

VIA EMAIL AND U.S. MAIL

November 24, 2020
Wisconsin Supreme Court
P.O. Box 1688
Madison, WI 53701

Comment on Rules Petition 20-03

Dear Honorable Justices of the Supreme Court:

We were plaintiffs in the recent federal lawsuit, *Gill v. Whitford*, which challenged the constitutionality of Wisconsin's current legislative apportionment as an excessively partisan gerrymander. There are many parts of WILL's proposed Supreme Court Rule that concern us. We restrict these comments, however, to proposed Rule 5(f) and (g). These proposed subsections relate to citizens' opportunities to comment on a draft apportionment that the Court might adopt.

We focus on these proposed rules because our experience as plaintiffs has taught us the value of public participation in the consideration of a proposed redistricting. We know that this opportunity was not provided in 2011 when the legislature adopted the current redistricting. Among the many vices of the current apportionment are impractical placings of district lines that unnecessarily divide communities, cities, and counties. We come from all parts of the State, and as we have spoken about our lawsuit at events or forums over the years we have learned about a multitude of such situations. Some of us have directly experienced the consequences of this violation of the basic redistricting principle to respect communities of interest as much as possible. We provide some examples below.

With respect to the proposed rule, provision is made for only a minimum 30-day period for the public to review a proposed Court-drafted plan. Based on our experience with this complex issue, we do not think 30 days is enough time to gather meaningful input and identify issues with the proposed maps. We also note that it is unclear what information, exactly, will be provided to the public regarding the proposed maps, and if any underlying data or alternative proposals will be available. More importantly, no specific provision is made for non-parties (to the legal proceedings) to offer comments and make presentations respecting the draft plan. We believe a procedure is necessary to guarantee all citizens, and especially elected officials of local governments (towns, villages, cities, counties), their right to be heard. We had that opportunity in our lawsuit, and we are aware that many of the plaintiffs in the lawsuit brought in 2011 to challenge the legislative districts in 2011 Wisconsin Act 43, *Baldus v. Members of the Government Accountability Board*, were individual Wisconsin citizens, like us.

For illustration, here is a (very) partial list of senseless placings of district lines in the current apportionment. These examples are offered as evidence of the issues that can occur when there is not sufficient public and community input on redistricting.

1. The village of DeForest, in Dane County, with a 2010 census population under 9,000, is

divided into three Assembly districts, each of which is part of a different Senate district.

2. Marshfield and Sheboygan, each with a 2010 census population less than the average Assembly district population (a little over 57,000) are nonetheless split into two Assembly districts, each attached to large amounts of other territory so that the practical impact of the votes from Marshfield and Sheboygan residents is minimized.

3. Sauk and Jefferson counties are each divided into four assembly districts, though the 2010 population of Sauk County was about equal of the average Assembly district and the population of Jefferson County was about equal to 1.5 Assembly districts. The result is the dividing of towns and cities that regularly cooperate on countywide issues into separate Assembly districts. Examples, Baraboo and Reedsburg, Ft. Atkinson and Lake Mills.

We ask the Court not to adopt a rule that would lead to a rushed process, and the same kind of shortcomings, in the future. Through our participation as plaintiffs, we have learned much about the importance of public participation in the functioning of a healthy democracy, including fair processes in redistricting. We respectfully request that the Court to reject this proposed rule.

Sincerely,

William Whitford
Wendy Sue Johnson
Helen Harris
Mary Lynne Donohue
Wayne Jensen
Jerry Wallace
Sara Ramaker
Hans Breitenmoser
Leah Dudley
Warren Braun
Sandy Carlson-Kaye
Michael Switzenbaum
Dan Dieterich
Ann Stevning-Roe
Barbara Flom
Linea Sundstrom
Leslie DeMuth
Norah McCue
Deborah Patel
Jane Pedersen
Frederick P. Kessler (honorary plaintiff)