

NO. S 196493

IN THE SUPREME COURT OF CALIFORNIA

JULIE VANDERMOST
Petitioner,

vs.

DEBRA BOWEN, SECRETARY OF STATE
OF CALIFORNIA
Respondent,

CITIZENS REDISTRICTING COMMISSION
Real Party in Interest.

**SECOND SUPPLEMENTAL DECLARATION OF DR. T.
ANTHONY QUINN, PhD IN SUPPORT OF REPLY TO
OPPOSITION TO PETITION FOR WRIT OF MANDATE OR WRIT
OF PROHIBITION**

Charles H. Bell, Jr., SBN 060553
Thomas W. Hiltachk, SBN 131215
Colleen C. McAndrews, SBN 128064
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Attorneys for Petitioner

I, DR. T. ANTHONY QUINN, PhD, declare:

1. This is a Second Supplemental Declaration in support of Petitioner JULIE VANDERMOST's Verified First Amended Petition for Writ of Mandate or Prohibition in the above-captioned matter.

2. In my original Declaration on file herein, I set forth the principles that guided the Supreme Court Masters' 1991 redistricting plans adopted by this Court, which among other things included the definition of traditional redistricting criteria of compactness, contiguity and respect for local communities of interest (Quinn Dec., ¶¶ 4-12).

3. With respect to the definition of compactness that was included in Proposition 11, and specifically the language "that nearby populations are not bypassed for more distant populations" which is in Article XXI, § 2(d)(4), I have specific knowledge of the course of events that led to the inclusion of that language and its purpose, because I was the source of that language.

4. On February 25, Doug Johnson of the Rose Institute made a presentation to the commission. In the course of the questions and answers, Commissioner Ancheta asked him what was meant by the "nearby population" language. He suggested that Commissioner Ancheta ask me as I knew more about it. That prompted me to write a letter to the Commission dated February 28, 2011, a true and correct copy of which is attached as Exhibit "A" to this Second Supplemental Declaration.

5. Also attached as Exhibit "B" is a true and correct copy of the e-mail I sent to Citizens' Redistricting Commission Executive Director Daniel Claypool at his publicly listed governmental e-mail address asking him to circulate my letter on Proposition 11 to the commissioners. I never heard back from him.

6. The language "that nearby populations are not bypassed for more distant populations" had its inception in the drafting sessions in the

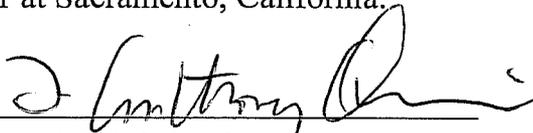
1980s for Redistricting Commission initiatives. Peter Bontadelli, then the Senate Republican redistricting consultant, and I discussed how to stop gerrymandering, and Peter said, "Make them absorb adjacent populations and they cannot gerrymander." This is because gerrymandering consists of a geographic reach for advantage that of its nature means combining distant areas for political purposes.

7. In 2007, I was on an e-mail list that included the people who were drafting what became Proposition 11. I made several suggestions to them. One was to include the language "that nearby areas of population are not bypassed for more distant population." I explained that from my experience drawing actual state legislative districts, (1971 and 1981), gerrymandering consisted of the reach for distant populations for political and partisan reasons. This language would prevent gerrymandering.

8. I also explained that it would require drawing geographically compact districts, since the very words "nearby areas of population" also defined "compactness". I also said that the concept of compactness had been somewhat vague but by specifying that nearby areas are not to be bypassed, the new Commission would be required to draw compact districts, and that the compactness of those districts could be qualitatively measured by the degree to which "nearby populations" were indeed included in the same district.

The foregoing statements of fact are true and correct and the foregoing opinions are mine offered as expert testimony in this matter. If called as a witness I could testify truthfully to the foregoing.

Executed under penalty of perjury under the laws of the State of California this 14 day of October 2011 at Sacramento, California.


T. ANTHONY QUINN, PhD

CERTIFICATE OF SERVICE

I, Shannon Diaz, Declare:

I am a resident of the State of California and over the age of eighteen years and not a party to the within-entitled action; my business address is 455 Capitol Mall, Suite 600, Sacramento, California 95814. On October 17, 2011, I served the following document(s) described as:

SECOND SUPPLEMENTAL DECLARATION OF DR. T. ANTHONY QUINN, PhD IN SUPPORT OF REPLY TO OPPOSITION TO PETITION FOR WRIT OF MANDATE OR WRIT OF PROHIBITION

on the following party(ies) in said action:

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X **BY ELECTRONIC MAIL:** By causing true copy(ies) of PDF versions of said document(s) to be sent to the e-mail address of each party listed.

X **BY FEDERAL EXPRESS MAIL:** By placing said documents(s) in a sealed envelope and depositing said envelope, with postage thereon fully prepaid, in the United States mail, VIA FEDERAL EXPRESS MAIL SERVICE, in Sacramento, California, addressed to said party(ies).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 17, 2011 at Sacramento, California.


SHANNON DIAZ

February 28, 2011

Dear Commissioners:

At Friday's meeting, Commissioner Ancheta asked Doug Johnson about the meaning of the words "nearby areas of population are not bypassed for more distant population." Doug suggested that I could provide some clarity as to the meaning of these words.

I did indeed suggest his language to the drafters of Proposition 11. It is the basic anti-gerrymandering language. In the 1980s and 1990s, I was involved in drafting several redistricting reform ballot measures that pre-date Proposition 11. We asked ourselves how we can best deter gerrymandering. Gerrymandering consists of concentrating politically similar populations into districts without regard to the distances between the populations. This explains the odd shapes of gerrymandered districts.

This language is there specifically to stop the practice. The intent is to mandate that districts be built with adjacent populations, not far distant populations. There are only a couple of exceptions to this rule. You may be required to reach for distant population, and to combine dissimilar areas, to achieve population equality. This is unfortunate but cannot be avoided.

The second exception would involve Voting Rights Act districts. In 1991, the Court Masters drew "influence" districts combining Latino neighborhoods in Fresno with Latino neighborhoods in Bakersfield. The Masters explained that this was required under Section 5. The result was to combine distant areas over miles of farm land. I am not certain this is still required given Latino voting growth throughout the Central Valley, but it is certainly an area to be explored with affected communities in both cities in your public outreach.

In 2003, I was hired as an expert witness in a state constitutional challenge against the current legislative plans for the City of Stockton. Among the districts I challenged were two that extend a long "pencil" into south Stockton to pick up minority and reliably Democratic voters and then combined them with similar voters far to the south. One district ran through unpopulated portions of Stanislaus County to combine south Stockton with Merced County, 70 miles to the south. The legislature's response asserted that this was required by the VRA, Merced being a Section 5 county. That, of course, was nonsense; both parties had conspired to create safe districts for each other by removing these particular Democrats.

So exceptions to the adjacent population rule need to be carefully thought out. I think that you will find in your public input that the overwhelming majority of communities of all kinds want representation with their neighbors, and want currently divided populations united in the new districts. So the anti-gerrymandering language should help you build effective districts that meet the needs and desires of affected communities.

Sincerely,

Tony Quinn

From: Tony Quinn [<mailto:taquinn@att.net>]
Sent: Monday, February 28, 2011 11:15 AM
To: 'daniel.claypool@crc.ca.gov'
Subject: Prop 11 Language

Dear Mr. Claypool:

I wonder if you would circulate this letter to the members of the commission. It relates to a question raised on Friday. I also sent a copy to the general mail box for posting on your web page.

Thank you.

Tony Quinn

February 28, 2011

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Tony Quinn