

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-1270 (L)
(5:15-cv-00156-D)

RALEIGH WAKE CITIZENS ASSOCIATION; JANNET B. BARNES;
BEVERLEY S. CLARK; WILLIAM B. CLIFFORD; BRIAN FITZSIMMONS;
GREG FLYNN; DUSTIN MATTHEW INGALLS; AMY T. LEE; ERVIN
PORTMAN; SUSAN PORTMAN; JANE C. ROGERS; BARBARA D.
VANDENBERGH; JOHN G. VANDENBERGH; AMY WOMBLE;
PERRY WOODS,

Plaintiffs-Appellants,

v.

WAKE COUNTY BOARD OF ELECTIONS,

Defendant-Appellee.

On Appeal from the United States District Court
for the Eastern District of North Carolina

RESPONSE TO MOTION TO EXPEDITE APPEAL

Charles F. Marshall
Matthew B. Tynan
Jessica Thaller-Moran
BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.
1600 Wells Fargo Capitol Center
150 Fayetteville Street
Raleigh, North Carolina 27601
Telephone: (919) 839-0300

Attorneys for Defendant-Appellee

RESPONSE

Pursuant to Federal Rule of Appellate Procedure 27 and Local Rule 27(d), Defendant-Appellee Wake County Board of Elections (“Board of Elections”), by and through undersigned counsel, respectfully submits this response to Plaintiffs-Appellants’ Motion to Expedite Appeal for Briefing and Oral Argument (D.E. 30) filed in these consolidated cases.

The Board of Elections takes no position regarding Plaintiffs-Appellants’ request to expedite proceedings. However, to assure efficient administration of the 2016 elections for the Wake County Board of Education and Board of County Commissioners, the Board of Elections respectfully requests that, if the Court grants the Plaintiffs-Appellants’ request, the proceedings be accelerated to ensure that they are completed before the filing period for election to the Wake County Board of Education opens on June 13, 2016.

Although the General Election does not take place until November 8, 2016, the election process—and the Board of Election’s duty to provide candidates and voters with reliable information regarding their district assignments—begins with the filing period. Furthermore, the Board of Elections is required by law to prepare the election notice to be used in conjunction with federal write-in absentee ballots no later than 100 days before a regularly scheduled election. *See* N.C. Gen. Stat.

§ 163-258.16. Because the General Election is set for November 8, 2016, the deadline to finalize this notice is July 31, 2016.

Resolving Plaintiffs-Appellants' appeal before the opening of the filing period would afford finality to the districts in question for the 2016 elections. By contrast, any changes required to be made to the districts at issue after the filing period has opened, but before the General Election, would create a significant administrative burden on the Board of Election's staff and its resources—a burden that ultimately impacts both candidates who have filed to run in the districts upheld by the District Court and voters who have been assigned to those districts.

For these reasons, the Board of Elections respectfully requests that the Court take these constraints into account when ruling on the Plaintiffs-Appellants' Motion to Expedite Appeal for Briefing and Oral Argument.

Respectfully submitted this the 31st day of March, 2016.

/s/ Charles F. Marshall

Charles F. Marshall
N.C. State Bar No. 23297
cmarshall@brookspierce.com

/s/ Matthew B. Tynan

Matthew B. Tynan
N.C. State Bar No. 47181
mtynan@brookspierce.com

/s/ Jessica Thaller-Moran

Jessica Thaller-Moran
N.C. State Bar No. 46444
jthaller-moran@brookspierce.com

Brooks, Pierce, McLendon,
Humphrey, & Leonard, L.L.P.
1600 Wells Fargo Capitol Center
150 Fayetteville Street
Raleigh, NC 27601
Telephone: (919) 839-0300
Fax: (919) 839-0304

*Attorneys for Defendant-Appellee
Wake County Board of Elections*

CERTIFICATE OF SERVICE

I hereby certify that, on the date below, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Anita S. Earls
Allison Jean Riggs
George E. Eppsteiner
Southern Coalition for Social Justice
1415 West Highway 54, Suite 101
Durham, NC 27707
919-323-3380 x115
Fax: 919-323-3942
anita@southerncoalition.org
allison@southerncoalition.org
george@southerncoalition.org
Counsel for Plaintiffs-Appellants

Respectfully submitted this 31st day of March, 2016.

/s/ Jessica Thaller-Moran
Jessica Thaller-Moran