

5-15-2023

## May 15 Roundtable Update

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## **NEW YORK REDISTRICTING ROUNDTABLE UPDATE**

### **LITIGATION**

#### ***MacDonald v. County of Monroe: County Legislative Challenge***

On April 14, in Monroe County State Supreme Court, an order was issued denying Kenneth MacDonald's request for a temporary restraining order and preliminary injunction against Monroe County's recently enacted legislative map. Kenneth MacDonald alleged that the map (1) included districts favoring incumbents; (2) denies the voting rights of black voters; and (3) contains districts that are not as compact as practicable in violation of state law.

In its April 14 order, the court first found that MacDonald failed to plead sufficient facts to establish standing. Next, the court held that even if MacDonald did have standing, he failed to satisfy his burden of establishing, by clear and convincing evidence, that he would succeed on the merits. Third, the court found that MacDonald failed to show that equities are in his favor.

The court applied the doctrine of laches (late filing) and found that MacDonald's explanation for filing this case almost two months after the map was enacted was without merit. The court further held that this delay results in extreme prejudice to the county and the voters as the election process is time sensitive. Furthermore, the court found that the significant potential harms of granting MacDonald's requested relief (upending the political calendar, disenfranchising some voters, voter confusion, etc.) outweigh MacDonald's unfounded claim that he would be harmed if an election proceeds under the current map. Next, the court held that MacDonald could not post the undertaking of \$1.2 million that would be required prior to issuance of a preliminary injunction. Lastly, the court held that this denial of preliminary injunction does not prevent MacDonald from proceeding with his litigation seeking to invalidate the map, however, the primary and general elections must proceed under the current map.

MacDonald has appealed this decision to the Appellate Division, Fourth Department.

#### ***Orleans County: Lewis v. Orleans County Legislature***

On April 30, in Orleans County State Supreme Court, petitioners filed an amended verified petition along with a memorandum in support of their amended petition. Petitioners allege that the County has exhibited both partisan and racial gerrymandering in adopting the most recent legislative redistricting map. They argue that the county

failed to maintain pre-existing political subdivisions and communities of interest by purposefully splitting municipal groups, Medina and Murray, and dividing the most racially diverse area of the County into two districts.

Petitioners further allege that the County's current combination of geographic and at-large district scheme (each election, voters vote for the individual running in their specific geographic district along with three at-large members, one from each region of the County: central, eastern, and western) fails to ensure proper representation. Petitioners contend that the at-large districts (East, Central, and West) have population deviations that violate the constitutional principle of one-person, one-vote and make it more difficult for minority communities and candidates to prevail in elections. Moreover, while at-large legislators represent the whole county, petitioners allege that the structure disenfranchises voters who reside in the southern and northern sections of the county as their interests are not directly represented by any of the three at-large districts.

Petitioners ask the court to issue an order holding that the current district structure fails to satisfy constitutional requirements and compelling the County to refer the matter to a commission to consider alterations of the districts.

## **CENSUS**

### **New York's Birth Rate Declines**

The New York Post reported that the state's fertility rates are dropping. According to the paper, "in 2021, around 211,000 babies were born in New York — a 13% drop compared with about 241,000 a decade earlier in 2011, according to newly compiled data from Cornell University's Program in Applied Demographics."

"In general, declining fertility rates are part of greater demographic change where populations adjust their reproduction to match societal demands such as participating in the workforce, having the ability to provide or find full-time care for children, and participate in family life," Leslie Reynolds, a research support specialist at Cornell, informed The Post,

"The 2021 fertility rate — the average number of births a woman would have in her lifetime — for New York was 1.55, down from 1.85 in 2009, and below the current national average of 1.71.

Rockland County has the highest fertility rate in the state.

According to Census Bureau estimates, New York lost a net population of 651,742 people to other states from mid-2020 to mid-2022.