

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

WILLIAM WHITFORD, ROGER ANCLAM,
EMILY BUNTING, MARY LYNNE
DONOHUE, HELEN HARRIS, WAYNE
JENSEN, WENDY SUE JOHNSON, JANET
MITCHELL, ALLISON SEATON, JAMES
SEATON, JEROME WALLACE, and DONALD
WINTER,

Plaintiffs,

OPINION and ORDER

15-cv-421-bbc

v.

BEVERLY R. GILL, JULIE M. GLANCEY,
ANN S. JACOBS, STEVE KING, DON MILLIS,
and MARK L. THOMSEN,

Defendants.

OPINION

The plaintiffs have filed a motion under Rule 59 of the Federal Rules of Civil Procedure. They ask that we amend the judgment to reflect affirmatively that, while entering a final judgment, the court is retaining jurisdiction to enforce its order and to adjudicate the adequacy of the Wisconsin Legislature's replacement plan and, in the

event of impasse or the enactment of a deficient remedial plan, to impose an adequate remedy.

We do not believe that explicit language in an order is necessary in order to ensure the continuing jurisdiction of this court and to ensure that this court retains the ability to enforce its injunction. A court possesses “the independent authority to enforce its own injunctive decrees.” *S.E.C. v. Homa*, 514 F.3d 661, 673 (7th Cir. 2008). The rule is that when “an equity case ends in a permanent injunction, the trial court, *with or without an explicit reservation of jurisdiction*, retains jurisdiction to enforce the injunction, as by contempt proceedings.” *McCall-Bey v. Franzen*, 777 F.2d 1178, 1183 (7th Cir. 1985) (emphasis added). “An injunction is supposed to be a swift and effective remedy, summarily enforceable through contempt or other supplementary proceedings in the court that issued the injunction.” *Id.* The opinion of this court with respect to the remedy makes it crystal clear, moreover, that we contemplate such a continued role for the court and intend to retain the jurisdiction necessary to act. *See In re Bond*, 254 F.3d 669, 675–76 (7th Cir. 2001).

Nevertheless, as the plaintiffs point out, it has been the custom of many district courts to place explicit language in the judgment that the court is retaining jurisdiction, and we do not want to leave any ambiguity that might result in wasted time and judicial resources if it becomes necessary for the court to take further action to enforce

its order. Accordingly, the motion is granted and the Clerk will enter the following amended judgment in this case.

ORDER

IT IS ORDERED that the defendants are enjoined from using the districting plan embodied in Act 43 in all future elections.

IT IS FURTHER ORDERED that the defendants have a remedial redistricting plan for the November 2018 election, enacted by the Wisconsin Legislature and signed by the Governor, in place no later than November 1, 2017. This plan must comply with our November 21, 2016 order but may be contingent upon the Supreme Court's affirmance of our November 21, 2016 order.

IT IS FURTHER ORDERED that the court retains jurisdiction to enter such orders as may be necessary to enforce the court's judgment in this matter and to remedy in a timely manner the constitutional violation.

Entered this 21st day of February, 2017.

BY THE COURT:

/s/ _____

KENNETH F. RIPPLE

Circuit Judge

/s/ _____

BARBARA B. CRABB

District Judge

/s/ _____

WILLIAM C. GRIESBACH

District Judge