



NINETEENTH JUDICIAL DISTRICT COURT

EAST BATON ROUGE PARISH
BATON ROUGE, LOUISIANA

TARVALD ANTHONY SMITH
DISTRICT COURT JUDGE, DIVISION A

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June 17, 2022

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FROM: Judge Tarvald Anthony Smith 

RE: NOTICE OF RULING OF THE COURT

Counsel:

Please find attached the ruling of the Court to be filed with the Clerk of Court on June 20, 2022. Please consider this an advance notice as it has not been filed due to the clerk's office being closed for the Juneteenth Holiday.

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19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

NUMBER: 719,057

DIVISION: A
CIVIL SECTION: XXX

ADELINE RENE SINGLETON, CHRISTOPHER KEES, SR.,
TANIA NYMAN, and DR. JAMES C. FINNEY

V.

EAST BATON ROUGE SCHOOL BOARD, LOUISIANA SECRETARY OF STATE and
EAST BATON ROUGE PARISH CLERK OF COURT

RULING AND ORDER OF THE COURT ON PETITION FOR DECLARATORY AND
INJUNCTIVE RELIEF AND WRITTEN REASON

This matter came before the Court on June 13, 2022 on Petitioner's petition for declaratory and injunctive relief. Petitioners, all citizens of East Baton Rouge Parish and within the legal jurisdiction of the East Baton Rouge Parish School Board, allege that defendant East Baton Rouge Parish School Board, hereinafter referred to as "EBRPSB," or "the Board" in performing their legal obligation to reapportion itself after the 2020 Federal Census violated *Louisiana Revised Statute 17:71.3 (E)(1)*, in that it did not use whole precincts in the redistricting and reapportionment process. Defendant EBRPSB contends that it was unable to use whole precincts in reapportioning itself and relied on *Louisiana Revised Statute 17:71.3(E) (2)(a)* and used split precincts in adopting and ratifying what is known as SB Public Plan 22, the 9 single member district plan which is set to be used for the November 8, 2022, East Baton Rouge Parish School Board Election.

In reviewing the redistricting and reapportionment procedure used by the defendant EBRPSB, the Court looks to guidance from the evidence presented at the June 13, 2022 hearing offered by petitioners (Exhibit P-3). Exhibit P-3, a memorandum dated March 16, 2022 set forth the nominating process by board members for the adoption of single member maps. Nowhere in the memorandum did it call for members to first select, establish or even nominate the number of members it wished to maintain, increase or decrease prior to adopting single member maps. From testimony in court, it was established that there were numerous maps the school board could have

nominated containing anywhere from 9 single member districts to as high as the limit allowed by law of 15 single member districts. This procedure was sent to the Board's general counsel and voted on and approved by the board at their March 17, 2022 Regular Board Meeting.

Defendant EBRPSB held a Special Meeting on April 7, 2022 for the purpose of the selection of maps based on the 2020 Federal Census. After a motion to add a presentation from Data Center (a firm in the business of drawing maps for redistricting and reapportionment) failed, two plans were nominated for the Board to consider. SB Public Plan 22 was nominated by School Board Member Mark Bellue and Ware/ Collins Plan 1-11 was nominated by School Board Member Tramelle Howard. Thereafter, a motion was offered to close nominations for the selection of maps and said motion carried unanimously. This action of defendant EBRPSB put forth two maps for consideration, one being a 9 single member plan and an 11 single member plan. Evidence presented at the hearing established that there were nine other single member plans and six other non 9 single member plans the board could have nominated (a total of 19 plans were submitted for consideration either by the Board's hired demographer, members of the public or board members themselves). In questioning from the Court, School Board Vice President Dawn Collins, author of the redistricting plan memorandum, testified that there was no procedure for any board member to object to a plan that was nominated by a member of the Board.

During the April 7, 2022 Special Meeting, the board voted on both plans with SB Public Plan 22 receiving 5 votes and Ware Collins plan 1-11 receiving 4 votes. As a result of the vote, SB Public Plan 22 was selected as the map for publication and was adopted and ratified at a subsequent May 5, 2022 Special Meeting of the School Board by a vote of 5 to 4.

