

SUPREME COURT, STATE OF COLORADO	
Original Proceeding Pursuant to the Rules for Reapportionment Commission Proceedings	
IN RE REAPPORTIONMENT OF THE COLORADO GENERAL ASSEMBLY	Case No: 2011 SA 282
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STATEMENT OF OPPOSITION OF THE BOARD OF COUNTY COMMISSIONERS OF DELTA COUNTY, COLORADO TO THE COLORADO REAPPORTIONMENT COMMISSION'S FINAL PLAN FOR THE STATE HOUSE OF REPRESENTATIVES' DISTRICTS	

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Opposers Board of County Commissioners of Delta County, Colorado by and through its attorney, Delta County Attorney Christine Knight, hereby submit this Statement of Opposition to House Resubmitted Plan filed by the Reapportionment Commission on December 6, 2011 pursuant to paragraph number 2 of the Order of Court in this matter dated November 15, 2011.

I. STATEMENT OF ISSUES

- a. Does the Reapportionment Commission's House Resubmitted Plan violate the community of interest requirement of Article V, Section 47(3) by including eastern Delta County in the resubmitted House District 61?

II. STANDARD OF REVIEW

Pursuant to Article V, Section 48(1)(e) of the Colorado Constitution, this Court shall determine the Commission's plan and determine whether it complies with Article V, Sections 46 and 47 of the Constitution. The Court's role in reviewing the Commission's reapportionment action is to measure the reapportionment plan against the constitutional standards (*In re: Reapportionment 2002*, 45 P.3d 1237, 1247 (Colo.2002), citing *In re Reapportionment 92-1*, 828 P.2d at 189). While the choice between constitutional plans is for the Commission to make, the Court will not uphold a plan that departs from the constitutional criteria under which the Commission must operate. *Id.* The Court "shall either approve the plan or return the plan and the court's reasons for disapproval to the commission." *Id.* When a constitutional violation is alleged in the reapportionment plan, the Court "must exercise careful scrutiny" and is not required to defer to the Commission (*In re Reapportionment of Colo. Gen. Assembly*, "*In re Reapportionment 1982*"), 647 p.2d 191, 200 (Colo. 1982)(Lohr, J. , concurring as to standard of review).

III. STATEMENT OF THE CASE and LEGAL ARGUMENT

A. The Commission's House Resubmitted Plan violates Article V, Section 47(3) by failing to preserve communities of interest within a single district whenever possible when it adds eastern Delta County into House District 61.

“Communities of interest, including ethnic, cultural, economic, trade area, and geographic factors, shall be preserved within a single district whenever possible.” Colo. Const., Art. V, §47(3). The House resubmitted plan places eastern Delta County with the Counties of Pitkin, Lake, Summit, and the northern portion of Gunnison. Delta County shares little of community of interest with these counties to the north and east.

The economy of Delta County is primarily based on construction, mining and agriculture. Summit and Pitkin Counties economies are largely based on accommodation and food services along with tourism. All the other counties located in the resubmitted House District 61 include at least one ski resort. Delta County does not.

Portions of Resubmitted plan for House District 61 are very remote geographically from eastern Delta County. In order to travel from the community of Cedaredge in eastern Delta County to Breckenridge in Summit County by the most accessible route one would be required to travel through proposed House Districts 54, 55, 57, and 26. This route is over 200 miles and would take almost 4 hours to complete.

Delta County is located so as the natural trade areas are along the Highway 50 corridor. Highway 50 connects Delta County with Mesa County and Montrose County. There are many residents of Delta County who work, shop, and recreate regularly in Grand Junction and Montrose. Delta County has little trade with the communities of Glenwood Springs, Aspen, Leadville, or Breckenridge, all communities located in the resubmitted House District 61.

Many citizens of Delta County objected to being included in a district as now proposed by resubmitted House District 61. The Colorado Reapportionment Commission has confirmed this in their submittal of the Adopted Plan. They stated that “[t]he citizens of Delta County asked to be put in districts to the west and south rather than the east.” (Memorandum in Support of Adopted Plan, Colorado Reapportionment Commission, pg. 21, 10/12/2011). All the other Resubmitted Plans (Av1, Av3, Bv1, Cv1, Dv1, Ev1, Gv1, and Southwest Amendment v1) that were considered by the Commission included eastern Delta County in House District 58. The commission chose to resubmit the only plan that placed eastern Delta County in House District 61.

IV. CONCLUSION AND PRAYER FOR RELIEF

The resubmitted House Plan for reapportionment of the State House of Representative resubmitted December 6, 2011 by the Colorado Reapportionment Commission violates Article V, Section 47(3) by failing to preserve communities of interest within a single district whenever possible when it adds eastern Delta County into House District 61.

Delta County does not share economic, trade, or geographic interest with the counties of Pitkin, Lake, and Summit. Wherefore the Board of County Commissioners of the County of Delta, Colorado, respectfully request that this Honorable Court reject the Commission's resubmitted plan, and remand to the Commission for redrawing of the House Districts, with instructions to not include eastern Delta County with House District 61.

Respectfully submitted this _____ day of December, 2011

_____/s/_____
John F. Baier, Att. Reg. #38345

The original of the document on file in the Office of the Delta County Attorney.

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of December, 2011, one original and nine copies of the above and foregoing STATEMENT OF OPPOSITION BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DELTA, COLORADO, TO THE COLORADO REAPPORTIONMENT COMMISSION'S FINAL PLAN FOR THE STATE HOUSE OF REPRESENTATIVES' DISTRICTS were delivered to the Supreme Court of the State of Colorado addressed as follows:

Colorado Supreme Court
101 West Colfax Avenue, Suite 800
Denver, CO 80202

/s/ Melody BellCampton

Further, I hereby certify that I mailed, first class mail, postage prepaid, a true and correct copy of the above and foregoing STATEMENT OF OPPOSITION BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DELTA, COLORADO, TO THE COLORADO REAPPORTIONMENT COMMISSION'S FINAL PLAN FOR THE STATE HOUSE OF REPRESENTATIVES' DISTRICTS addressed to the following:

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