IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION
Civil Action No. 1:13-CV-00949

DAVID HARRIS; CHRISTINE BOWSER; and SAMUEL LOVE, Plaintiffs, v. PATRICK MCCRORY, in his capacity as Governor of North Carolina; NORTH CAROLINA STATE BOARD OF ELECTIONS; and JOSHUA HOWARD, in his capacity as Chairman of the North Carolina State Board of Elections, Defendants.	**DEFENDANTS' RESPONSE TO PLAINTIFFS' RENEWED MOTION FOR ORAL ARGUMENT AND MOTION FOR EXPEDITED CONSIDERATION OF MOTION FOR PRELIMINARY INJUNCTION AND FURTHER PROCEEDINGS**

NATURE OF THE CASE

This is an action brought by plaintiffs on 24 October 2013 [D.E. 1] challenging North Carolina's First and Twelfth Congressional Districts, which were enacted by the General Assembly on 27 July 2011. Plaintiffs filed their Motion for Preliminary Injunction [D.E. 18] on 24 December 2013.

STATEMENT OF THE FACTS

The facts of this case are as found in Defendants' Memorandum in Opposition to Plaintiffs' Motion for a Preliminary Injunction [D.E. 29], filed 17 January 2014 and incorporated herein by reference as though fully set forth.

ARGUMENT

To the extent that plaintiffs' Motion for Expedited Consideration of Motion for Preliminary Injunction and Further Proceedings [D.E. 48] and memorandum in support of that motion [D.E. 49] repeat the arguments made in plaintiffs' Motion for Preliminary Injunction [D.E. 18] and Motion for Oral Argument [D.E. 28], defendants' response is found in Defendants' Memorandum in Opposition to Plaintiffs' Motion for a Preliminary Injunction [D.E. 29], filed 17 January 2014 and incorporated herein by reference as though fully set forth. With regard to plaintiffs' Motion for Oral Argument, defendants do not oppose that motion, but have requested that the Court hear defendants' Motion to Stay, Defer or Abstain. [D.E. 43] be heard at the same time.

I. Standard of Review of Plaintiffs' Motion for Preliminary Injunction

To obtain preliminary injunctive relief, plaintiffs must make a "clear showing" that: (1) they are likely to succeed on the merits; (2) they are likely to suffer irreparable harm in the absence of preliminary injunctive relief; (3) the balance of equities tip in their favor; and (4) that an injunction is in the public interest. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 12 (2008). All four elements must be satisfied. *Id.* Under this standard, plaintiffs' have a demanding burden of "clearly showing" that they are likely to succeed on the merits. Plaintiffs' motion for a preliminary injunction must be denied because plaintiffs have failed to make a clear showing that all four of these elements are present.

II. Plaintiffs Have Not Shown That They Are Likely to Succeed on Their Claims.

As already noted, defendants have fully responded to plaintiffs' arguments that they "have identified substantial evidence showing that [Congressional District] 1 and [Congressional District] 12 are unconstitutional because they were drawn based on race and are not supported by the type of compelling justification required to uphold racially motivated redistricting." [D.E. 49, p. 6] Not only have plaintiffs failed to make any such showing, they continue to ignore the fact that a three-judge panel of the Superior Court of Wake County has considered the "substantial evidence" to which plaintiffs refer and rejected the assertion that this evidence shows that the First and Twelfth Congressional Districts are unconstitutional racial gerrymanders. *See* Judgment and Memorandum Opinion, *Dickson v. Rucho*, Nos. 11 CVS 16896 and 11 CVS 16940 (consolidated) (July 8, 2013) ("*State Redistricting Cases*") [D.E. 30, Ex. A]

The three-judge panel in the *State Redistricting Cases* considered the same evidence that plaintiffs forecast in this case. Indeed, it is because the evidence from the *State Redistricting Cases* is available for this case that plaintiffs suggest this case can move expeditiously. With regard to the First Congressional District, and leaving aside issues raised by plaintiffs complaint concerning § 5 of the Voting Rights Act, the three-judge panel in the *State Redistricting Cases* concluded,

> as a matter of law, that the General Assembly had a strong basis in evidence to conclude that each of the *Gingles* preconditions was present in substantial portions of North Carolina and that, based upon the totality of circumstances, VRA districts [including the First Congressional District] were required to remedy against vote dilution. Therefore, the trial court concludes, the General Assembly had a compelling governmental interest of avoiding § 2 liability and was justified in crafting redistricting plans reasonably necessary to avoid such liability.

