

No. 113840

IN THE
SUPREME COURT OF ILLINOIS

THOMAS CROSS, etc., et al.,)	
)	
Plaintiffs,)	
)	
)	
vs.)	Declaratory Relief
)	
)	
ILLINOIS STATE BOARD OF)	
ELECTIONS, et al.,etc.,)	
)	
Defendants.)	

ORDER

This cause coming to be heard on the motion of the plaintiffs, Thomas Cross et al., an objection having been filed by the defendants, the Illinois State Board of Elections, et al., the parties having filed briefs as directed by the Court on the issue of whether the motion to file a petition for declaratory and injunctive relief as an original action pursuant to Supreme Court Rule 382 is timely, and the Court being fully advised in the premises;

IT IS ORDERED that the motion for leave to file a complaint for declaratory judgment and injunctive relief pursuant to Supreme Court Rule 382 is denied.

Order entered by the Court.

JUSTICE THOMAS, dissenting:

I respectfully dissent from today's decision denying plaintiffs' request for leave to file an original action under Supreme Court Rule 382 (Ill. S. Ct. R. 382 (eff. Feb 1, 1994)).

The sole issue before the court today is whether plaintiffs' attempted redistricting challenge is untimely and therefore barred by the equitable doctrine of *laches* because it comes too close to this year's elections. I am convinced that the action is timely, and that *laches* is not a bar. Indeed, article IV, section 3, of the Illinois Constitution of 1970, which provides for "actions concerning the redistricting of the House and Senate," contains no limitations provision whatsoever with respect to such actions. See Ill. Const. 1970, art. IV, § 3. Neither does Supreme

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Court Rule 382, which governs the institution of and procedure for such actions. And finally, there is ample precedent for the principle that, while *laches* may bar the granting of redistricting relief in relation to an imminent election, it does not bar the granting of relief in relation to *subsequent* elections, which is what plaintiffs here are seeking. See, e.g., *Martin v. Soucie*, 109 Ill. App. 3d 731, 732-34 (1982); *Wilson v. Kasich*, 963 N.E.2d 1282 (Ohio 2012).

In light of these considerations, I would grant plaintiffs' request for leave to file their original action, give them their day in court, and then decide this important matter of public policy on the merits rather than on the equitable and purely discretionary doctrine of *laches*.

JUSTICES GARMAN and KARMEIER join in this dissent.