

Comment of Allen Arntsen on Wisconsin Supreme Court Rules Petition 20-03

I oppose WSC Rules Petition 20-03 for several reasons. As the Court observed in declining to enact reapportionment rules prior to the 2010 census, the redistricting process is not well suited to this Court's original jurisdiction, and certainly not to mandatory original jurisdiction. I served as the judicial law clerk for Wisconsin Supreme Court Justice Roland B. Day from 1981-82. I cherish my time at the Court, and the collegiality and good reputation that the Court enjoyed both nationally and throughout the state. Unfortunately, in Wisconsin, redistricting has become highly partisan, and direct engagement by this Court, both generally, and especially without an appropriate appellate record, would inherently and directly ensnare the Court in partisan politics, to the Court's detriment.

I served as trial and appellate counsel in dozens of state and federal courts from 1981 until my retirement from Foley & Lardner LLP in 2018. Appellate courts benefit from a robust trial court record, as well as lower court decisions to review. In addition, to the extent Wisconsin courts have engaged with redistricting in recent decades, this has typically involved federal courts. Federal litigation is likely regardless of state court proceedings, and lifetime appointed federal judges are one step removed from the inevitable partisan battles over redistricting that may entangle the elected justices who serve on this Court.

Finally, the limited participation of interested parties included in the proposed rule as of right (political parties and the political branches only) does not serve the interests of the people of Wisconsin. I have served on and chaired municipal reapportionment committees following decennial censuses, and currently serve on the Dane County Board of Canvass. Legislative redistricting has a substantial impact on local governmental operations and the electoral system. Local governmental units and agencies have a strong interest in assuring that wards and precincts are compact, recognize natural borders, and respect municipal boundaries. This affects the vote tabulation process when precincts overlap multiple government units.

In short, the redistricting process affects a wide range of interested parties, with varied interests and impacts. The historic federal court presentation and evaluation of a broad range of relevant evidence presented by all affected parties would best serve the redistricting process and public confidence in Wisconsin's electoral system.

Respectfully submitted

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