[D.E. 30, Ex. A, pp. 20-21] In other words, the three-judge panel found that the First Congressional District was drawn to comply with § 2 of the Voting Right Act.

With regard to the Twelfth Congressional District, the three-judge panel found

> that the shape, location and composition of the four non-VRA districts challenged by the Plaintiffs as racial gerrymanders [which included the Twelfth Congressional District] was dictated by a number of factors, which included a desire of the General Assembly to avoid § 2 liability and to ensure preclearance under § 5 of the VRA, but also included equally dominant legislative motivations to comply with the Whole County Provision, to equalize population among the districts, to protect incumbents, and to satisfy the General Assembly's desire to enact redistricting plans that were more competitive for Republican candidates than the plans used in past decades or any of the alternative plans.

[D.E. 30, Ex. A, p. 47] Based on this, the three-judge panel "conclude[d] that the General Assembly has articulated a reasonably conceivable state of facts, other than a racial motivation, that provides a rational basis for creating the non-VRA districts as drawn in the Enacted Plans." [D.E. 30, Ex. A, p. 48]

Simply put, the decision of the three-judge panel in the *State Redistricting Cases* shows that plaintiffs are not likely to succeed on the merits of this case.

III. It Is Already Too Late to Interfere with the 2014 Election Process.

Plaintiffs urge that it is not too late to enjoin use of the challenged districts (and, of necessity, enjoin elections in all of North Carolina's congressional districts), asserting there is "ample time for the North Carolina General Assembly or this Court to adopt a remedial map to be implemented before the 2014 elections." [D.E. 49, p. 7] This simply is not true. Plaintiffs assert that "[t]he primary election is nearly *three months* away" [D.E. 49, p. 8 (emphasis original)], but they fail to note another significant deadline on

the chart they include in their memorandum—that absentee voting for the primary begins on 17 March 2014, *less than three weeks* from the date this memorandum is filed, and only *12 days* after the date set in the Joint Rule 26 Report [D.E. 45] for a reply brief on plaintiffs' Motion for Expedited Consideration of Motion for Preliminary Injunction and Further Proceedings, or 5 March 2014. Obviously, if absentee balloting begins on 17 March, the absentee ballots to be used must be ready prior to the date; indeed, ballot preparation will need to begin as soon as filing has closed on 28 February and the list of candidates is established. What plaintiffs are asking, then, is not for the Court to enjoin a *future* election; they are asking the Court to enjoin an election that has already begun and in which votes may already have been cast.

The North Carolina Supreme Court has recognized the dangers of interfering at a late date with the elections process. In *Pender County v. Bartlett*, 361 N.C. 491, 649 S.E. 2d 364 (2007), the Court reversed a final judgment finding that District 18 in the 2003 House Plan did not violate the Whole County Provision of the N.C. Constitution, Art. II, §§ 3 and 5 ("WCP"). Instead, the Court held that District 18 did in fact violate the WCP. Rather than order the General Assembly to immediately correct the deficiencies in District 18 as well as "other legislative districts directly and indirectly affected" by the Court's opinion, the Court stayed its remedy until after the next election.

