

In the Supreme Court of the State of Idaho

IN RE: CONSTITUTIONALITY OF IDAHO)
LEGISLATIVE REAPPORTIONMENT PLAN)
OF 2002 (2002 PLAN L97) AND OF 2002)
CONGRESSIONAL REAPPORTIONMENT)
PLAN)

O R D E R

) Supreme Court Docket No. 39127-2011

EVAN FRASURE, LORNA FINMAN,)
and LOU ESPOSITO, Commissioners of)
the Idaho Redistricting Commission,)

Petitioners,)

) Supreme Court Docket No. 39128-2011

v.)

THE IDAHO REDISTRICTING COMMISSION,)

Respondent.)

WHEREAS, the Secretary of State organized a commission for reapportionment pursuant to Idaho Code section 72-1501(1)(b); and

WHEREAS, that commission failed to file a proposed reapportionment plan with the Secretary of State within the time period required by Article V, § 2(4) of the Idaho Constitution and Idaho Code section 72-1508; and

WHEREAS, this Court has no authority to order the commission to reconvene or to extend its duration because the commission has not adopted a plan that a court of competent jurisdiction has ordered to be revised, Idaho Code section 72-1501(2); and

WHEREAS, the Secretary of State can organize a new commission pursuant to Idaho Code section 72-1501(1)(b); and

WHEREAS, this Court has original jurisdiction over actions involving challenges to legislative apportionment, art. III, § 2(5), Idaho Const., and to review any plan proposed by the commission for reapportionment, art. V, § 9, Idaho Const., but it does not have original jurisdiction to hear a declaratory judgment action seeking clarification of the constitutional and statutory provisions relating to apportionment; and

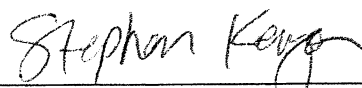
WHEREAS, this Court has original jurisdiction over an action challenging the current apportionment plan adopted in 2002;

THEREFORE, IT IS HEREBY ORDERED:

1. That the Secretary of State's request for a writ of mandate in Supreme Court docket number 39127 is denied;
2. That the Secretary of State's request for a declaratory judgment in Supreme Court docket number 39127 is denied;
3. Supreme Court docket number 39128 is dismissed in its entirety; and
4. That the action to examine the 2002 plan apportioning legislative and congressional district boundaries shall be heard according to the following schedule:
 - a. Within fourteen (14) days of the date of this order, any person or entity desiring to challenge or defend the 2002 apportionment plan shall file with this Court a brief and any affidavits; and
 - b. Oral argument on 2002 apportionment plan shall be held on Wednesday, October 12, 2011, at 10:00 a.m. in Boise, Idaho.

DATED this 9th day of September, 2011.

By Order of the Supreme Court



Stephen W. Kenyon, Clerk

cc: Counsel of Record