In determining whether the petitioner's allegation have merit and whether SB Public Plan 22 is contrary to Louisiana law, the Court must look to and review all actions or inactions by defendant EBRPSB, and all applicable redistricting and reapportionment laws of Louisiana that apply. *Louisiana Revised Statute 17:71 et seq* governs the process by which each of the parish and city school boards are authorized to reapportion itself. In review of the statute in its entirety and in order, the Board must first, "by majority vote of said board as presently constituted, reestablish itself with not less than five nor more than fifteen members or the number presently authorized for the school board..." *LA R.S. 17:71 (2) (A)*. There is no evidence, nor was there any testimony that defendant EBRPSB took any vote or had any discussion as to the number it wished to maintain,

reduce or increase itself in membership. To the contrary, by the Board's adoption of a procedure to considering plans varying from 9 single member districts to 15 single member districts, it is clear that the Board considered increasing its membership. This is further evident by the fact that Ware/ Collins plan 1-11 was nominated, and the Board did not have a procedure for objecting to a nominated plan. Had the Board first adopted a 9 single member board prior to the consideration of several numbered single member maps, it would have been clearly established that the intent of the Board was to have and remain a 9 member body. This would have given more weight to defendant EBRPSB's argument that the Board complied with the requirements of LA R.S. 17:71.2(A). The Board, by its action or inaction gave rise to the legal requirement and review under LA R.S. 17:71.3 *se seq.*

Louisiana Revised Statute 17:71.3 et seq sets forth the procedure for accomplishing reapportionment, special election districts for each parish and city school boards. The Court notes that LA R.S. 17:71.3 (B) provides in pertinent part, "Each of said boards, after determining the number of members of said board after reapportionment is to be effective, may create such school board election districts as it deems desirable." The statute further sets for that, "These districts need not be coterminous with other districts that may be created by any governing authority, but any such school board election districts created as a result of this Subpart shall be compact and contiguous. The most pertinent part and the governing language of the statute is "The Boundaries of such election districts shall contain whole precincts established by the parish governing authority under *Louisiana Revised Statute 18:532 or 532.1*. Therefore, the statutory scheme of *Louisiana Revised Statute 17:71.3 et seq* sets forth the requirement of the use of compact and contiguous districts using whole precincts.

The use of whole precincts is further emphasized under LA R.S. 17:71.3 (E)(1) which provides:

"The boundaries of any election district for a new apportionment plan from which members of a school board are elected shall contain whole precincts established by the parish governing authority under R.S. 18:532 or 532.1."

The statute does however set forth an exception under LA R.S. 17:71 (E)(2)(a) which provides in pertinent part:

“Notwithstanding the provision of R.S. 17:71.3 (E)(1) or any law to the contrary, if a school board is unable to comply with applicable law regarding redistricting and reapportionment, including adherence to traditional redistricting principles, in the creation of its redistricting or reapportionment plan through the use of whole precincts, the school board may, in the creation of its redistricting or reapportionment plan divide a precinct into portions which are bounded by visible features which are census tabulation boundaries.”

Clearly, this exception would give the defendant EBRPSB the ability to use split precincts if they were unable to use whole precincts in accomplishing redistricting and reapportionment. With the exception in mind, the Court must then examine if the defendant EBRPSB was unable to use whole precincts in accomplishing its redistricting and reapportionment. It is the determination of the Court, that defendant clearly could have and has done so by the consideration of maps that used whole precincts.

The nomination of Ware/ Collins Plan 1-11 is sufficient proof that defendant EBRPSB was able to meet the requirement of using whole precincts in its reapportionment and redistricting. No evidence was presented at the hearing on whether any of the non 9 single member districts used split precincts. The Board's hired demographer, Michael Hefner did testify that all 9 member plans he either reviewed or drafted did use split precincts. The adopted plan, SB Public Plan 22 (a 9 single member plan), used split precincts (Precincts 3-21, 3-28, 1-28, and 1-29). Mr. Hefner also testified that the Ware Collins Plan 1-11 (an 11 single member plan) did not utilize split precincts. This admission by the Board's hired demographer is further proof that defendant EBRPSB was able to create election districts containing whole election precincts established by the parish governing authority under R.S. 18:532 or 532.1.

The argument defendant EBRPSB cannot create a reapportionment plan with 9 single member districts fall short of the totality of *Louisiana Revised Statute 17:71 et seq.* The Board in adopting a procedure for redistricting and reapportionment that did not first establish a definite number of members, failed to follow the procedure set forth in LA R.S. 17:71 et seq. The contention that there are not required to first establish a number of members prior to considering various single member district maps, is in contravention to the procedure Louisiana Law lays out for parish and city school boards to follow when they

engage in any redistricting and reapportionment. This action lead to the Board considering multiple ways of using whole precincts, which was required by law and definitively proved that defendant EBRPSB was able to create single member districts using only whole precincts. Even if the Board first voted on a 9 single member board membership, their actions in considering plans with the member limits establish by law clearly show the Board is able to craft, formulate or draft single member plans using only whole precincts.

