

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Charles Walen and Paul Henderson,)
)
Plaintiffs,)
)
vs.)
)
Doug Burgum, in his official capacity as)
Governor of the State of North Dakota, and)
Alvin Jaeger, in his official capacity as)
Secretary of State of the State of North Dakota,)
)
Defendants.)

**ORDER GRANTING MOTION FOR
THREE-JUDGE PANEL AND
ADOPTING STIPULATION**

Case No. 1:22-cv-31

On February 16, 2022, Plaintiffs Charles Walen and Paul Henderson filed a complaint for declaratory and injunctive relief, challenging “the implementation and use of the newly enacted legislative redistricting plan creating two new Subdistricts passed by the North Dakota Legislative Assembly and signed by Governor Doug Burgum on November 11, 2021.” Doc. No. 1. On March 4, 2022, Walen and Henderson filed a motion for preliminary injunction (Doc. No. 9) and a motion for a three-judge panel pursuant to 28 U.S.C. § 2284(a) (Doc. No. 11). The parties then filed a stipulation, agreeing to a briefing schedule on the motion for preliminary injunction and that a three-judge panel was mandatory under 28 U.S.C. § 2284(a). Doc. No. 14.

As required by 28 U.S.C. § 2284(a), the undersigned immediately notified the Chief Judge of the Eighth Circuit Court of Appeals of the parties’ request for a three-judge panel. A copy of that letter is attached to this order. On March 17, 2022, the Chief Judge Lavenski R. Smith designated the undersigned, the Honorable Judge Ralph R. Erickson, Circuit Judge, United States Court of Appeals, Eighth Circuit, and the Honorable Judge Daniel L. Hovland, District Judge,

United States District Court, District of North Dakota as the Special District Court in this case. A copy of Chief Judge Smith's letter is also attached to this order.

Accordingly, Walen's and Henderson's unopposed motion for a three-judge panel pursuant to 28 U.S.C. § 2284(a) (Doc. No. 11) is **GRANTED**. The Court also **ADOPTS** the parties' March 8, 2022 stipulation (Doc. No. 14) and the stipulated briefing schedule. The Defendants' response brief to the motion for preliminary injunction shall be filed on April 7, 2022, and Walen's and Henderson's reply brief shall be filed on April 14, 2022. The Defendants' answer to the complaint shall be filed on April 22, 2022.

IT IS SO ORDERED.

Dated this 18th day of March, 2022.

/s/ Peter D. Welte

Peter D. Welte, Chief Judge
United States District Court

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United States Court of Appeals for the Eighth Circuit

Richard Sheppard Arnold United States Courthouse
600 West Capitol Avenue, Suite A502
Little Rock, Arkansas 72201-3325
501-324-7310 501-324-7305 (fax)

Lavenski R. Smith
Chief Judge

March 17, 2022

Honorable Peter D. Welte
Chief Judge
United States District Court
District of North Dakota
Quentin N. Burdick United States Courthouse
655 First Avenue North, Suite 410
Fargo, ND 58102-4932

RE: Charles Walen, et al. v. Doug Burgum, et al. - 1:22-cv-31
Request for Three-Judge Panel Pursuant to 28 U.S. C. § 2284 (a)

Dear Chief Judge Welte,

Based upon your March 19, 2022 request for designation of a three-judge panel pursuant to 28 U.S.C. § 2284(a) for the above referenced case, I hereby designate the following two judges to serve with you and comprise the Special District Court for this case:

Honorable Ralph R. Erickson, Circuit Judge, U.S. Court of Appeals, 8th Circuit
Honorable Daniel L. Hovland, District Judge, District of North Dakota

If additional assistance is needed, please contact me at 501-324-7310.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lavenski R. Smith".

Lavenski R. Smith

LRS/gs

cc: Honorable Ralph R. Erickson
Honorable Daniel L. Hovland
Elizabeth Alvin, Career Law Clerk

UNITED STATES DISTRICT COURT

DISTRICT OF NORTH DAKOTA
Quentin N. Burdick United States Courthouse
655 First Avenue North, Suite 410
Fargo, North Dakota 58102-4932

PETER D. WELTE
Chief Judge

Phone: 701-297-7040
E-mail: ndd_J-Welte@ndd.uscourts.gov

March 10, 2022

Chief Judge Lavenski R. Smith
Eighth Circuit Court of Appeals
Richard Sheppard Arnold United States Courthouse
600 West Capitol Avenue, Room A502
Little Rock, AR 72201
Judge_Lavenski_Smith@ca8.uscourts.gov

RE: Charles Walen, et al. v. Doug Burgum, et al. – 1:22-cv-31
Request for Three-Judge Panel Pursuant to 28 U.S.C. § 2284(a)

Dear Chief Judge Smith:

On March 4, 2022, Plaintiffs Charles Walen and Paul Henderson filed a motion for preliminary injunction (Doc. No. 9) and request for a three-judge panel pursuant to 28 U.S.C. § 2284(a) (Doc. No. 11) in the above-captioned case. On March 8, 2022, the parties filed a stipulation (Doc. No. 14), where the parties agreed, in part, that a three-judge panel “must be convened in this action.”

28 U.S.C. § 2284(a) states, in relevant part, a district court of three judges “shall be convened . . . when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any state legislative body.” § 2284(b)(1), which provides the procedure for establishing the three-judge panel, requires the judge to whom the request is presented “immediately notify the chief judge of the circuit, who shall designate two other judges, at least one of whom shall be a circuit judge.”

I have reviewed the Plaintiffs’ complaint and motion for preliminary injunction, and in my opinion, a three-judge panel must be convened. Please consider this letter my notice to you under 28 U.S.C. § 2284(b)(1) in the above-captioned case. I also intend to notify counsel that I have provided notice to you as required by statute.

Please let me know if you require any additional information. Enclosed with this letter are courtesy copies of the complaint and the parties' stipulation. I would also ask you to please include my career law clerk, Elizabeth Alvine (Elizabeth.Alvine@ndd.uscourts.gov) on all correspondence related to this case and the panel, for ease of coordination.

Sincerely and respectfully,



Chief Judge Peter D. Welte

Cc: Millie Adams
Michael E. Gans

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