

SUPREME COURT
STATE OF OKLAHOMA

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

SENATOR JIM WILSON,)
)
 Petitioner,)
)
v.)
)
MARY FALLIN, Governor of the)
 State of Oklahoma,)
)
KRIS STEELE, Speaker of the)
 Oklahoma House of Representatives,)
)
BRIAN BINGMAN, President Pro Tempore of)
 the Oklahoma State Senate,)
)
PAUL ZIRIAX, Secretary of the Oklahoma)
 State Election Board,)
)
 Respondents.)

JUL - 7 2011

MICHAEL S. RICHIE
CLERK OF
THE SUPREME COURTS

#109652

**APPLICATION TO ASSUME ORIGINAL JURISDICTION
AND PETITION TO REVIEW THE REAPPORTIONMENT OF THE
OKLAHOMA STATE SENATE**

COMES NOW SENATOR JIM WILSON, Petitioner, and shows this Court as follows:

1. The Petitioner, State Senator Jim Wilson, is a qualified elector, residing in Cherokee County, State of Oklahoma and registered to vote therein.
2. The Respondents are:
 - A. Mary Fallin in her capacity as Governor of the State of Oklahoma;
 - B. Kris Steele, in his capacity as Speaker of the Oklahoma House of Representatives, and
 - C. Brian Bingman, in his capacity as President Pro Tempore of the Oklahoma State Senate, and
 - D. Paul Ziriax, in his capacity as Secretary of the Oklahoma State Election

Board.

3. This action is to challenge the reapportionment of the Oklahoma State Senate as set out in the State Senate Redistricting Act of 2011, Senate Bill 2011, enacted, engrossed and filed on or about May 20, 2011.
4. Said apportionment act does not comply with Okla. Const. art V, § 9(A) which (emphasis supplied) provides as follows:

The state shall be apportioned into forty-eight senatorial districts in the following manner: the nineteen most populous counties, as determined by the most recent Federal Decennial Census, shall constitute nineteen senatorial districts with one senator to be nominated and elected from each district; the fifty-eight less populous counties shall be joined into twenty-nine two-county districts with one senator to be nominated and elected from each of the two-county districts. **In apportioning the State Senate, consideration shall be given to population, compactness, area, political units, historical precedents, economic and political interests, contiguous territory, and other major factors, to the extent feasible.**

5. Such reapportionment plan fails to create Senate districts which as nearly as possible provide for compactness, political units, historical precedents, economic and political interests. See Appendix Ex 2 (map showing 2011 Senate District lines). By way of example only, and without limiting the deficiencies, the following are illustrations of where the Senate apportionment plan fails to comply with Oklahoma's Constitution:

- A. **Senate District 3.** The present Senate District 3 is relatively compact and contiguous and importantly preserves the heart of the Cherokee Nation within a single district. See Appendix Ex 3. In contrast the newly apportioned Senate District 3 [Appendix Ex 4] is neither compact nor contiguous and unnecessarily divides Cherokee, Delaware and Mayes Counties while removing the heart of the Cherokee Nation

from this district. Such division serves only partisan purposes and disregards constitutional standards, whereas Petitioner's proposal [Appendix Ex 1, maps and affidavit] meets these standards.

- B. **Senate District 9.** Senate District 9 [Appendix Ex 5] is neither compact nor contiguous and it places the City of Tahlequah into a district with Muskogee which have significantly different community and culture interests. In contrast, Petitioner's proposal respects such community interests and is compact and contiguous. This is explained not only facially by the maps but also by the affidavit showing how county and city lines received more appropriate respect while maintaining compact, contiguous districts of constitutionally equal population. Appendix Ex 1 (maps and affidavit).
- C. **Oklahoma County:** As shown by Appendix Ex 6, Oklahoma County is divided into a series of odd shaped district which are neither compact, contiguous nor do they share community interests. Prime examples of this are Senate Districts 47, 40, 44, 46, 45, 15 and 17. Senate District 17 [Appendix Ex 7] can only be explained in by partisan gerrymandering and similarly Senate District 15 [Appendix Ex 8] combines parts of Oklahoma City, Choctaw, Jones, Luther and Shawnee into a district which is not only misshapen but which ignores communities having common interest. Again, Petitioner's proposal more fully respects such interests and is more compact and contiguous.
- D. **Canadian County.** The present plan divides Canadian County into four Senate Districts and divides the City of Yukon and Yukon

Community into two separate senate districts. See Appendix Ex 9. Under Petitioner's proposal this County would have two districts and the City of Yukon would be preserved intact.

E. **Cleveland County**. The present plan divides Cleveland County between Districts 15 and 16 [Appendix Ex 10] on a basis that can only be explained as political gerrymandering having no regard for the constitutional standards. Again, Petitioner's proposal is rational, compact and contiguous.

