

IN THE
Supreme Court of the United States

NORTH CAROLINA, ET AL.,
Appellants,

v.

SANDRA LITTLE COVINGTON, ET AL.,
Appellees.

**APPELLEES' APPLICATION
FOR ISSUANCE OF MANDATE FORTHWITH**

TO THE HONORABLE JOHN G. ROBERTS JR., CHIEF JUSTICE OF THE UNITED STATES SUPREME COURT AND CIRCUIT JUSTICE FOR THE FOURTH CIRCUIT COURT OF APPEALS:

1. Under Supreme Court Rule 45.3, Appellees Sandra Little Covington, et al. respectfully request an order specially directing that formal mandates issue forthwith in both of the above captioned appeals, Nos. 16-649 and 16-1023.

2. On June 5, 2017, the Court summarily affirmed the decision of the three-judge district court on the merits of this racial gerrymandering case (No. 16-649), and issued a *per curiam* opinion vacating the lower court's decision on remedy and remanding for further remedial proceedings (No. 16-1023). *See* 581 U.S. __ (2017) (slip op., at 3). Absent receiving formal mandates in both matters from this Court, the district court will not gain jurisdiction to begin remedial proceedings until it receives certified copies of this Court's judgments. *See* S. Ct. R. 45.3.

3. Granting Appellees' request to specially issue formal mandates forthwith will permit remedial proceedings to begin quickly in this time-sensitive election law matter, in which the North Carolina General Assembly must remedy 28 legislative districts that this Court has affirmed are unconstitutional racial gerrymanders. *See* 581 U.S. __ (2017) (slip op., at 1).

4. The opinion that accompanied the order summarily affirmed by this Court in appeal No. 16-649 required “the North Carolina General Assembly to draw remedial districts *in their next legislative session* to correct the constitutional deficiencies in the Enacted Plans.” No. 16-649 J.S. App. 144 (emphasis added). Although the General Assembly is currently in session, its leaders have publicly expressed plans to adjourn for the year in less than a month—by early July.¹ The next regular session of the General Assembly is not scheduled to begin until May 2018, after the candidate filing period for the 2018 elections has closed and potentially after a primary election has been conducted for the 2018 election cycle. The order summarily affirmed by this Court in appeal No. 16-649 “enjoined the defendants from conducting any elections using the unconstitutional districts after November 2016.” No. 16-649 J.S. App. 149.

5. Swift resolution of the remedial phase of this case is desirable not only because of the short time remaining in the current legislative session, but also because of the importance of quickly mitigating the ongoing harm North Carolina voters have suffered as a result of the election districts challenged in this case. Appellees and millions

¹ *See NC Legislature Aims to Leave Town by Early July*, News & Observer (May 5, 2017), <http://www.newsobserver.com/news/politics-government/politics-columns-blogs/under-the-dome/article148796669.html>.

of other North Carolina voters have already been subjected to three election cycles under the unconstitutional enacted state legislative districting plan, including one election cycle following the district court's decision in this case in August 2016. *See Reynolds v. Sims*, 377 U.S. 533, 585 (1964) (“[O]nce a State’s . . . apportionment scheme has been found to be unconstitutional, it would be the unusual case in which a court would be justified in not taking appropriate action to insure that no further elections are conducted under the invalid plan.”). It is in the interests of justice for this Court to issue the mandates forthwith and allow a remedial map to be put in place expeditiously.

6. Counsel for Appellees have conferred with counsel for Appellants, who oppose this request.

Appellees respectfully request an order specially directing that formal mandates issue forthwith in both of the above-captioned appeals.

June 6, 2017

Respectfully submitted,

Anita S. Earls*
Allison J. Riggs
Emily Seawell
Jacqueline Maffetore
SOUTHERN COALITION FOR SOCIAL JUSTICE
1415 West NC Hwy. 54, Suite 101
Durham, NC 27707
(919) 794-4198
AnitaEarls@southerncoalition.org

**Counsel of Record, No. 16-649*



Jessica Ring Amunson
Counsel of Record, No. 16-1023
JENNER & BLOCK LLP
1099 New York Ave. NW, Suite 900
Washington, DC 20001
(202) 639-6000
jamunson@jenner.com

Edwin M. Speas, Jr.
Caroline P. Mackie
POYNER SPRUILL LLP
P.O. Box 1801
Raleigh, NC 27602

Counsel for Appellees

CERTIFICATE OF SERVICE

I, Jessica Ring Amunson, a member of the Bar of this Court, hereby certify that on June 6, 2017 a copy of this Application for Issuance of the Mandate Forthwith was sent via email and overnight mail, postage prepaid, to:

Paul D. Clement
Kirkland & Ellis LLP
655 Fifteenth Street, N.W.
Washington, DC 20005
paul.clement@kirkland.com

Counsel for Appellants



Jessica Ring Amunson
Counsel of Record, No. 16-1023
Jenner & Block LLP
1099 New York Ave. NW
Suite 900
Washington, DC 20001
(202) 639-6000
jamunson@jenner.com

Counsel for Appellees