

Ohio Supreme Court Rules State Legislative Districts Unconstitutional

By: Sherri Warner & Julianna Moyer

The Ohio Supreme Court struck down the recently adopted state legislative maps in a 4-3 decision announced late this afternoon.

The Court has ordered the Ohio Redistricting Commission to reconvene and adopt new maps. Given the looming election filing deadline of February 2nd, the Court also ordered that the new maps be completed within 10 days and retained jurisdiction over the case for the purpose of review.

The Court sided with plaintiffs when they ruled that the 5 Republican members (and primarily Senate President Huffman and Speaker Bob Cupp) made no attempt to draw maps that complied with Article XI, Section 6(A) & (B) of the Ohio Constitution. The two sections require the maps not be drawn to primarily favor one political party over another and mandate that the maps reflect the statewide preference of Ohio voters over the last 10 years. In their opinion, the Court defined how to determine the appropriate Republican to Democrat percentage siding with Democrats who had argued that only 54% of the districts could lean towards the Republican party.

Interestingly, Chief Justice Maureen O'Connor wrote a separate opinion which begins by concurring to the entire majority opinion. She also reminds the citizens of Ohio that they can again amend the Constitution to move the responsibility of drawing district maps to a nonpartisan, independent body much like what has happened in California, Arizona and Michigan. Given that the Chief Justice agreed entirely with the majority opinion, it does not give map drawers much hope or wiggle room as they attempt to adopt maps which comply with this opinion.

Attention will also be played to the opinions written by Justice Jennifer Brunner and Justice Sharon Kennedy who are the two expected candidates in November's Chief Justice Election. Though Justice Brunner agreed entirely with the majority opinion, she also argued in a concurring opinion that the majority should have also addressed whether the map violated Article XI, Section 3(B)(2), which requires the maps to comply with all applicable provisions of the U.S. and Ohio Constitutions. Her analysis argues that the maps violated equal protection provisions found in Article I, Section 2 of Ohio's Constitution.

On the other hand, Justice Kennedy found that using a strict reading of the applicable provisions, there is no authority for the Court to rule the districts unconstitutional given the current fact pattern. There will likely be much discussion and criticism of these differing opinions heading into the fall elections.

Reaction to the ruling has been swift. Governor DeWine released a statement that he will work with the other members of the Commission to comply with the Court's decision. Rep. Emilia Sykes and Sen. Vernon Sykes, the two Democratic members of the Commission, issued a joint statement saying that they hope the Commission can get back to work to draw fairer districts in a bipartisan and transparent manner.

Should you have additional questions please contact any of the listed professionals.

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