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March 13 Roundtable Update

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NEW YORK REDISTRICTING ROUNDTABLE UPDATE

LITIGATION

Rockland County Legislature: *Parietti v. Rockland County* Dismissed:

On Friday, March 10, Rockland County State Supreme Court Judge Sherri Eisenpress dismissed Michael Parietti's petition in its entirety.

First, Judge Eisenpress found that Parietti's race dilution claim lacked merit because (1) he lacks standing under state and federal law as he is not a member of a racial or language minority group and he does not live in a district he alleges was affected by vote dilution; (2) he has not provided enough evidence to establish the *Gingles* factors required for a Voting Rights Act challenge; and (3) documentary evidence demonstrates that "the map complies with the Voting Rights Act and that no new additional minority districts can be created."

Regarding Parietti's allegation that the map violates state law by "favoring or disfavoring incumbents, candidates or political parties," Judge Eisenpress held that "there is simply no pattern in the map...that indicates an intent to help or hurt any incumbent or political party." Judge Eisenpress noted that the plan shows instances of disadvantaging incumbents by placing two incumbents, one Democrat and one Republican, in the same district and that party enrollment data shows that the districts were not drawn to advantage incumbents or a particular political party.

Next, as to Parietti's claim that the districts lack compactness and that his proposed map is more compact and would better represent communities of interest, Judge Eisenpress held that the county's plan complies with the legal requirements of the state law and Parietti's arguments based on election result data were merely "conjecture and speculation."

Finally, Judge Eisenpress found that Parietti's First Amendment and state law arguments do not "describe any cognizable claim" and confuses First Amendment rights with rights protected by the Open Meetings Law. Judge Eisenpress found that Parietti's claims regarding restrictions on public comment at public hearings are not supported by the First Amendment or state law.

New York City Council: *Desus Rising v. NYC Districting Commission*

On Thursday, March 9, New York County State Supreme Court Judge Erika Edwards heard arguments in a case challenging the new City Council map's failure to create an opportunity district for South Asian American voters in the Richmond Hill-Ozone Park area. Arguing for the plaintiffs, Jerry Vattamala told the court that the City Charter's redistricting criteria

required the Districting Commission to create districts that "ensures the fair and effective representation of the racial and language minority groups." He argued that the failure to create the Queens district failed to meet that requirement. New York City Law Department attorney Aimee Lulich argued that the plaintiffs failed to file their case in a more timely manner before the petitioning period started on February 28 and that any decision to order a new plan would take longer than the plaintiffs envisioned and that any remedial plan could take months to enact. Judge Edwards promised a decision soon but could not provide a timeframe.

Town of North Hempstead: *Pereira v. Town of North Hempstead*

Attorneys for the Town submitted a letter to federal District Court Judge Hector Gonzalez opposing the plaintiffs request to amend their complaint against the Town's new redistricting plan. They argue that the 2023 election season is already underway and that the plaintiffs waited too long to file their complaint. It was also argued that the plaintiffs' case is futile because they allege partisan gerrymandering, an area federal courts no longer have subject jurisdiction over partisan issues in light of the U.S. Supreme Court's 2019 *Rucho v. Common Cause* decision.

EVENTS

April 25th: **Redistricting CLE:** New York Law School and the New York County Bar Association will hold a virtual CLE session on ongoing New York State and New York City redistricting issues. Hold the date and time (5:30 to 7:15 PM).

Redistricting Institute Resources

The New York Census and Redistricting Institute has archived many resources for the public to view on our Digital Commons Page.

Our Redistricting Resources page contains resources on the John R. Lewis Voting Rights Act. You can access the page here: https://digitalcommons.nyls.edu/redistricting_resources/

Archived Roundtable Updates can be accessed here: https://digitalcommons.nyls.edu/redistricting_roundtable_updates/