The timing of the *Pender County* case is significant. The *Pender County* Court issued its opinion on 24 August 2007. Despite the fact that the filing period was not set to begin until February 2008—nearly six months later—and the primary was not until May 2008, the Court refused to direct the General Assembly to correct the deficient

districts at a time when such correction would have required a special session.[1] Moreover, the case involved only a limited redistricting in one area of the State as opposed to the entire statewide plan. In refusing to disrupt the elections process, the Court explained that it "realize[s] that candidates have been preparing for the 2008 election in reliance upon the districts as presently drawn." Thus, the North Carolina Supreme Court refused to require the General Assembly to correct *finally adjudicated* deficiencies in *one legislative district* in the North Carolina House Plan where the Court issued its ruling in *August* prior to the next year's election. In the instant case, Plaintiffs did not even file their preliminary injunction request until 24 December 2013, just a little more than a month away from the opening of the filing period. Using the example set by *Pender County*, plaintiffs have plainly missed their window of opportunity to disrupt the 2014 elections.

Similarly, the federal three-judge court in *Dean v. Leake*, 550 F. Supp. 2d 594 (E.D.N.C. 2008), which considered in late January 2008 a preliminary injunction motion to enjoin the use of legislative districts in the 2008 election, stated:

> Defendants argue that they will be significantly harmed if this Court were to enjoin them from conducting the 2008 election using the 2003 legislative districts. "Because state officials are the parties against whom

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[1] Plaintiffs erroneously state in their brief that "[u]nder North Carolina law, the General Assembly is entitled to only two weeks 'to remedy any defects' in voting districts, after which the Court may adopt its own 'interim districting plan' if necessary." [D.E. 49, p. 8, quoting N.C. GEN. STAT. § 120-2.4] That is not what N.C. Gen. Stat. § 120-2.4 states. That statute states: "If the General Assembly enacts a plan apportioning or redistricting State legislative or congressional districts, in no event may a court impose its own substitute plan unless the court first gives the General Assembly a period of time to remedy any defects identified by the court in its findings of fact and conclusions of law. That period of time shall *not be less than* two weeks." (Emphasis added.) In other words, the General Assembly is not entitled to *only* two weeks, it is entitled to *at least* two weeks.

> the injunction is sought, and they represent the public interest, consideration of the harm to them should the injunction issue merges with consideration of the public interest." *Jackson v. Leake*, 476 F. Supp. 2d 515, 530 (E.D.N.C. 2006). The filing of candidates commenced on February 11, 2008, and the primary is scheduled to be held on May 6, 2008. Invalidating any of the districts would likely disrupt the electoral process. Some of the prospective candidates and voters have begun to prepare for the 2008 elections in reliance on the existing state district plan. Any delay could affect "the ability of North Carolinians to participate meaningfully in the presidential primaries," and granting a preliminary injunction will otherwise "disrupt an orderly election process." (Defs.' Mem. Opp., Doc. No. 41, at 13). We find that Defendants and the public interest in holding an orderly election would be substantially harmed if preliminary injunctive relief were granted.

Dean, 550 F. Supp. 2d at 605-606.

Prior decisions involving the First and Twelfth Districts also warrant strongly against preliminary injunctive relief. For example, in *Shaw v. Hunt*, 861 F. Supp. 408, 460-61 (E.D.N.C. 1984), rev'd, 517 U.S. 899, 902 (1996) ("*Shaw II*"), the district court entered an order on 1 March 1994, denying the plaintiff's motion for a preliminary injunction. *Shaw II*, No. 92-202-CIV-5-BR, slip op. at 2-3 (E.D.N.C. March 9, 1994) (attached as Exhibit A). Following remand from the United States Supreme Court in *Shaw II*, the three-judge panel in July 1996 invalidated the congressional districts enacted in 1991 and enjoined their use but only after the 1996 elections. *Shaw II*, No. 92-202-CIV-5-BR, slip op. at 2-3 (E.D.N.C. July 30, 1996) (attached as Exhibit B). In *Easley v. Cromartie*, 133 F. Supp. 2d 407, rev'd in part, 532 U.S. 234 (2001) ("*Cromartie II*"), the Supreme Court took the extraordinary action of issuing a stay of the district court's judgment enjoining the State from conducting the 2000 elections under the 1997 version of the Twelfth District. *See Cromartie II*, 529 U.S. 1014 (March 16, 2000) (attached as

Exhibit C). There are also several other cases in which the Supreme Court has stayed orders of three-judge courts invalidating election plans and enjoining elections. *See Voinovich v. Quilter*, 503 U.S. 979 (1992); *Wetherall v. DeGrandy*, 505 U.S. 1231 (1992); *Louisiana v. Hays*, 512 U.S. 1273 (1994); *Miller v. Johnson*, 512. U.S. 1283 (1994).

