

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

FILED

AUG -2 2018

CLERK, US DISTRICT COURT
NORFOLK, VA

LATASHA HOLLOWAY,

plaintiff,

vs.

CIVIL ACTION NO:2:18-CV-00069 AWA-RJK

CITY OF VIRGINIA BEACH, VIRGINIA,

defendants.

MOTION TO STAY PROCEEDINGS AND MEMORANDUM IN SUPPORT

COMES NOW Latasha Holloway, and respectfully moves this Honorable Court to issue an Order granting motion to stay proceedings, pending review of Plaintiff's Motion for Appointment of Counsel, Amended Complaint, Amended Affidavit, Class Certification, grant Plaintiff more time to initiate discovery, such as oral testimony of experts, witnesses, documents, public records, and objects to support claim in the interests of justice.

1. In Virginia Beach, African-American voters make up about 19.4% of the population, yet they rarely are elected to any of the 11 member City Council seats.

Plaintiff's complaint allege, that only three African-American candidates ever have won an election in the City of Virginia Beach. No African-American candidate has won an election from 1906 until 1986. See **Exhibit (A)**

2. Plaintiff, claim the City's election practice unfairly dilutes the minority vote, which has the effect of denying African-American voters an equal opportunity to participate in the political process, thereby violating Section 2 of the Voting Rights Act ("VRA"), 52 U.S.C. § 10301 ("Section 2").

3. Plaintiff brought the claim for declaratory and injunctive relief, asking the court to strike down Virginia Beach's at-large election system for council members and order the city to implement a new election method consisting of single-member districts.

4. Defendants, the City of Virginia Beach, moved to dismiss the complaint under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. For the reasons set forth in the amended complaint incorporated by reference herein, and the motion to dismiss should be denied. *Thornburg v. Gingles*, 478 U.S. 30 (1986); See *White v. White*, 886 F.2d 721, 722-23 (4 Cir.1989).

5. Plaintiff is proceeding pro se, and exceptional circumstances exist in this complex vote dilution and discrimination case, alleging that the City's at-large system of electing members of the Virginia Beach City Council dilutes or minimizes "minority voting strength" that deprives Plaintiff and others similarly situated an equal opportunity to elect candidates of their choice in violation of Section 2 of the Voting Rights Act of 1965, as amended 42 U.S.C. § 1973 *et. seq.*, 42 U.S.C. § 1983, the Fourteenth and Fifteenth Amendments.

6. Plaintiff believes that there is a "substantial likelihood that this Court will conclude that the City's election practice unfairly dilutes the minority vote, which has the effect of denying African-American voters an equal opportunity to elect their preferred Representatives and participate in an unimpaired political process, if granted a stay. *Gingles*, 478 U.S. at 47. See *Briscoe v. Bell*, 432 U.S. 404, 410 (1977).

7. Plaintiff needs additional time to gather the demographic information regarding the shape, size, and total population of the six election districts of sufficient minority concentration and geographic

compactness, **Kempsville, College Park, Shell, Baker, Newtown, and Timber Lake**, constitute majority minority districts, thus the minority groups are "politically cohesive," and the majority groups "votes sufficiently as a bloc to enable it usually to defeat the minority's preferred candidate." *Gingles*, 478 U.S. at 49-51. *Reynolds v. Sims*, 377 U.S. 533, 562 (1964).

⁶ Section 2(b), 52 U.S.C. § 10301(b), in full, provides: A violation of [Section 2(a)] is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: Provided, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

8. Plaintiff's ongoing health related challenges, sever "depression" lack of legal expertise, poverty, caring for special needs children on a daily basis, hinders Holloway's ability to perform any meaningful legal and demographic research in support of vote dilution claim.

9. Plaintiff and defendants will not be prejudiced by granting stay relief and all other legal defenses not specifically stated herein in support.