F. **Tulsa County**. The present plan divides Tulsa County and the City of Tulsa into district which again are neither compact, contiguous or based on common communities of interest. See Districts 35, 37, 39, 25 and 33. Appendix Ex 11. District 33 gerrymanders community lines to combine dissimilar urban and rural communities. Appendix Ex 12. Again, Petitioner's proposal is rational, compact and contiguous.

4. Petitioner has filed, with this Petition, a proposed apportionment that is more closely in accordance with Okla. Const. art V, § 9(A) than the apportionment plan passed by the Oklahoma Legislature. See Appendix Ex 1 (Petitioner's Proposed Map with supporting affidavit). In particular Petitioner's plan complies with the requirements of Okla. Const. art V, § 9(A) by giving consideration to "population, compactness, area, political units, historical precedents, economic and political interests, contiguous territory" than does the present apportionment plan and it preserves the same population guidelines within the present plan. Appendix Ex 1 (affidavit).
5. This action is timely brought within sixty (60) days of the filing of the signed

law as provided by Okla. Const. art V, § 11(C).

6. This Court has original jurisdiction over Petitioner's Petition. Such jurisdiction is, in this case, mandatory rather than discretionary as provided by Okla. Const. art V, § 11(C) which (emphasis supplied) provides as follows:

Any qualified elector may seek a review of any apportionment order of the Commission, or apportionment law of the legislature, within sixty days from the filing thereof, by filing in the Supreme Court of Oklahoma a petition which must set forth a proposed apportionment more nearly in accordance with this Article. Any apportionment of either the Senate or the House of Representatives, as ordered by the Commission, or apportionment law of the legislature, from which review is not sought within such time, shall become final. The court shall give all cases involving apportionment precedence over all other cases and proceedings; and if said court be not in session, it shall convene promptly for the disposal of the same.

Additionally jurisdiction is supplied by Okl. Const. art VII, § 4 which, in its relevant part, provides as follows:

. . . The original jurisdiction of the Supreme Court shall extend to a general superintending control over all inferior courts and all Agencies, Commissions and Boards created by law. The Supreme Court, Court of Criminal Appeals, in criminal matters and all other appellate courts shall have power to issue, hear and determine writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition and such other remedial writs as may be provided by law and may exercise such other and further jurisdiction as may be conferred by statute. Each of the Justices or Judges shall have power to issue writs of habeas corpus to any part of the State upon petition by or on behalf of any person held in actual custody and make such writs returnable before himself, or before the Supreme Court, other Appellate Courts, or before any District Court, or judge thereof in the State. The appellate and the original jurisdiction of the Supreme Court and all other appellate courts shall be invoked in the manner provided by law.

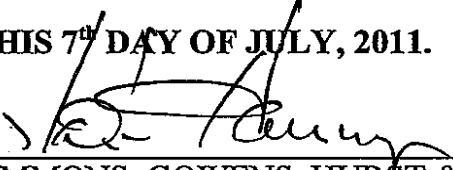
7. Petitioner pray that this Court conduct an evidentiary hearing as is authorized by Supreme Court Rule 1.192 and thereupon determine that his petition is "more nearly in accordance with" the Oklahoma Constitution than that adopted by the Legislature. Pursuant to Okla. Const. art V, § 11(D) this Court should thereupon direct that the Apportionment Commission to modify the act of

apportionment "to achieve conformity with" the Oklahoma Constitution in a manner no less compliant than that set out in Petitioner's proposed apportionment.

WHEREFORE, Petitioner prays that this Court:

1. Set appropriate schedules for briefing and evidentiary hearings,
2. At the conclusion of such hearing determine that the legislative apportionment is not in conformity with the Oklahoma Constitution, and
3. Direct a new order of apportionment to be conducted in the manner required by the Oklahoma Constitution and to generate Senate Districts at least as compliant with the provisions of the Oklahoma Constitution as the districts set out in Petitioner's map.

RESPECTFULLY SUBMITTED THIS 7th DAY OF JULY, 2011.



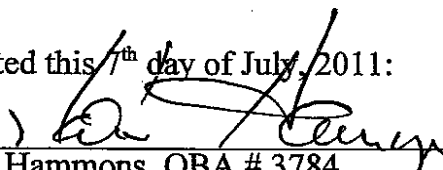
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CERTIFICATE OF SERVICE

A true copy of the foregoing was filed and served by hand-delivery and by US mail, postage prepaid, with notice as provided by Supreme Court Rule 1.301 and Form No. 14, on this 7th day of July, 2011:

MARY FALLIN, Governor of the State of Oklahoma,
KRIS STEELE, Speaker of the Oklahoma House of Representatives,
BRIAN BINGMAN, President Pro Tempore of the Oklahoma State Senate, and
PAUL ZIRIAX, Secretary of the Oklahoma State Election Board
by mail and hand-delivery to their duly appointed counsel
E. SCOTT PRUITT, Attorney General for the State of Oklahoma
313 Northeast 21st Street
Oklahoma City, Oklahoma 73105

Attested this 7th day of July, 2011:



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