The election process has already begun. Especially given that plaintiffs have not established that they are entitled to a preliminary injunction, there is no reason to expedite the hearing of plaintiffs' motion.

IV. Plaintiffs Will Not Suffer Any Harm if Their Motion Is Not Expedited, and to the Extent There Is Any Harm, Such Harm Is a Result of Plaintiffs' Own Lack of Diligence.

The claims raised by the plaintiffs were thoroughly litigated in the *State Redistricting Cases*. It is hard to understand how plaintiffs could be irreparably harmed should the State hold congressional elections under a plan that was used in the 2012 general elections and which has already been found to be constitutional in a well-reasoned opinion by a three-judge state court.

Even if plaintiffs had demonstrated any concrete rather than speculative harm in the 2011 districting, such harm would be due largely to their own lack of diligence in pursuing their claims. North Carolina's current congressional plan was enacted in July of 2011. Elections were held under this plan in 2012. Plaintiffs waited until 24 December 2013 to file their motion for a preliminary injunction. Plaintiffs have simply waited too long to interfere with the 2014 electoral process. Equity demands that those who would seek to enjoin the use of duly-enacted legislative districting plans, whether permanently

or preliminarily, do so with sufficient dispatch and haste as to avoid unnecessary disruption of the electoral process. *See Quince Orchard Valley Citizens Ass'n v. Hodel*, 872 F.2d 75, 80 (4th Cir. 1989) (approving the district court's denial of a preliminary injunction on the ground that any potential harm to the plaintiff was a result of its own delay in seeking injunctive relief).

This matter is already being expedited. The discovery period is essentially two-and-one-half months, less than the four months considered "standard" by LR 26.1(a). The Court should not further expedite this case solely for the purpose of hearing a considering a motion that plaintiffs delayed in bringing and that seeks relief to which plaintiffs are not entitled.

CONCLUSION

For all of the reasons stated above, plaintiffs' motion should be denied.

Respectfully submitted this 26th day of February, 2014.

ROY COOPER
ATTORNEY GENERAL OF NORTH CAROLINA

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CERTIFICATE OF SERVICE

I, Thomas A. Farr, hereby certify that I have this day electronically filed the foregoing **DEFENDANTS' RESPONSE TO PLAINTIFFS' RENEWED MOTION FOR ORAL ARGUMENT AND MOTION FOR EXPEDITED CONSIDERATION OF MOTION FOR PRELIMINARY INJUNCTION AND FURTHER PROCEEDINGS** with the Clerk of Court using the CM/ECF system which will provide electronic notification of the same to the following:

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This the 26th day of February, 2014.

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EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

No. 92-202-CIV-5-BR

RUTH SHAW, ET AL.,

Plaintiffs,

and

JAMES ARTHUR "ART" POPE, ET AL.,

Plaintiff-Intervenors

v.

JAMES B. HUNT, ET AL.,

Defendants,

and

RALPH GINGLES, ET AL.,

Defendant-Intervenors.

O R D E R

Pending before the court are Plaintiff-Intervenors' Motion for a Preliminary Injunction, Plaintiffs' Motion in Limine and Defendant-Intervenors' Request For Judicial Notice. All have been fully briefed and are now ripe for decision.

