

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

MARGARET DICKSON, *et al.*,
Plaintiffs

v.

ROBERT RUCHO, *et al.*,
Defendants

)
)
)
) 11 CVS 16896
)
)
)

NORTH CAROLINA STATE
CONFERENCE OF BRANCHES OF
THE NAACP *et al.*,
Plaintiffs

v.

THE STATE OF NORTH CAROLINA,
et al.,
Defendants

)
)
)
) 11 CVS 16940
)
)
)

)
)
) (Consolidated)
)
)
)

ORDER DENYING PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

THIS MATTER comes before the undersigned three judge panel for hearing upon the Plaintiffs' Joint Motion for Preliminary Injunction in which the Plaintiffs seek to enjoin the Defendants from conducting elections under the three redistricting plans challenged by the Plaintiffs. The three redistricting plans at issue are those which apportion the state into districts for the House and Senate of the North Carolina General Assembly and congressional districts for North Carolina's representatives to the United States Congress (the "Plans"). After careful consideration of the arguments of counsel and all matters of record, including consideration of the memoranda of law and affidavits filed by the parties, the Court enters the

following Order.

IT IS THE unanimous decision of this Court that the Plaintiffs' motion for injunctive relief be DENIED. In other words, the Court declines to delay the forthcoming elections.

It would be incorrect to interpret this ruling as implying a lack of merit to Plaintiffs' challenge of the Plans. Plaintiffs, in their challenge, have raised serious issues and arguments about, among other things, the extent to which racial classifications were used in the enactment of these Plans. Nor would it be correct to interpret this decision as minimizing the harm that can be associated with governmental acts that tend to stigmatize and separate citizens by the color of their skin. Such acts are an affront to the dignity of African Americans and, indeed, an affront to the sensibilities of all of us.

The careful consideration of the Plaintiffs' arguments must go on and this Court will continue to balance these arguments against the thoughtful, serious and compelling arguments raised in defense of the Plans. This balancing, namely the balancing of redistricting plans duly enacted by our elected representatives versus the fundamental constitutional rights of citizens, is, as our United States Supreme Court has noted, one of the most delicate and complex tasks that our judiciary undertakes.

Rather, this unanimous decision of the Court is based upon pragmatic considerations, including the recognition of the proximity of the forthcoming election cycle and the mechanics and complexities of state and federal election law. In about 25 days, the filing period opens, and about four months from now, voters will vote in hundreds of contested primary races throughout our State. The Court is not persuaded that a delay of the primaries of these three races, even of 45 days or so as proposed by the Plaintiffs, will have any meaningful practical

value or materially aid in protecting the rights asserted by the Plaintiffs during the course of this litigation. Even if, within that 45 day delay period, Plaintiffs were to ultimately prevail in this Court in their efforts to have the enacted Plans declared unconstitutional, the proposed delay leaves little time for meaningful appellate review, curative measures by the General Assembly, preclearance of the curative measures by the U.S. Department of Justice, and review by this Court of any further challenges to the curative measures -- all of which would need to occur before the Plaintiffs' proposed delayed filing date.

For these reasons, as well as the reasons advanced by the parties in their arguments and in the record proper, the Court finds and concludes that the Plaintiffs are not entitled to the injunctive relief they seek, and the Court declines to exercise its equitable power to grant that relief. The Plaintiffs' Joint Motion for Injunctive Relief is therefore DENIED.

Entered in open court and reduced to writing this the 20th day of January, 2012.

/s/ Paul C. Ridgeway

Paul C. Ridgeway, Superior Court Judge

/s/ Joseph N. Crosswhite

Joseph N. Crosswhite, Superior Court Judge

/s/ Alma L. Hinton

Alma L. Hinton, Superior Court Judge

Certificate of Service

The undersigned certifies that the foregoing was served upon all parties by depositing the same in the custody of the United States Postal Service, first class postage prepaid, addressed as follow:

Eddie M. Speas, Jr.
John W. O'Hale
Caroline P. Mackie
Poyner Spruill, LLP
Post Office Box 1801
Raleigh, NC 27602-1801

Anita S. Earls
Clare Barnett
Allison Riggs
Southern Coalition for Social Justice
1415 Highway 54, Suite 101
Durham, NC 27707

Adam Stein
Ferguson Stein Chambers Gresham & Sumter, PA
312 West Franklin Street
Chapel Hill, NC 27516

Irving Joyner
Jennifer Watson Marsh
North Carolina NAACP
P.O. Box 335
Durham, NC 27702

Victor L. Goode, Asst. General Counsel
NAACP
4805 Mt. Hope Drive
Baltimore, MD 21215-3297

Alexander McC. Peters
Susan K. Nichols
NC Department of Justice
P.O. Box 629
Raleigh, NC 27602

Thomas A. Farr
Phillip J. Strach
Ogletree, Deakins, Nash, Smoak & Stewart, PC
4208 Six Forks Road, Suite 1100
Raleigh, NC 27622

This the ____ day of January, 2012.
