

FILED

March 22, 2021

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

A21-0243

Peter S. Wattson, Joseph Mansky,
Nancy B. Greenwood, Mary E. Kupper,
Douglas W. Backstrom, and James E. Hougas, III,
individually and on behalf of all citizens and
voting residents of Minnesota similarly situated, et al.,

Petitioners,

vs.

Steve Simon, Secretary of State of Minnesota;
and Kendra Olson, Carver County Elections and
Licensing Manager, individually and on behalf of all
Minnesota county chief election officers,

Respondents.

ORDER

An action was filed on February 19, 2021, in Carver County District Court, alleging that Minnesota's current legislative and congressional districts are unconstitutional based on the 2020 Census, thus requiring declaratory and injunctive relief. *Wattson v. Simon*, No. 10-CV-21-127 (Carver Cnty. Dist. Ct.). The plaintiffs in that case then filed a petition with this court, asking us to assume jurisdiction over the Carver County action and any other redistricting actions filed in Minnesota state courts based on the 2020 Census. They also ask the chief justice to appoint a special redistricting panel to hear and decide the issues presented in *Wattson* and any other redistricting cases if the Minnesota Legislature should fail to address those issues.

No response to the petition has been filed. Further, as petitioners note, it is the responsibility of the Legislature, in the first instance, to enact redistricting plans that meet constitutional requirements. *See Cotlow v. Growe*, 622 N.W.2d 561, 563 (Minn. 2001) (recognizing the primacy of the Legislature's role in the redistricting process).

The Chief Justice has the authority to appoint a special redistricting panel under Minn. Stat. §§ 2.724, 480.16 (2020), and did so in 1991, 2001, and 2011. For reasons of judicial economy, as well as fairness and balance in the resolution of the particularly important and sensitive issues inherent in redistricting, a multi-judge panel should be appointed to hear and decide *Watson v. Simon*, No. 10-CV-21-127, as well as any other redistricting challenges that may be filed based on the 2020 Census. Accordingly, the petition for appointment of a special redistricting panel is granted.

As the parties acknowledge, however, redistricting is initially a legislative function. Minn. Const. art. IV, § 3; *see Growe v. Emison*, 507 U.S. 25, 34 (1993) (stating that reapportionment is primarily a legislative, rather than a judicial, function). For that reason, redistricting panels have not been appointed in previous years until after the Legislature had an opportunity to consider and enact redistricting plans. In addition, the Bureau of the Census has not yet released the 2020 Census data to the state, and as of the date of this order, *Watson* is the only pending district court matter asserting claims regarding redistricting based on the 2020 Census. Although the need to have state legislative and congressional district lines drawn in time for the 2022 election cycle imposes time constraints on this process, it is important that the primacy of the legislative role in the

redistricting process be respected and that the judiciary not be drawn prematurely into that process.

For these reasons, although the petition to appoint a special redistricting panel to hear and decide issues relating to redistricting that must ultimately be resolved by the judicial branch is granted, the appointment of the panel and further proceedings here and in *Wattson v. Simon*, No. 10-CV-21-127 (Carver Cnty. Dist. Ct.), are stayed. When it is determined that panel action must commence in order to permit the judicial branch to fulfill its proper role in assuring that valid redistricting plans are in place for the 2022 state legislative and congressional elections, the stay will be lifted and a panel will be appointed.

Based on all the files, records and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The petition for appointment of a special redistricting panel to hear and decide challenges to the validity of state legislative and congressional districts based on the 2020 Census be, and the same is, granted.

2. Appointment of the special redistricting panel and further proceedings in *Wattson v. Simon*, No. 10-CV-21-127 (Carver Cnty. Dist. Ct.), are stayed until further order of the Chief Justice.

Dated: March 22, 2021



Lorie S. Gildea
Chief Justice