The Court does take notice that there may be current split precincts in the composition of the current 9 single member district School Board. This however was done as a result of the East Baton Rouge Parish Metropolitan Council changing voting precincts on years not involving a census year, or years the Board may have reapportioned itself. In 2014, when the Board decreased its membership to a 9 single member board, only whole precincts were used and split precincts were establish only after action of the East Baton Rouge Parish Metropolitan Council which changed voting precincts. This case before the Court, deals with redistricting and reapportionment after a Federal Census and therefore, the applicable laws under *Louisiana Revised Statute 17:71 et seq* must be utilized.

RULING AND ORDER OF THE COURT

Louisiana Revised Statute 17:71(E)(1)(b) provides in pertinent part:

“Any plan adopted by a school board in contravention of this Subsection shall be null and void, and no election shall be conducted using any ballot based on such null and void plan. Any declaration of nullity of a plan pursuant to this Subparagraph shall be by a court of competent jurisdiction.”

In accordance with *Louisiana Revised Statute 17: 71(E)(1)(b)*, the plan adopted by Defendant East Baton Rouge Parish School Board known as SB Public Plan 22 is hereby null and void. Defendants Louisiana Secretary of State and East Baton Rouge Parish Clerk of Court are hereby enjoined from using any ballots or any election information (including but not limited to maps, precincts, or election districts) that uses SB Public Plan 22 as a map of election districts for the upcoming November 8, 2022 election period. Defendant East Baton Rouge Parish School Board is enjoined from using any plans that uses split precincts pursuant to Louisiana Revised Statute

17:71(E)(1)(2)(a) as it has demonstrated by its own action that it can comply with Louisiana Revised Statute 17:71(E)(1) by creating single member election districts containing whole precincts during a redistricting and reapportionment process.

The Court, taking into consideration the evidence and arguments by Defendant Louisiana Secretary of State as it pertains to the timeline need for their Elections Division to adhere to the deadlines sets for the November 8, 2022 Election Period:

IT IS ORDERED that, the Defendant East Baton Rouge Parish School Board shall implement the nominated plan known as Ware/Collins 1-11 to be used by Defendant East Baton Rouge Parish School Board, which complies with Louisiana Law and the Federal Voting Rights Act, for the upcoming November 8, 2022 Election Period. Defendant East Baton Rouge Parish School Board shall submit the Ware/Collins Plan 1-11 to Defendant Louisiana Secretary of State no later than 10:00 a.m. Central Standard Time on June 22, 2022 (exactly four weeks prior to qualifying period for the November 8, 2022 Election Period, as needed by Defendant Louisiana Secretary of State) and copy of said submission shall also be deliver to this Court. IN THE ALTERNATIVE, if Defendant East Baton Rouge Parish School Board can create single member election districts containing whole precincts using any number of members allowed by Louisiana Revised Statue 17:71.2 and in complete accordance with the Federal Voting Rights Act by no later than 8:00 a.m. Central Standard Time on June 22, 2022 (exactly four weeks prior to qualifying period for the November 8, 2022 Election Period, as needed by Defendant Louisiana Secretary of State) and submit said plan to the Court by 10:00 a.m. Central Standard Time on June 22, 2022, that plan will be reviewed by the Court and if said plan complies with Louisiana Law and the Federal Voting Rights Act, said plan may be used instead of Ware/Collins 1-11.

The Court takes no position on why or how defendant East Baton Rouge Parish School Board decided to act in the manner in which it did, or why it put forth a redistricting and reapportionment plan in contravention to established Louisiana Law. The Court, although reluctant to take any action contrary to the wishes of the majority of the Board, must do so as a result of the Board acting contrary to law set forth in *Louisiana Revised*

Statute 17:71et seq. Furthermore, the Court takes this action to protect the rights of electorates of East Baton Rouge Parish to elect their School Board Members in accordance with Louisiana and Federal Law.

Done this 17th day of June, 2022 at 12:45 p.m. in
Baton Rouge, Louisiana in chambers.



Tarvald Anthony Smith, Judge
Division A, Civil Section XXX