I ASK FOR THIS

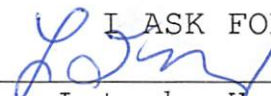

Ms. Latasha Holloway
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Exhibit (A) History of Council Members

NAME	DISTRICT	TERM
Jessica P. Abbott	Kempsville	01/01/2017 - 12/31/2020
Albert W. Balko (Deceased)	Lynnhaven	07/01/1986 - 06/30/1990
John A. Baum (Deceased)	At Large Blackwater	01/01/2000 - 06/30/2000 07/01/1972 - 06/30/1998
Rita Sweet Bellitto	At-Large	Resigned 06/18/2011 02/23/2010 - 12/31/2014 (unexpired of Ron Villaneuva)
A. L. Bonney	Kempsville	01/08/1965 - 09/08/1970
Linwood O. Branch, III	Beach	07/01/1992 - 06/30/2002
Capt. James W. Brazier, Jr.	Lynnhaven	07/01/1990 - 06/30/1994
S. Paul Brown (Deceased)	Princess Anne	01/01/1963 - 07/22/1967
Dr. E. T. Buchanan, III	Lynnhaven	06/01/1981 - 06/30/1982
Robert H. Callis, Jr. (Deceased)	Virginia Beach	09/08/1970 - 06/30/1976
Edward T. Caton, III (Deceased)	Virginia Beach	01/01/1963 - 01/24/1966
Robert W. Clyburn (Deceased)	Kempsville	07/01/1990 - 06/30/1994
Nancy A. Creech	At Large	07/01/1982- 06/30/1986
Robert B. Cromwell, Jr.	At Large	09/01/1966 - 06/30/1978
James E. Darden (Deceased)	Lynnhaven	01/01/1963 - 09/01/1966
M. Benjamin Davenport	At Large	01/01/2015 - 12/31/2018

Glenn R. Davis	Rose Hall	Resigned 12/31/2013 01/01/2009 - 12/31/2016
Robert K. Dean	Princess Anne	07/01/1992 - 06/30/1996
William R. DeSteph	At Large	Resigned 12/31/2013 07/01/2006 - 12/31/2014
Harry E. Diezel	Kempsville	12/17/2002 - 12/31/2012
Frank A. Dusch (Deceased)	At Large	01/01/1963 - 06/30/1972
Robert M. Dyer	Centerville	07/01/2004 - 12/31/2020
F. Reid Ervin (Deceased)	At Large Lynnhaven	07/01/1978 - 06/30/1982 09/08/1970 - 06/30/1974
Margaret L. Eure	Centerville	07/01/2000 - 06/30/2004 07/01/1998 - 06/30/2000
Robert E. Fentress (Deceased)	Virginia Beach	07/01/1984 - 06/30/1992
George R. Ferrell (Deceased)	At Large	09/01/1966 - 06/30/1980
Charles W. Gardner (Deceased)	At Large	07/01/1972 - 06/30/1976
John R. Griffin	Lynnhaven	07/01/1974 - 06/30/1978
W. W. (Bill) Harrison	Lynnhaven	07/01/1994 - 06/30/2002
Harold Heischober (Deceased)	At Large	03/01/1995 - 01/20/2000 (unexpired of Moss + one term) 07/01/1980 - 06/30/1992
Barbara M. Henley	Princess Anne/Pungo	07/01/2006 - 12/31/2018 07/01/1994 - 06/30/2002 07/01/1978 - 06/30/1990
L. Stanley Hodges	At Large	01/01/1963 - 09/01/1966

(Deceased)

