

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SANDRA LITTLE COVINGTON, et al.,            )  
  )  
                          Plaintiffs,            )  
          v.                                        )  
  )  
THE STATE OF NORTH CAROLINA, et al.,      )  
  )  
                          Defendants.            )

1:15CV399

**Notice**

In a Memorandum Opinion entered August 15, 2016, this Court held that twenty-eight North Carolina State House and Senate legislative districts are racial gerrymanders in violation of the Equal Protection Clause of the United States Constitution. (Docs. 123, 125.) Although declining to order modifications to the challenged districts prior to the approaching November 2016 election, the Memorandum Opinion and accompanying Order enjoined the State from "conducting any elections for State House and State Senate offices after November 8, 2016, until a new redistricting plan is in place," (Doc. 125), and "order[ed] the North Carolina General Assembly to draw remedial districts in their next legislative session to correct the constitutional deficiencies in the Enacted Plans," (Doc. 123). Separately, the Court ordered the parties to submit supplemental briefing addressing "the appropriate deadline for the North Carolina legislature to draw

new districts” and “whether additional relief would be appropriate before the regularly scheduled elections in 2018.” (Doc. 124.)

Upon consideration of these submissions, the Court issued an order on November 29, 2016, directing the State of North Carolina to draw new districting plans by March 15, 2017. (Doc. 140.) This order further required the State to hold special primary and general elections utilizing a constitutionally adequate districting plan no later than “late August or early September” and “early November,” respectively. Rather than submit a proposed redistricting plan, however, Defendants sought and obtained a stay of this Court’s November 29, 2016, order pending review of the merits of Plaintiffs’ constitutional claims in the Supreme Court of the United States. *North Carolina v. Covington*, 137 S. Ct. 808 (2017).

On June 5, 2017, the Supreme Court summarily affirmed this Court’s judgment that the existing legislative districts violate the constitutional rights of North Carolina voters. The Supreme Court vacated the accompanying remedial order and remanded the case to permit this Court to conduct a more fulsome analysis of the equitable interests at stake in fashioning an appropriate remedy for the ongoing constitutional violation. *North Carolina v. Covington*, No. 16-1023, slip op. at 3 (June 5, 2017) (per curiam). In so doing, the Supreme Court identified a number of

factors courts should consider in determining whether to order special elections in racial gerrymandering cases. *Id.* at 2-3.

On June 8, 2017, Plaintiffs moved this Court to establish a timeline for adoption of a new redistricting plan and to establish an expedited schedule for receiving briefing and holding an evidentiary hearing concerning whether additional remedial relief is warranted, including, without limitation, whether this Court should order a special election in November 2017 using the new redistricting plan. (Docs. 150, 151, 152.) In their motions, Plaintiffs represented that Defendants Rucho, Berger, and Moore (the "Legislative Defendants") oppose the motions; that Defendant North Carolina Board of Elections takes no position on the motions; and that the State of North Carolina "agrees that the public interest calls for a prompt decision on the possibility of a special election in 2017." (Doc. 150.)

The parties are advised that the Court intends to act promptly on this matter upon obtaining jurisdiction from the Supreme Court. To that end, the Court invites the Legislative Defendants, the Board of Elections, and the State to submit position statements addressing Plaintiffs' motions as expeditiously as possible. The parties, and Defendants in particular, are also invited to file statements:

- Addressing, in addition to any other relevant considerations:
  - (1) the "severity and nature" of the constitutional violation

at issue in this case; (2) "the extent of the likely disruption to the ordinary processes of governance if early elections are imposed;" (3) and "the need to act with proper judicial restraint when intruding on state sovereignty." *Covington*, No. 16-1023, slip op. at 3.

- Addressing which Defendant, or group of Defendants, has authority under state law to speak on behalf of the State with regard to the various equitable considerations relevant to the drawing of new districts, the ordering of a special election, and any additional remedies necessary to address the constitutional violations identified in the August 15, 2016, Memorandum Opinion;
- Describing what steps, if any, the State of North Carolina has taken to satisfy its remedial obligations under this Court's August 15, 2016, Memorandum Opinion and Order; and
- If the State has failed to take any meaningful steps to satisfy its remedial obligations under this Court's August 15, 2016, Memorandum Opinion and Order, addressing whether the State is entitled to any additional time to comply with the Court's August 15, 2016, Memorandum Opinion and Order.

*By the Court.*