

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LISA HUNTER, JACOB ZABEL,
JENNIFER OH, JOHN PERSA, GERALDINE
SCHERTZ, and KATHLEEN QUALHEIM,

Plaintiffs,
and

BILLIE JOHNSON, ERIC O'KEEFE, ED PERKINS,
and RONALD ZAHN,

Intervenor-Plaintiffs,
v.

MARGE BOSTELMANN, JULIE M. GLANCEY,
ANN S. JACOBS, DEAN KNUDSON, ROBERT
F. SPINDELL, JR., and MARK L. THOMSEN, in
their official capacities as members of the
Wisconsin Elections Commission,

ORDER

Defendants,
and 21-cv-512-jdp-ajs-eec

WISCONSIN LEGISLATURE,

Intervenor-Defendant,
and

CONGRESSMEN GLENN GROTHMAN,
MIKE GALLAGHER, BRYAN STEIL, TOM TIFFANY,
and SCOTT FITZGERALD,

Intervenor-Defendants,
and

GOVERNOR TONY EVERES,

Intervenor-Defendant.

BLACK LEADERS ORGANIZING FOR
COMMUNITIES, VOCES DE LA FRONTERA,
the LEAGUE OF WOMEN VOTERS OF
WISCONSIN, CINDY FALLONA, LAUREN
STEPHENSON, and REBECCA ALWIN,

Plaintiffs,

v.

ORDER

MARGE BOSTELMANN, JULIE M. GLANCEY,
ANN S. JACOBS, DEAN KNUDSON, ROBERT
F. SPINDELL, JR., and MARK L. THOMSEN, in
their official capacities as members of the
Wisconsin Elections Commission, and
MEAGAN WOLFE, in her official capacity as the
administrator of the Wisconsin Elections Commission,

21-cv-534-jdp-ajs-eec

Defendants.

The court temporarily stayed these cases in October after the Wisconsin Supreme Court granted a petition to commence an original action on redistricting. Dkt. 103.¹ As requested by this court, the parties have submitted a status report on the proceedings in the supreme court. Dkt. 113.

The parties' status report and the supreme court's docket show progress in the supreme court since this court issued the temporary stay. The supreme court requested, and the parties provided, substantial briefing on several issues raised by the supreme court, including the process the court should use to establish legislative maps and the factors it should consider in doing so. Dkt. 110-3. The parties apparently have also complied with the request to identify disputed issues of fact and law and to propose a procedure for resolving those disputes. Joint

¹ Docket citations in this order are to the entries in Case No. 21-cv-512.

Stipulation of Facts and Law, *Johnson v. Wisconsin Election Comm'n*, No. 2021AP1450-OA (Nov. 4, 2021).

It appears from the parties' filings in both proceedings that they are raising the same issues in the supreme court that they are raising in this court. In light of the progress in the supreme court, this court declines to lift the stay at this time. The supreme court has not yet established a schedule or otherwise committed to resolving the *Johnson* petition by a particular date, but it has provided no indication that it will be unwilling or unable to resolve all issues before it in a timely manner. The Wisconsin legislature and the governor have not yet enacted, or failed to enact, any maps, although based on news reports, that step is not far off. We would expect that the supreme court, now that it has the parties' submissions before it, will soon provide some details about the process and the schedule it will apply to the *Johnson* petition.

Still, this court understands that Wisconsin's legislative maps must be established in only a few months, absent an adjustment to the nomination-papers circulations start date. The court must stand ready to adjudicate the issues raised in these cases, should the state fail to do so. Accordingly, the court cannot stay these cases indefinitely. The court will continue the stay until December 6, 2021. At that time, this court will reevaluate whether it is necessary to open expert discovery to prepare for the possibility of resolution of these cases in federal court. This stay should give the supreme court time to set a course for its proceedings.

ORDER

IT IS ORDERED that the temporary stay is continued until December 6, 2021.

Entered November 17, 2021.

BY THE COURT:

/s/ _____
JAMES D. PETERSON
District Judge

/s/ _____
AMY J. ST. EVE
Circuit Judge

/s/ _____
EDMOND E. CHANG
District Judge