Plaintiff-Intervenors' Motion for a Preliminary Injunction must be evaluated in light of the four factors established by the Fourth Circuit in Blackwelder Furn. Co. v. Seilig Mfg. Co.. These are: (1) the possibility of harm to the plaintiffs if the relief is denied; (2) the possibility of harm to the defendants if the relief is granted; (3) the likelihood of plaintiffs' success on the merits; and (4) the public interest. Blackwelder, 550 F.2d 189

(4th Cir 1977). These factors must be balanced when determining the appropriateness of a preliminary injunction. The higher the plaintiffs' likelihood of success on the merits, the less harm need be shown. Id. In the case at bar, the majority does not feel that plaintiffs' likelihood of success is so great that only one result will be reached. As a result, the court must weigh the relative harms and public interest.

If the injunction is denied, there would have been little harm to the plaintiffs should they prevail on the merits because the interim relief sought could be awarded to them after a complete trial, which should conclude before the regularly scheduled congressional primary.

The harm to defendants if this interim relief is granted would be substantial if the ultimate resolution of this matter is in their favor. If the injunctive relief is granted but the current boundary lines of the districts are ultimately upheld, the congressional election will have to be held separately. This would result in needless confusion and expense.

Further, the public interest will be best served by denying Plaintiff-Intervenors' motion. If the election process were enjoined, it would cause confusion, not only to candidates and election officials, but more importantly to the voting public. The best interests of the people of North Carolina will be better served by preserving the status quo at this point.

For the reasons stated herein, Plaintiff-Intervenors' Motion For a Preliminary Injunction is DENIED. Judge Voorhees dissents.

Plaintiffs have filed a Motion in Limine to exclude from evidence certain census and socioeconomic data, public opinion polls and surveys, factual information or opinions that were not available to the North Carolina Legislature at the time Chapter 7 was drawn, and any testimony that may be based on the aforementioned information. Defendant-Intervenors have filed a Request that the court take judicial notice of certain census data. Both of these directly concern matters of relevance under the Federal Rule of Evidence. Because this will be a bench trial the judges will be able to assess the relevance of all evidence that is received without risk of prejudice. In addition a complete record will be preserved for appellate review. Plaintiffs' Motion in Limine is DENIED. Defendant-Intervenors' Request for Judicial Notice is ALLOWED.

This 9 March 1994.

W. EARL BRITT
United States District Judge
For the Court

I certify that the foregoing is a true and correct copy of the original
David W. Daniel, Clerk
United States District Court
Eastern District of North Carolina
By: Deputy Clerk

EXHIBIT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 92-202-CIV-5-BR

RUTH O. SHAW, et al.,

Plaintiffs,

and

JAMES ARTHUR "ART" POPE, et al.,

Plaintiff-Intervenors,

v.

JAMES B. HUNT, JR., et al.,

Defendants,

and

RALPH GINGLES, et al.,

Defendant-Intervenors.

O R D E R

This matter is before the court on remand from the Supreme Court of the United States "for further proceedings in conformity with the opinion of [that] court" which, reversing our decision, see 861 F. Supp. 408, held North Carolina's present congressional districting plan unconstitutional because "District 12 is not narrowly tailored to the State's asserted interest in complying with § 2 of the Voting Rights Act." Shaw v. Hunt, 64 U.S.L.W. 4437, 4443 (U.S. June 13, 1996).

Following the remand, we permitted the filing by plaintiffs and plaintiff-intervenors of an amended complaint which, by adding additional parties with standing to do so, challenged on

similar grounds District 1 in the State's plan. This challenge, in the form of an added claim, has been put in issue by answers filed by the state defendants and the intervenor-defendants, and by plaintiff-intervenors' motion for summary judgment to which no response is yet due.

Two issues are thus presented: (1) proper disposition of the added District 1 claim, and (2) the appropriate remedy to be ordered for the specific constitutional violation found by the Supreme Court respecting District 12.

1. Because the challenge to District 1 will almost certainly be mooted in the remedial process next to be ordered, we defer consideration of that claim pending further orders of this court.

