

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'
OPPOSITION TO BOARD MOTION FOR SUMMARY JUDGMENT
ON FAIRBANKS SENATE DEVIATIONS**

The crux of the Riley Plaintiffs' opposition to the Board's Motion for Summary Judgment on Fairbanks Senate Deviations is their contention that, because the Board did not accept their "settlement proposal" which would have reduced the Senate District B deviation by a mere 0.06%, the Board did not take a "hard look" at reducing deviations between Senate districts.¹ The Riley Plaintiffs do not present a shred of factual or evidentiary support for their allegations and instead suggest the "possibility" that "animus toward the Plaintiffs, and/or their attorney" impacted the Board's decision.²

The Riley Plaintiffs' transparent arguments confirm that they are simply upset that the Board used its constitutionally authorized discretion to reject their "settlement proposal" because it concluded that the 0.06% difference in deviation between the Board's Senate District B and the Riley Plaintiffs' proposed Senate pairings was

¹ See Riley Plaintiff's Opposition to Board Motion for Summary Judgment on Fairbanks Senate Deviations (September 23, 2013).

² *Id.* at pgs. 2-3.

negligible and not constitutionally significant. Indeed, it is wholly within the Board's discretion to choose among alternative plans that are otherwise constitutional.³

Furthermore, the Riley Plaintiffs' argument that the Board failed in its "duty" to reduce deviations is belied both by the Board Record as well as the Riley Plaintiffs' own pleadings where, with regard to the Fairbanks and Mat-Su House Districts, they argue the Board reduced the deviations too much. In contrast, with regard to the Fairbanks Senate Districts, the Riley Plaintiffs inexplicably argue the Board did not reduce the deviations enough. Again, the Riley Plaintiffs ignore inconvenient facts and mischaracterize statements, taken completely out of context, to argue the Board failed to do its job.⁴ The Riley Plaintiffs are wrong.

As is set forth in the Board's Motion for Summary Judgment Re: Riley Plaintiffs' Claim Senate Districts A, B, and C Have Unnecessarily Higher Deviations from the Ideal District, the Board's Global Opposition, and the Board Record, the Board

³ Trial Court Order at 46.

⁴ The Riley Plaintiffs rely heavily on a mischaracterized quote by Board member Robert Brodie to support their allegation that the Board rejected their "settlement proposal" based on partisan motivations. As outlined in the Board's Global Opposition, the Riley Plaintiffs not only misquote and mischaracterize Mr. Brodie's statement, but also conveniently ignore the fact that the comments were directed at the Riley Plaintiffs' own political motivations for wanting the Senate pairing switched. The Riley Plaintiffs' also threatened that if the Board refused to change the Senate pairings as the Riley Plaintiffs suggested, then the Board would find itself having to justify why it did so in Anchorage but not elsewhere. ARB00017764-17765.

did, in fact, consider and take a “hard look” at Senate deviations. The only constitutional requirement applicable to Senate districts is that they must be comprised of two contiguous House districts.⁵ In this regard, the Riley Plaintiffs’ do not dispute the Board achieved low deviations in the House districts, and in fact, argue the Board should have increased these deviations.⁶ Because the Board paired House districts with undisputedly low deviations to create the Senate districts in the Board’s 2013 Proclamation Plan, it follows that the resulting Senate districts likewise have low deviations.

The Riley Plaintiffs nonetheless ignore the actual deviations of the Board’s Senate districts, instead focusing solely on the Board’s decision not to accept the Riley Plaintiffs’ “settlement proposal.” They argue the Board did not take a “hard look” at Senate deviations because it decided not to switch a Senate pairing to reduce the deviation by a mere 0.06%. Moreover, all of the Senate districts in the Board’s 2013 Proclamation Plan are comprised of two contiguous House districts, a fact the Riley Plaintiffs do not challenge. Thus, the Fairbanks Senate districts are constitutional and the Board is entitled to summary judgment as a matter of law.

⁵ Alaska Const. art. VI, § 6. House districts must contain as near as practicable a population equal to the total population of the state divided by forty. An ideal House district, based on the 2010 Census data, is 17,755. Therefore, an ideal Senate district is 35,510.

⁶ See Riley Plaintiffs’ Consolidated Opposition; Riley Plaintiffs’ Opposition to Board Motion for Summary Judgment on Proportionality.

The Board's Senate pairings are undisputedly comprised of two contiguous House districts with population as near as practicable to the ideal district. In the absence of genuine issues of material fact, the Riley Plaintiffs offer only mere allegations of counsel which are insufficient to defeat the Board's motion for summary judgment. Accordingly, this Court should grant the Board's Motion for Summary Judgment Re: Riley Plaintiffs' Claim Senate Districts A, B, and C Have Unnecessarily Higher Deviations from the Ideal District, and dismiss the Riley Plaintiffs' claims.

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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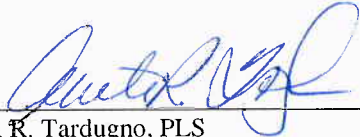
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