

IN THE SUPREME COURT FOR THE STATE OF ALASKA

In Re 2011 Redistricting Cases.) **Supreme Court Case No. S-14721**
)
) Trial Court Case No. 4FA-11-2209-CI
) (Consolidated Cases)
) 4FA-11-2213 CI
) 1JU-11-782 CI

**ALASKA REDISTRICTING BOARD'S
REQUEST FOR CLARIFICATION**

COMES NOW, Petitioner Alaska Redistricting Board ("Board"), by and through counsel Patton Boggs LLP, and hereby respectfully requests this Court provide clarification of its order dated December 28, 2012 as modified on February 15, 2013 ("Order"). To ensure compliance with this Court's Order, the Board requests guidance as to (1) whether this Court's reference to "new plan for the 2014 elections" refers to a new *Hickel* plan, any new final plan adopted by the Board; and (2) whether the Board is prohibited from using the current configuration of any district from the Interim Plan¹ in any "new plan."

REQUEST

On December 28, 2012, this Court granted the Board's petition for review and ordered the Board "to draft a new plan for the 2014 elections," agreeing with the superior court's finding that the Board must "begin its drafting process anew."² It is unclear, however, from this Court's opinion whether "new plan" refers to the "Hickel Plan" the first step of the *Hickel* process, or to a new final Proclamation plan.

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¹ This is the Board's "Amended Proclamation Plan" adopted on April 5, 2012. [Bd. Rec. ARB15360-15361.]

² *In re 2011 Redistricting Cases*, 294 P.3d 1032, *3, *12 (Alaska 2012).

This Court previously defined the *Hickel* process in its order dated March 14, 2012, and reiterated in the December 28, 2012 opinion:

the Board must first design a plan focusing on compliance with the article VI, section 6 requirements of contiguity, compactness, and relative socioeconomic integration; it may consider local government boundaries and should use drainage and other geographic features in describing boundaries wherever possible[;] once such a plan is drawn, the Board must determine whether it complies with the Voting Rights Act, and to the extent it is noncompliant, make revisions that deviate from the Alaska Constitution when deviation is “the only means available to satisfy Voting Rights Act requirements.”³

According to this Court, the Board’s original process of first drawing districts compliant with the Voting Rights Act “necessarily affected the contours of the entire map.”⁴ Thus, the Court’s opinion could be interpreted to require the Board to draw a “new plan” that contains a different shape of every district in order to purge this impermissible taint.

First, the Board seeks clarification as to whether “new plan” refers to a new *Hickel* plan or a new final plan adopted by the Board.

Second, the Board requests guidance from this Court as to whether the Board is prohibited from using the current configuration of any district in any “new plan.” The reason for the Board’s request is that, given the unique characteristics of Alaska, any “new plan” may very well include nearly identical districts to the current Amended Proclamation Plan.

³ *Id.* at *6, (quoting *In re 2011 Redistricting Cases*, 274 P.3d 466, 467-68 (Alaska 2012)).

⁴ *Id.* at *12.

The current configuration of House District 40, for example, maintains the nearly identical shape as the North Slope House district from the 2000 redistricting cycle. Based on the 2010 census data, the district contains the nearly ideal number of population to fulfill the one person, one vote mandate. The Board believes it is also compact, contiguous, and socio-economically integrated. The population make-up of this area happens to be majority Alaska Native, which according to the Board's Voting Rights Act expert, Dr. Handley, also renders it compliant with the Voting Rights Act without any necessary deviation from the Alaska Constitution. Under this Court's Order, it appears the Board must alter the configuration of this seemingly "perfect" district⁵ simply because it happens to also comply with the Voting Rights Act.

Likewise, the 17 House districts within the Municipality of Anchorage were also configured without regard to the VRA. During the public hearing process held over several months in 2011, the Anchorage Mayor's office submitted a plan for the Municipality of Anchorage.⁶ The Mayor's Chief of Staff and President of the Assembly explained, on the record, that they had drawn the districts to comply only with the federal mandate of one person, one vote and the Alaska constitutional requirements of compactness, contiguity, and socio-economic integration.⁷ The Mayor's Chief of Staff made it clear they had not drawn any of the districts with the Voting Rights Act in

⁵ *Id.* at *53-56 n.36 (Mathews J dissenting).

⁶ *Jt. Exc.* 131 at 41:2-5; *Tr. Tran.* at 677:5-684:8.

⁷ *Bd. Rec.* ARB753-55.

mind.⁸ The Board relied upon these representations in adopting these districts into its Proclamation Plan.⁹ As with House District 40, this Court's Order seems to require the Board to arbitrarily manipulate boundaries within the Anchorage districts simply to ensure no current configurations are used in any "new plan." The Board simply seeks clarification as to whether this was this Court's intention.

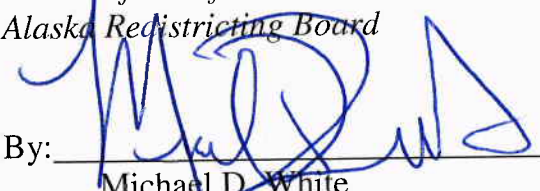
CONCLUSION

The Board asks this Court to provide it with some guidance as it prepares to comply with this Court's Order on remand. The Board requests clarification as to (1) whether a "new plan for the 2014 elections" refers to a new *Hickel* plan or a new final Proclamation plan, and (2) whether the Board is prohibited from maintaining the current configurations of any district from the Interim Plan in any "new" plan.

DATED at Anchorage, Alaska this 19th day of March 2013.

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⁸ *Id.*

⁹ Jt. Exc. 131, 132 at 41:2-42:11; Tr. Tran. at 677:5-684:8.

CERTIFICATE OF TYPEFACE

Pursuant to Alaska Rule of Appellate Procedure 513.5(c)(2), I hereby certify that the foregoing document was prepared in typeface 13 point Times New Roman.

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of March 2013, a true and correct copy of the foregoing document was served on the following via **US Mail with a courtesy copy via Electronic Mail:**

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