

have disqualified himself from hearing and voting on this case, because, while a judicial candidate, he made public statements committing to rule against the 2011 Congressional Districting Plan. Pa. Rules of Judicial Conduct, §2.11(A)(5). The statements in question are not views Justice Wecht had expressed in published opinions or explanations of the views contained in such opinions. They were his specific views of the 2011 Congressional Districting Plan, made during his 2015 campaign for election to the Pennsylvania Supreme Court, explaining why he believed the Plan was invalid. Justice Wecht failed to disclose his public statements concerning the 2011 Congressional Districting Plan to the litigants, notwithstanding the belief he expressed regarding ethical duties of disclosure to ensure the integrity of the judicial system. *See* his dissenting opinion in *Commonwealth v. Friedenberger*, 2014 Pa. Super. Unpub. Lexis 1178. Because he did not voluntarily disqualify himself, Judge Wecht was under a similar duty of disclosure in this case. *See* Pa. Rules of Judicial Conduct, §2.11(C).

“A judge sworn to decide impartially can offer no forecasts, no hints, for that would show not only disregard for the specifics of the particular case, it would display disdain for the entire judicial process.” Opening

Whitehead, David Moylan, Kathleen Bowman, James R. Means, Jr., Barry O. Christenson, Bryan Leib.

Statement of then Judge Ruth Bader Ginsburg to the Senate Judiciary Committee during her Confirmation Hearing, as reported in the New York Times, July 20, 1993, explaining why she would not answer certain of the Committee's questions.

Because the partisan gerrymander claim has already been heard and decided, it is too late for Justice Wecht to disqualify himself from hearing and deciding that claim. However, the Comments to Rule 2.11(A)(5) state, "A judge's obligation not to hear or decide matters in which disqualification is required applies *regardless of whether a motion to disqualify is filed.*" Since Justice Wecht should have disqualified himself, his subsequent consideration of the partisan gerrymander claim necessarily must be invalidated. *See Rohm & Haas Co. v. Continental Casualty Co.*, 732 A.2d 1236, 1260 (Pa.Super. 1999). For failing to disqualify himself when he was required to do so, this Court should invalidate Justice Wecht's vote to overturn the 2011 Congressional Districting Plan. In addition, Justice Wecht should be disqualified from any future proceedings in this case.

WHEREFORE, Intervenors respectfully request the invalidation of Justice Wecht's vote to overturn the 2011 Congressional Districting Plan.

Respectfully submitted,

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