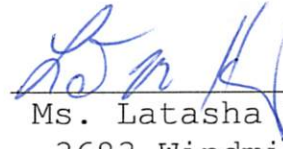
Clarence A. Holland	Bayside	09/08/1970 - 06/30/1982
Garland L. Isdell	Kempsville	11/19/1973 - 06/30/1974
H. Jack Jennings	Lynnhaven	07/01/1982 - 06/30/1986
Louis R. Jones	Bayside	07/01/2006 - 12/31/2018 07/01/1990 - 06/30/2006 07/01/1982 - 06/30/1986
Robert G. Jones	At Large	07/01/1982 - 06/30/1988
Shannon DS Kane	Rose Hall	01/01/2014-12/31/2020 unexpired term of Glenn Davis
W. Hugh Kitchin, Jr.	Virginia Beach	01/01/1963 - 09/01/1966
W. H. Kitchin, III	Virginia Beach	07/01/1980 - 06/30/1984
Paul J. Lanteigne	Pungo	07/01/1990 - 06/30/1994
Reba S. McClanan	Princess Anne / Rose Hall	07/01/2004 - 12/31/2008 07/01/1996 - 06/30/2004 07/01/1980 - 06/30/1992
J. Henry McCoy, Jr. DDS	Kempsville	07/01/1974 - 06/30/1986
John McCombs (Deceased)	Virginia Beach	09/01/1963 - 09/01/1970
Richard A. Maddox	Beach	07/01/2002 - 06/30/2006
D. Murray Malbon (Deceased)	At Large	09/01/1966 - 06/30/1974
Robert C. Mandigo, Jr.	Kempsville	Resigned 10/30/2002 07/01/2000 - 06/30/2004
Lawrence E. Marshall (Deceased)	Bayside	01/01/1963 - 09/01/1970
Brad Martin, P.E.	At Large	01/01/2014-12/31/2014 unexpired term of DeSteph

Donald W. Merrick (Deceased)	Lynnhaven	07/01/1978 - 05/18/1981
John D. Moss	At Large	11/10/2011- 12/31/2018 Resigned 03/17/1995 07/01/1992 - 03/17/1995 07/01/1986 - 06/30/1990
Meyera E. Oberndorf (Deceased)	At Large	07/01/1976 - 12/31/2008
C. B. Owens (Deceased)	Virginia Beach	01/24/1966 - 09/01/1966
Nancy K. Parker	Princess Anne Rose Hall	07/01/1986 - 06/30/2002
J. Curtis Payne (Deceased)	Princess Anne	08/22/1967 - 08/31/1969 (Unexpired term of Paul Brown) 09/01/1978 - 08/31/1980
X John L. Perry (Deceased)	Bayside	07/01/1986 - 06/30/1990
Swindell Pollock (Deceased)	Kempsville	01/01/1963 - 11/08/1965
Jim Reeve	Princess Anne	07/01/2002 - 06/30/2006
Donald H. Rhodes (Deceased)	Kempsville	09/08/1970 - 11/19/1973
R. L. Riggs (Deceased)	Virginia Beach	07/01/1976 - 06/30/1980
X Dr. Amelia Ross-Hammond	Kempsville	01/01/2013-12/31/2016
Peter W. Schmidt	At Large	07/01/2002 - 06/30/2006
William D. Sessoms, Jr.	At Large	01/01/2009-04/30/2018 (resigned) 07/01/1988 -06/30/2002

Prescott Sherrod	At Large	08/01/11-11/10/11(unexpired term of Bellitto)
G. Dewey Simmons, Jr. (Deceased)	Lynnhaven	09/01/1966 - 09/08/1970
James E. Snyder	Blackwater	01/01/1963 - 08/09/1963
Patrick L. Standing	At Large	07/01/1974 - 06/30/1982
X Louisa M. Strayhorn	Kempsville	07/01/1994 - 06/30/1998
Frank D. Tarrall, Jr. (Deceased)	Virginia Beach	09/01/1970 - 09/08/1970
Earl M. Tebault	Blackwater	08/09/1963 - 06/30/1972
John E. Uhrin	Beach	07/01/2006 - 12/31/2018
Ron A. Villanueva	At Large	Resigned 12/31/2009 07/01/2002 - 12/31/2010
Floyd E. Waterfield, Jr.	Pungo	09/08/1970 - 06/30/1978
A. M. "Don" Weeks	Kempsville	07/01/1998 - 06/30/2000
Kenneth N. Whitehurst	Pungo	01/01/1963 - 09/01/1970
Rosemary Wilson	At Large	07/01/2000 - 12/31/2020
James L. Wood	Lynnhaven	07/01/2002 - 12/31/2018

CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2018, a true copy of the foregoing was mailed to Mark D. Stiles and Gerald L. Harris Counsel for defendants, City Attorney Office of the City Attorney 2401 Courthouse Dr Building 1 Virginia Beach, Virginia 23456. (757) 385-5687 mstiles@vbgov.com



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