2. To remedy the constitutional violation found by the Supreme Court, it is ORDERED that the State of North Carolina is hereby ENJOINED from conducting any elections for congressional offices under the redistricting plan enacted as 1991 N.C. Extra Sess. Laws, Ch. 7, after those regularly scheduled for 1996.

3. It is further ORDERED that, in exercise of this court's equitable power to withhold the grant of immediately effective relief for found constitutional violations in legislative districting plans in order to avoid undue disruption of ongoing state electoral processes, the 1996 primary elections already held for congressional offices are hereby validated and the 1996 general election for those offices may proceed as scheduled under state law

to elect members of congress under the existing redistricting plan. Reynolds v. Sims, 377 U.S. 533, 585 (1964).

4. It is further ORDERED that the matter of providing a redistricting plan which for post-1996 congressional elections will remedy the constitutional violation found by the Supreme Court is referred to the North Carolina General Assembly for exercise of its primary jurisdiction. Wise v. Lipscomb, 437 U.S. 535, 539 (1978). That primary jurisdiction should be exercised as expeditiously as possible by the adoption and submission to this court for approval of a districting plan effective for the purpose. Failing such a submission by April 1, 1997, this court will discharge its obligation to develop and put into effect an appropriate remedial plan.

5. This court retains jurisdiction for such further action and proceedings as are required.

This order is entered by a majority of the three-judge court. Chief Judge Voorhees dissents from those portions which withhold immediate relief. Both the court majority and Chief Judge Voorhees will as quickly as possible issue memorandum opinions explaining their positions.

This 30 July 1996.

J. DICKSON PHILLIPS, JR.
Senior United States Circuit Judge
W. EARL BRITT
United States District Judge

By: W. Earl Britt
W. EARL BRITT
United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

RUTH O. SHAW, MELVIN G. SHIMM, ROBINSON O. EVERETT, JAMES M. EVERETT, DOROTHY G. BULLOCK, MARTIN CROMARTIE, THOMAS CHANDLER MUSE, and GLENNES DODGE WEEKS

Plaintiffs,

and

JAMES ARTHUR "ART" POPE, BETTY S. JUSTICE, DORIS LAIL, JOYCE LAWING, NAT SWANSON, RICK WOODRUFF, J. RALPH HIXON, AUDREY McBANE, SIM A. DELAPP, JR., RICHARD S. SAHLIE, HOWARD B. SMITH, H. M. "TED" TYLER, FERRELL L. BLOUNT, III, HOWARD DANIELEY, ANTHONY G. POSEY, and RACHEL NANCE RUMLEY

Plaintiff-Intervenors,

v.

JAMES B. HUNT, in his official capacity as Governor of the State of North Carolina, DENNIS A. WICKER, in his official capacity as Lieutenant Governor of the State of North Carolina and President of the Senate, HAROLD J. BRUBAKER, in his official capacity as Speaker of the North Carolina House of Representatives, JANICE FAULKNER, in her official capacity as Secretary of the State of North Carolina, THE NORTH CAROLINA STATE BOARD OF ELECTIONS, an official agency of the State of North Carolina, EDWARD J. HIGH, in his official capacity as Chairman of the North Carolina State Board of Elections, JEAN H. NELSON, in her official capacity as a member of the North Carolina State Board of Elections, LARRY LEAKE, in his official capacity as a member of the North Carolina State Board of Elections, DOROTHY PRESSER, in her official capacity as a member of the North Carolina State Board of Elections, and JUNE K. YOUNGBLOOD, in her official capacity as a member of the North Carolina State Board of Elections,

Defendants,

and

JUDGMENT IN A CIVIL CASE

No. 92-202-CIV-5-BR

RALPH GINGLES, VIRGINIA NEWELL, GEORGE SIMKINS, N. A. SMITH, RON LEEPER, ALFRED SMALLWOOD, DR. OSCAR BLANKS, REVEREND DAVID MOORE, ROBERT L. DAVIS, C. R. WARD, JERRY B. ADAMS, JAN VALDER, BERNARD OFFERMAN, JENNIFER MCGOVERN, CHARLES LAMBETH, ELLEN EMERSON, LAVONIA ALLISON, GEORGE KNIGHT, LETO COPELEY, WOODY CONNETTE, ROBERTA WADDLE and WILLIAM M. HODGES,

Defendant-Intervenors.

Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that the State of North Carolina is hereby enjoined from conducting any elections for congressional offices under the redistricting plan enacted as 1991 N. C. Extra Sess. Laws, Ch. 7, after those regularly scheduled for 1996.

IT IS FURTHER ORDERED AND ADJUDGED that the 1996 primary elections already held for congressional offices are hereby validated and the 1996 general election for those offices may proceed as scheduled under state law to elect members of Congress under the existing redistricting plan.

IT IS ALSO ORDERED AND ADJUDGED that the matter of providing a redistricting plan which for post-1996 congressional elections will remedy the constitutional violation found by the Supreme Court is referred to the North Carolina General Assembly for exercise of its primary jurisdiction. That primary jurisdiction should be exercised as expeditiously as possible by the adoption and submission to this court for approval of a districting plan effective for the purpose. Failing such a submission by April 1, 1997, this court will discharge its obligation to develop and put into effect an appropriate remedial plan.

THIS JUDGMENT FILED AND ENTERED ON JULY 31, 1996, WITH COPIES TO:

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July 31, 1996

DAVID W. DANIEL, CLERK

(By) Deputy Clerk

EXHIBIT C

1

529 U.S. 1013, 146 L.Ed.2d 307

**Darrell Keith RICH, petitioner,
v. Jeanne WOODFORD,
Warden, et al.
No. 99-8616 (99A760).**

March 14, 2000.

Application for stay of execution of sentence of death presented to Justice O'CONNOR and by her referred to the Court denied. Petition for writ of certiorari to the United States Court of Appeals for the Ninth Circuit denied.

2

529 U.S. 1013, 146 L.Ed.2d 307

**Patrick Gene POLAND, petitioner,
v. ARIZONA.
No. 99-8597 (99A741).**

March 15, 2000.

Application for stay of execution of sentence of death presented to Justice O'CONNOR and by her referred to the Court denied. Petition for writ of certiorari to the Superior Court of Arizona, Yavapai County, denied.

Justice STEVENS and Justice BREYER would grant the application for stay of execution.

3

529 U.S. 1013, 146 L.Ed.2d 307

**Patrick Gene POLAND, petitioner, v.
Terry L. STEWART, Director, Arizona Department of Corrections.
No. 99-8615 (99A759).**

March 15, 2000.

Application for stay of execution of sentence of death presented to Justice O'CONNOR and by her referred to the Court denied. Petition for writ of certiorari to the United States Court of Appeals for the Ninth Circuit dismissed for want of jurisdiction.

4

529 U.S. 1013, 146 L.Ed.2d 307

**In re Patrick Gene POLAND,
petitioner.
No. 99-8625 (99A761).**

March 15, 2000.

Application for stay of execution of sentence of death presented to Justice O'CONNOR and by her referred to the Court denied. Petition for writ of habeas corpus denied.

5

529 U.S. 1014, 146 L.Ed.2d 307

**James B. HUNT, Governor of North Carolina, et al., appellants, v.
Martin CROMARTIE, et al.
No. 99A750.**

March 16, 2000.

Application for stay of judgment of the United States District Court for the Eastern District of North Carolina, case No. 4:96-CV-104-B0(3), entered March 8, 2000, presented to THE CHIEF JUSTICE and by him referred to the Court granted pending the timely docketing of the appeals in this Court. Should the jurisdictional statements be timely filed, this order shall remain in effect pending this Court's action on the appeals. If appeals are dismissed, or judgment is affirmed, this order shall terminate automatically. In the event jurisdiction is noted or postponed, this order will remain in effect pending the sending down of the judgment of this court.