In the Supreme Court of the State of Alaska

IN RE 2011 REDISTRICTING CASES.	)	Supreme Court No. **S-14721**
	)	**Order**
	)	Date of Order: **5/22/12**

Trial Court Case # **4FA-11-02209CI**
Consolidated Cases # **4FA-11-02213CI/1JU-11-00782CI**

Before: Carpeneti, Chief Justice, and Fabe, Winfree, and Stowers, Justices, and Matthews, Senior Justice.*

Winfree and Stowers, Justices, dissenting.

IT IS ORDERED:

1. The Amended Proclamation Plan adopted by the Redistricting Board on April 5, 2012, including the Southeast Alaska districts as configured in the plan of that date, shall serve as the redistricting plan for the 2012 elections.

2. The court has accepted the Southeast districts as configured in the plan of April 5, 2012 rather than the reconfiguration submitted by the Redistricting Board to the court on May 15, 2012 because of the numerous objections to the reconfigured districts that this court has received. While the reconfigured districts may comply with the redistricting criteria of article VI, section 6 of the Alaska Constitution, there is a risk that the United States Department of Justice would decline to pre-clear them under the Voting Rights Act. Notice of the failure of the Department of Justice to pre-clear the new districts would come so late in the 2012 election cycle that a great disruption to the

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* Sitting by assignment under article IV, section 11 of the Alaska Constitution and Alaska Administrative Rule 23(a).

election process would result. In order to avoid this possibility, the court will not require the use of the May 15, 2012 reconfigured districts for the 2012 elections.

3. The Board's petition for review from the superior court's order of April 20, 2012, has been submitted to this court and remains under advisement. One of the issues raised by the petition for review is whether the Redistricting Board failed to comply with the *Hickel* process as mandated by this court's order of March 14, 2012, with respect to the Southeast Alaska districts. Our order of May 10, 2012, is premised on the conclusion that the Board did not so comply. When we issue an order and opinion on the Board's petition for review, the order will contain a discussion of and directions concerning the reconfiguration of the Southeast Districts, and will seek to ensure that districts that comply with the Alaska Constitution can receive timely review by the Department of Justice for use in subsequent elections.[1]

4. We invite the parties, the amici, the State, and other interested persons to petition this court for a change in any election-related deadlines that cannot be reasonably complied with as a result of the delay in establishing districts for 2012.

Entered by direction of the court.

Clerk of the Appellate Courts

Marilyn May

Marilyn May

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[1] We note that our May 10 order required that the Board's members and staff work through the weekend of May12th and 13th in order to arrive at a new plan for Southeast Alaska. This was a considerable imposition on their personal lives and we thank and commend them for their dedicated service.

WINFREE and STOWERS, Justices, dissent from this order. They would require that the 2012 elections be conducted under the reconfigured districts that were submitted by the Board on May 15, 2012.

cc: Supreme Court Justices
Judge McConahy

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