UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

MICHAEL P. TURCOTTE

Plaintiff

v.

PAUL R. LEPAGE
in his official capacity as Governor of the State of Maine.

Defendant

Civil Action No: 11-ev-0312-DBH

PLAINTIFF'S SUPPLEMENTAL OBJECTIONS TO REPORT AND RECOMMENDED DECISION By MAGISTRATE JUDGE MARGARET J. KRAVCHUK and REQUEST FOR HEARING ON MOTION TO DISMISS

Pursuant to 28 U.S.C. § 636(b)(1)(B), the Plaintiff, Michael Turcotte, now files supplemental objections to the Report and Recommended Decision by Magistrate Judge Margaret J. Kravchuk.

List of Supplemental Objections:

1. On page 2-3, the Report reads:

> *"This court, like any federal court, can only decide ongoing cases and controversies and so, if an event occurs that makes it impossible for the federal court to provide some form of meaningful relief, 'there is, generally speaking, no case or controversy, and [it] must dismiss the [matter] as moot."*

In Kuperman, the Appellate Court ruled on injunctive relief, not declaratory relief. Summary judgment was granted to the Defendants because the Plaintiff was unable to fortify his selective enforcement claim which he said violated his constitutional right under the Equal Protection Clause in

Section of Amendment XIV. However, in this case, Plaintiff (Turcotte) continues to seek relief sought in paragraph 19 of his amended complaint.

2. Beginning on page 3-2, the Report reads:

> *"Turcotte's remedy is to seek legislative change and, if necessary, constitutional amendment through the political process.*

Plaintiff objects to rationale, and refers the court to his amended complaint at paragraph 3; *Baker v. Carr, supra*, *see* 369 U.S. 186 (1962):

> *"...squarely held that voters who allege facts proving disadvantage to themselves as individuals have a standing to sue."*

And at paragraph 4; *Snowden v. Hughes*, *see* 321 U.S. 12:

> *"Where discrimination is sufficiently shown, the right to relief under the Equal Protection Clause is not diminished by the fact the discrimination relates to political rights."*

3. On page 4-2, the Report reads:

> *"And he maintains this is so despite the fact that the plan ultimately adopted rejected the Commission's proposal and enacted a legislative compromise."*

Conjoined with Article IV, Part Third, Section 1-A, Maine Revised Statute, Title 21-A, §1206, paragraph 2 states:

> "The legislature shall enact the submitted plan of the Commission ***or*** a plan of its own in regular or special session by a vote of 2/3 of the members of each house..."

In addition, the Report's passage specifically states:

> *"...the plan ultimately adopted rejected the Commission's proposal and enacted a legislative compromise".*

Plaintiff objects and submits the Legislature acted within compliance of M.R.S.A., 21-A, sub-section 1206, paragraph 2 [Exhibit 1] and not of their own volition when passing the congressional redistricting plan. Further, Plaintiff submits that, logically, the legislative body can not reject the Commission's proposal (or recommendation) and then enact a legislative compromise because the two are tied together; otherwise it would have *created* an alternative plan *without* the consideration of the rejected proposal (or recommendation). Therefore, because the legislature complied with the statue(s) defined in Joint Order to Establish Commission to Reapportion Maine's Congressional Districts (HP1186); the Plaintiff objects to any dismissal of the Commission's make-up, efforts and proposal (or recommendation) put forth to the legislature as moot; or any implication that the Maine legislature enacted its own plan divorced of the Commission's recommendation.

4. On page 4-2, the Report reads:

> *"...Turcotte's amended complaint does not seek declaratory relief on the issue of the constitutionality of the current Maine statutory and constitutional provisions."*

Plaintiff seeks non-specific relief in paragraph 19 of his amended complaint [Doc. No. 6].

5. On page 4-2, the Report reads:

> *"State legislatures are not required to divorce themselves from political motivations in drawing congressional lines. League of United*

> *Latin American Citizens v. Perry, 548 U.S. 399, 415-23 (2006). It stands to reason that if political motivations are not forbidden when making the ultimate decision, there is certainly no constitutional infirmity in allowing them to factor into the composition of a legislatively committee charged with designing the redistricting plan.*

Plaintiff objects to this rationale for several reasons. First, regarding:

> *"State legislatures are not required to divorce themselves from political motivations in drawing congressional lines. League of United Latin American Citizens v. Perry, 548 U.S. 399, 415-23 (2006).*

The Supreme Court ruling cited is incorrect.[1] Political motivations (or, political gerrymandering, political partisanship) are justiciable in the courts under *Davis v. Bandemer*, 478 U.S. 109 (1986) However, in the same case (*Davis*), the Supreme Court did not set any enforceable standards to act as precedents for which to base future judicial rulings regarding political motivations (partisanship) on congressional reapportionment cases.[1]

Second, regarding the portion of the passage:

> *"It stands to reason that if political motivations are not forbidden when making the ultimate decision,..."*

Plaintiff objects to this rationale because it is the second part of a 'circular reasoning' fallacy. Plaintiff suggests the first portion of the passage *"State legislatures..."* is incorrect. It was presumed that the second passage *"It stands to reason..."*, based on the faulty premise of the first passage, lead to the faulty conclusion in the third part of the passage:

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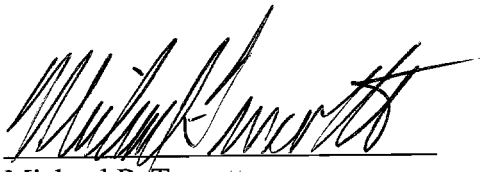
[1] Plaintiff refers to the attached concurring opinion by Justice Kennedy in *Veith vs. Jubelirer*, see 541 U.S. 267.

> *"...there is certainly no constitutional infirmity in allowing them to factor into the composition of a legislatively committee charged with designing the redistricting plan."*

Plaintiff submits that if the whole passage were true, there would be no 14th, 15th, or 17th Amendments, or the Voting Rights Act of 1964.

Dated this 22nd day of December, 2011, in Bangor, Maine.



Michael P. Turcotte
24 Cortland Circle
Bangor, Maine 04401
Telephone: 207-991-7070
michaelpturcotte@gmail.com