

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FOURTH JUDICIAL DISTRICT AT FAIRBANKS

In Re 2011 Redistricting Cases.

) CONSOLIDATED CASE NO.:

) 4FA-11-2209-CI

) 4FA-11-2213 CI

) 1JU-11-782 CI

) 4FA-13-2435 CI

**ALASKA REDISTRICTING BOARD'S REPLY TO RILEY PLAINTIFFS'
CONSOLIDATED OPPOSITION RE: DEVIATIONS IN THE
FAIRBANKS AND MAT-SU HOUSE DISTRICTS**

The Riley Plaintiffs concede, as they must, that the Fairbanks and Mat-Su House Districts have low deviations notwithstanding their claims to the contrary alleged in their Amended Application for Redistricting.¹ Rather, the Riley Plaintiffs now argue they are not actually challenging the deviations in House Districts 1 through 5, 9, and 12, but instead, that these claims are “related to” their challenge to the compactness of House District 3, 5, 9, and 12.² Accordingly, given the absence of any issues of material fact, and indeed, the absence of any dispute regarding the deviations in the Fairbanks and Mat-Su House Districts, the Board is entitled to summary judgment as a matter of law.

¹ Riley Plaintiff's Consolidated Opposition (September 23, 2013).

² *Id.* The Board has fully addressed the Riley Plaintiffs' and the ADP's compactness challenges in its Global Opposition to the Riley Plaintiffs' Motion for Summary Judgment and the Alaska Democratic Party's Motions for Summary Judgment Re: 3 & 5 Compactness and Re: Mat-Su and Kenai Peninsula Boroughs (“Global Opposition”), and for the reasons set forth fully therein, the Riley Plaintiffs' claims regarding deviations and compactness fail.

Despite acknowledging that “the Fairbanks and Mat-Su House Districts have a low deviation,” the Riley Plaintiffs nonetheless argue that the Board elevated low deviations over compactness in violation of the “practicability” requirement in Article VI, section 6 of the Alaska Constitution.³ As established in the Board’s Global Opposition, House Districts 3, 5, 9, and 12 are all relatively compact and, therefore, constitutional. Thus, the Riley Plaintiffs’ arguments alleging process errors and the alleged failure to consider the practicability of low deviations relative to compactness and the other Article VI, section 6 standards are without merit.

Moreover, the Board’s process clearly followed the mandate of the 1998 Constitutional Amendment and their own adopted guidelines, which reflect the constitutional requirement that the Board focus first on the one person, one vote requirement. This process takes into consideration the flexibility necessary for redistricting to ensure each voter is given an equal and effective vote based on objective standards.

Remarkably, the Riley Plaintiffs’ allegations regarding the appropriate standard or process to be followed by the Board differs depending on the nature of their claim.

³ *Id.* at pgs. 1-2. The Riley Plaintiffs’ characterization of the “as near as practicable” language is inaccurate. The Alaska Constitution requires the Board to create House districts with a population “as near as practicable” to an ideal district. The “as near as practicable” language provides the Board with flexibility to ensure the districts are also compact, contiguous, and socio-economically integrated. Since the House districts in the Board’s 2013 Proclamation Plan are compact, contiguous, and socio-economically integrated as explained on the record, in the Board’s written findings, and in the Board’s motions for summary judgment and Global Opposition, while maintaining low deviations, the Board has met the “as near as practicable” standard.

In this instance, the Riley Plaintiffs argue the Board should have focused on compactness rather than low deviations.⁴ In the Riley Plaintiffs' opposition to the Board's Motion for Summary Judgment regarding Fairbanks Senate deviations, however, they argue the Board should have focused on low deviations.⁵ Finally, in their opposition to the Board's Motion for Summary Judgment regarding geographic proportionality, they argue the Board should have focused on maintaining Borough boundaries as opposed to low deviations.⁶ The Riley Plaintiffs' inconsistent arguments underscore the fact that the Board's plan is constitutional in all respects:

The Riley Plaintiffs also ignore the 18,000-plus pages of Board Record and then misleadingly argue there is nothing in the Board Record to support the Board's decisions. Similarly, citations to the Board Record are often taken out of context or are, simply, wrong. For example, the Riley Plaintiffs claim the Board discussed compactness on only occasion, at the Board's July 7, 2013, meeting.⁷ They allege the Board did not mention compactness when discussing House District 9, and "cite" to the Board transcript of this discussion.⁸ Not only is the citation incorrect, the Riley

⁴ *See id.*

⁵ *See* Riley Plaintiffs' Opposition to Board's Motion for Summary Judgment on Fairbanks Senate Deviations.

⁶ *See* Riley Plaintiffs' Opposition to Board's Motion for Summary Judgment on Proportionality.

⁷ Riley Plaintiffs' Consolidated Opposition at pgs. 2-3.

⁸ *Id.* at 3, n.9.

Plaintiffs simply ignore the remainder of the Board Record which reveals that the Board, in fact, specifically talked about the compactness of House District 9, as well the socio-economic integration of House District 9.⁹

Likewise, the Riley Plaintiffs' accusation that the Board included certain census blocks in House District 5 because the Board wanted to "pack" Ester/Goldstream is factually inaccurate and misquotes the Board Record.¹⁰ In fact, Fairbanks Board member Jim Holm, who worked on the configurations in the Fairbanks area, simply noted that the residents of Ester and Goldstream had insisted on being in a House district with Fairbanks, and had presented hours' worth of evidence at trial about the connections these communities have with the western Fairbanks area. Evidently, the Riley Plaintiffs no longer wish to be in a House district with western Fairbanks, and consequently now characterize Mr. Holm's attempts to honor their earlier requests as indicative of gerrymandering.

Irrespective of the Riley Plaintiffs' reversal, a complete review of the Board Record, including the Board's discussion of this group of census blocks, highlights the reasoned decision-making process the Board applied to redistricting in every area of the state.¹¹ The Board struggled with the inclusion of this group of census blocks, and

⁹ See ARB00016806 at 22:18-23:1, 23:2-12; 24:16-18. In fact, the Board discussed compactness eleven times on July 7, 2013 alone. See ARB00016839.

¹⁰ *Id.*; see also ARB00016814 at 56:19-22; ARB00016816 at 62:6-10.

¹¹ ARB16814-16816 at 56:6-64:1.

participated in active discussions about the effects moving this population would have on the other districts.¹² The Board discussed compactness as well as the other constitutional requirements, including the necessary balancing required to achieve, as near as practicable, low deviations.¹³ In the end, the Board made a reasoned decision, completely within its constitutional discretion, and unanimously adopted the current configuration of House Districts 1 through 5, 9 and 12.¹⁴

The Riley Plaintiffs agree that House Districts 1 through 5, 9 and 12 do not have unnecessarily high deviations, and in fact, characterize the deviations as “low.”¹⁵ Accordingly, given the absence of dispute between the parties as well as the absence of any issues of material fact with regard to deviations in the Fairbanks and Mat-Su House Districts, the Board is entitled to summary judgment as a matter of law and the Riley Plaintiffs’ claims should be dismissed.

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¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Riley Plaintiffs’ Consolidated Opposition at 1.

DATED at Anchorage, Alaska this 26th day of September 2013.

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CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of September 2013, a true and correct copy of the foregoing document was served on the following via:

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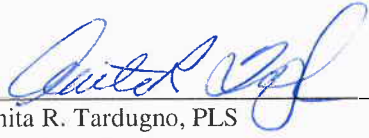
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