay. As of the date of this motion, 54 days remain of the 100-day period for which the Court initially relinquished jurisdiction on July 9, 2015.

WHEREFORE, Appellee, the Florida House of Representatives, respectfully requests that this Court relinquish jurisdiction to the trial court for a period of 60 days from the date of the order on this motion to develop a factual record and recommend for adoption by this Court a provisional congressional redistricting plan for the State of Florida.

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CERTIFICATE OF SERVICE

I certify that the foregoing document was furnished by electronic mail this twenty-fourth day of August 2015, to all counsel identified on the attached Service List.

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