

THE SUPREME COURT OF WASHINGTON

ORDER REGARDING THE WASHINGTON)
STATE REDISTRICTING COMMISSION'S)
LETTER TO THE SUPREME COURT ON)
NOVEMBER 16, 2021 AND THE)
COMMISSION CHAIR'S NOVEMBER 21,)
2021, DECLARATION)
_____)

ORDER

NO. 25700-B-676

THIS MATTER came before the court on November 16, 2021 when Sarah Augustine, the chair of the Washington State Redistricting Commission (Commission), sent a letter to Chief Justice Steven C. González of the Washington Supreme Court stating that the Commission was unable to adopt a redistricting plan by the midnight deadline of November 15, 2021 and was ceding responsibility for redistricting to the court. The chair submitted with her letter to the chief justice what she described as a full redistricting plan, consisting of a resolution signed by all four commissioners approving the plan, a signed letter transmitting the plan to the majority and minority leaders of the Washington State Senate and House of Representatives, and maps and legal descriptions of the new congressional and legislative districts. Chair Augustine also stated that all of the commissioners hoped the court would give due consideration to the full plan and maps the Commission had approved.

Given the unprecedented nature of the chair's letter, the court asked her to provide a sworn declaration that included a detailed timeline of the events on November 15 and 16 relevant to the Commission's compliance with the deadlines in article II, section 43 of the Washington State Constitution and RCW 44.05.100. Chair Augustine submitted her declaration on November 22,

2021. The declaration states that the Commission consulted with the Tribes; held 17 public outreach meetings and 22 regular business meetings; received more than 2,750 comments on draft maps or the 2010 maps; received live testimony from more than 400 people; and received over 3,000 e-mails, website comments, letters, and voicemails. At the beginning of the Commission's November 15, 2021 meeting, it appears that the composition of only legislative districts 28, 44, and 47 remained in dispute. This dispute was resolved before midnight on November 15, 2021. That night, at 11:59:28 p.m., the Commission voted unanimously to approve a congressional redistricting plan, and, at 11:59:47 p.m., voted unanimously to approve a legislative redistricting plan. Taken together, the chair's sworn declaration and the minutes of the Commission's November 15, 2021 meeting establish that the Commission approved both redistricting plans by the constitutional deadline established in article II, section 43 of the Washington State Constitution.

The chair's sworn declaration also establishes that at 12:00:08 a.m. on November 16, 2021, the Commission voted to approve a formal resolution adopting the redistricting plan. That resolution was substantially identical to a resolution considered at the Commission's October 18, 2021 meeting. The declaration also establishes that at 12:01:21 a.m., the Commission voted to approve a letter transmitting the plan to the majority and minority leaders of the Washington State Senate and House of Representatives, and that at 12:13 a.m., that letter and the resolution were e-mailed to the secretary of the Senate and the chief clerk of the House of Representatives. Although the Commission met the constitutional deadline to adopt a redistricting plan, the chair's sworn declaration establishes that the Commission failed to transmit that redistricting plan to the legislature by the statutory deadline set forth in RCW 44.05.100(1).

This court's role in matters of constitutional and statutory interpretation is to effectuate the purpose of the law. Under article II, section 43 of the Washington Constitution and chapter 44.05 RCW, the Commission is the entity charged with the primary constitutional and statutory obligation to adopt congressional and legislative district maps in Washington State after considering all relevant and appropriate information, including public comment. The essential purpose of article II, subsection 43(6) and RCW 44.05.100(4) is to create a process for the Commission to timely complete its work. Redistricting raises largely political questions best addressed in the first instance by commissioners appointed by the legislative caucuses where negotiation and compromise is necessary for agreement. The timing of the completion of redistricting is important because the legislature has an opportunity to amend the redistricting plans and some local districting decisions, such as local precinct boundaries, must be made in light of the finalized plan. Indeed, article II, subsection 43(6) was amended in 2016 to move the Commission's deadline for completing redistricting from January 1 to November 15 in order to allow adequate time for the steps that must follow.

The court accepts the facts attested to by the chair of the Commission as accurate. After reviewing the submissions and considering the constitutional and statutory framework as a whole, we conclude it is not necessary for the court to assume responsibility for adoption of redistricting maps under the present circumstances. By voting to approve congressional and legislative redistricting plans before the end of the day on November 15, 2021, the Commission complied with its obligation under article II, subsection 43(6) of the Washington Constitution to "complete redistricting" by that date, and it substantially complied with the essential purpose of RCW 44.05.100 to approve and transmit a plan to the legislature by that date. This is not a situation in which the Supreme Court must step in because the Commission has failed to agree on a plan it

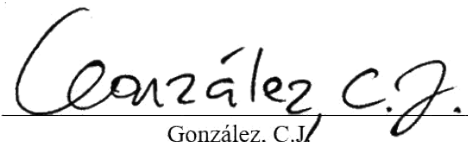
believes complies with state and federal requirements. The court concludes that the primary purpose of achieving a timely redistricting plan would be impeded, not advanced, by rejecting the Commission's completed work.


The court has not evaluated and does not render any opinion on the plan's compliance with any statutory and constitutional requirements other than the November 15 deadline.

NOW, THEREFORE, it is hereby ORDERED:

That the Supreme Court declines to exercise its authority under article II, subsection 43(6) and chapter 44.05 RCW to adopt a redistricting plan because it concludes that the plan adopted by the Washington State Redistricting Commission met the constitutional deadline and substantially complied with the statutory deadline to transmit the matter to the legislature. Accordingly, the Washington State Redistricting Commission shall complete any remaining tasks necessary to complete its work so that the process for finalizing the redistricting plan set forth in article II, section 43 and chapter 44.05 RCW may proceed.

DATED at Olympia, Washington this 3rd day of December, 2021.


González, C.J.

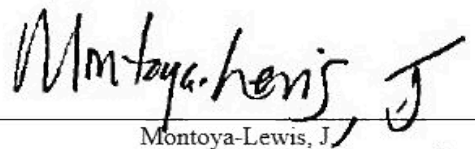

Johnson, J.


Gordon McCloud, J.

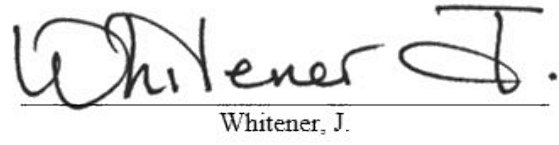

Madsen, J.


Yu, J.


Owens, J.


Montoya-Lewis, J.


Stephens, J.


Whitener, J.