An unpublished order shall not be regarded as precedent and shall not be cited as legal authority. SCR 123.

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROSS MILLER, IN HIS CAPACITY AS SECRETARY OF STATE FOR THE STATE OF NEVADA,
Petitioner,
vs.
THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CARSON CITY; AND THE HONORABLE JAMES TODD RUSSELL, DISTRICT JUDGE,
Respondents,
and
DORA J. GUY, AN INDIVIDUAL; LEONEL MURRIETA-SERNA, AN INDIVIDUAL; EDITH LOU BYRD, AN INDIVIDUAL; SAMANTHA STEELMAN, AN INDIVIDUAL; KEN KING, AN INDIVIDUAL; SANCY KING, AN INDIVIDUAL; ALLEN ROSHOFF, AN INDIVIDUAL; B. ESTELA MOSER VADEN, AN INDIVIDUAL; NEVADA REPUBLICAN PARTY; ALEX GARZA, AN INDIVIDUAL; AND LEAGUE OF WOMAN VOTERS OF LAS VEGAS VALLEY,
Real Parties in Interest.

No. 59322

FILED

OCT 05 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DIRECTING SUPPLEMENTAL BRIEFING AND ANSWER

This case comes before the court on an original petition for a writ of mandamus concerning the district court's order referring a redistricting matter to a special master. Under Article 4, Section 5 of the Nevada Constitution:

> It shall be the mandatory duty of the Legislature at its first session after the taking of the decennial census of the United States in the year 1950, and

11-30459

> after each subsequent decennial census, to fix by law the number of Senators and Assemblymen, and apportion them among the several counties of the State, or among legislative districts which may be established by law, according to the number of inhabitants in them, respectively.

In view of this provision, we direct the Secretary of State to supplement the petition by addressing the following issues: (1) whether the Legislature discharged its mandatory duty under Article 4, Section 5;[1] (2) if not, can or should the Nevada state courts engage in the act of redistricting as contrasted with reviewing a legislatively established plan;[2] and (3) if the matter is one over which the judiciary can or should exercise authority, in addition to any other issues the Secretary wishes to address,

---

[1]As part of this issue, the Secretary shall address whether the governor's veto power under Article 4, Section 35 includes legislatively established redistricting plans.

[2]We note that judicial remedies considered in comparable redistricting cases have included: ordering that a special session of the legislature be called, see Dungan v. Sawyer, 250 F. Supp. 480 (D. Nev. 1965); directing at-large elections absent legislative adoption of a valid redistricting plan, id. at 490; but cf. Tam v. Colton, 94 Nev. 453, 461, 581 P.2d 447, 453 (1978) (noting equal protection challenges an at-large election may invite); adopting as a temporary court plan, for the imminent elections only, existing districts for state legislators and the legislatively enacted plan for United States House of Representatives, see Legislature v. Reinecke, 492 P.2d 385 (Cal. 1972); and creating a judicially fashioned plan with the aid of special masters. See Legislature of State v. Reinecke, 507 P.2d 626 (Cal. 1973). Here, the Secretary's supplement should address the appropriate and constitutionally permissible judicial remedies in this situation.

whether the district court's delegation of authority to the panel of special masters comports with NRCP 53.

The Secretary of State shall have until 4 p.m. on Friday, October 14, 2011, to file and serve his supplement.[3] We further direct real parties in interest to answer the original writ and supplement thereto by 4 p.m. on Monday, October 24, 2011. Thereafter, the Secretary shall have until 4 p.m. on Thursday, November 3, 2011, to file and serve any reply, if deemed necessary. No extensions of time to the briefing schedule will be granted.

We direct the clerk of the district court to transmit to the clerk of this court a certified copy of the trial court record in electronic format in District Court Case No. 11OC000421B by 4 p.m. on Thursday, October 6, 2011.

Finally, we have determined that oral argument would be of assistance in resolving the issues presented by this petition, and we therefore direct the clerk of this court to schedule oral argument before the

---

[3]For this petition, we suspend the provisions of NRAP 25(a)(2)(B), which state that a document is timely filed if, on or before its due date, it is mailed to this court, dispatched for delivery within three calendar days by a third-party commercial carrier, or deposited in the supreme court drop box in Las Vegas. See NRAP 2. Accordingly, all documents shall be filed personally, electronically, or by facsimile transmission with the clerk in Carson City. Service must likewise be performed by one of these three methods.

en banc court on November 14, 2011, at 1:30 p.m. in Carson City. The argument shall be limited to 60 minutes.

It is so ORDERED.

_____, C.J.
Saitta

_____, J.
Douglas

_____, J.
Cherry

_____, J.
Gibbons

_____, J.
Pickering

_____, J.
Hardesty

_____, J.
Parraguirre

cc: Hon. James Todd Russell, District Judge
Attorney General/Carson City
Koch & Scow, LLC
Hutchison & Steffen, LLC
Jones Vargas/Las Vegas
Perkins Coie, LLC
The Capitol Company
Denise A. Pifer
Carson City Clerk