

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2002-004380

11/03/2003

HONORABLE KENNETH L. FIELDS

CLERK OF THE COURT
D. Whitford
Deputy

FILED: 11/06/2003

ARIZONA MINORITY COALITION FOR FAIR
RED, et al.

PAUL F ECKSTEIN

v.

ARIZONA INDEPENDENT REDISTRICTING
COMMI, et al.

LISA T HAUSER

KENNETH A ANGLE
A DAVID BRAUN
RUSSELL H BURDICK JR.
DAVID J CANTELME
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COLUMBIA 20001-2113
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J IVAN LEGLER
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JESSICA G FUNKHOUSER

RULING ON MATTER TAKEN UNDER ADVISEMENT

The Court has under advisement cross-motions for summary judgment from the plaintiff Interveners Navajo Nation & Leonard Gorman (Navajo Nation) and defendant Arizona Independent Redistricting Commission (IRC). The Hopi Tribe as interveners joined in the Motion for Summary Judgment filed by the IRC. The parties to these motions have agreed to a Joint Statement of Facts and stipulated there are no contested issues of material fact. The Court, therefore, can enter summary judgment.

After consideration of the pleadings and arguments of counsel,

IT IS ORDERED denying plaintiff Navajo Nation's Motion for Summary Judgment and granting the Motion for Summary Judgment by the IRC. The Court's reasons are set forth below.

As Justice Moeller noted in his opinion in Ruiz v. Hull, 191 Ariz. 441, 448 (1998), "Every duly enacted state and federal law is entitled to a presumption of constitutionality." This includes the results of the actions of the IRC in establishing congressional and legislative districts. If there are alternative constructions available, this Court must choose the one that upholds constitutionality. If, however, the legislative action involves a core constitutional right, the standard of strict scrutiny applies and the burden shifts to the proponent to demonstrate the constitutionality of the act. Ruiz v Hull, supra, and Roosevelt Elem. School District v. Bishop, 179 Ariz. 233, 244 (1994).

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The right to vote in congressional and legislative elections under the Arizona Constitution is a core constitutional right under Article VII and the Court applies the strict scrutiny standard when reviewing the creation of legislative and congressional voting districts by the IRC.

The IRC followed its constitutionally mandated duty when it applied the criteria in Article IV, Part 2, Section 1 (14) for redistricting. The exclusion of the Hopi Tribe from Congressional District 1 and inclusion in Congressional District 2 was a political decision reserved to the IRC so long as it followed federal and state law. In making this decision, it considered the constitutionally mandated criteria of compactness, contiguity, communities of interest and geographic features in creating these congressional districts.

The Hopi Tribe is a distinct Native American community within its own geographic boundaries, the Hopi federal reservation, separate and apart from the Navajo Nation which is its own community of interest. These two communities of interests have a history of disagreement on many different issues. The IRC recognized the two separate and distinct communities of interest and to the extent practicable under the circumstances created geographically compact and contiguous districts.

The Constitution allows the IRC flexibility in applying the enumerated redistricting criteria so long as its decisions have a basis. The IRC has convinced this Court that it did not violate the Arizona Constitution when it included the Hopi Tribe and reservation within congressional district 2.