

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DISTRICT**

THE HONORABLE REVEREND	:	CASE NO. 4:22-cv-612
KENNETH L. SIMON, ET AL	:	
	:	RELATED CASE NOS. 2:21-CV-2267
PLAINTIFFS,	:	AND 4:88-CV-1104
	:	
VS.	:	CIRCUIT JUDGE JOAN L. LARSEN
	:	JUDGE SOLOMON OLIVER
GOVERNOR MIKE DEWINE, ET AL.	:	JUDGE JOHN R. ADAMS
	:	
DEFENDANTS.	:	

**MOTION OF THE SIMON PARTIES TO ALTER OR AMEND AUGUST 2, 2024
ORDER, ECF #59**

In accordance with the provisions of Fed. R. Civ. P. 59(e), the Honorable Reverend Kenneth L. Simon, the Honorable Reverend Lewis W. Macklin, II and Helen Youngblood, (“the Simon Parties”), respectfully move to alter or amend this Court’s August 2, 2024, Order, ECF Docket #. 59, denying Plaintiffs’ July 5, 2024 Motion to Alter or Amend the July 1, 2024 Order in this action, ECF Docket #54.

Plaintiffs move again to alter or amend for the reason the August 2, 2024 Opinion contains a clear error of law:

1. The August 2, 2024 Order, rather than contradict Plaintiffs’ argument that the comment within this Honorable Court’s July 1, 2024 Order concerning the significance of the term “nomination” within §2 of the Voting Rights Act, actually reinforces Plaintiffs’ position because the August 2, 2024 Order fails to cite any U.S. Supreme Court authority or 6th Circuit authority that states the term “nomination” has no §2 significance. Instead, the August 2, 2024 Order relies on France v. Pataki, 71 F. Supp. 2d 317 (S.D. NY 1999), an opinion of a single district court judge, not a three judge panel as required when challenging the appointment of a statewide legislative body, as Plaintiff have here, from

the Second Circuit. Unlike Plaintiffs' claim here, the France opinion was not focused on a local nomination process. France was a challenge to the entire judicial selection process in the State of New York. The case did not turn on whether the Gingles preconditions applied because the relief requested by the France Plaintiffs was replacing the New York at-large and district judicial "election" system with single member districts. Nowhere does France state, as this Honorable Court's August 2, 2024 Opinion implies, that if the France challenge had been limited to the judicial "nomination" process that Gingles preconditions would still apply. Accordingly the France case is not controlling authority in connection with the construction of Section 2 and its clearly not binding authority on this Honorable Court.

This Honorable Court's August 2, 2023, is further evidence that there is no U.S. Supreme Court or 6th Circuit authority that supports the proposition that the term "nomination" has no §2 significance. Plaintiffs respectfully move to alter or amend the August 2, 2024 Order ECF Docket #59 because there is no authority to support it.

/s/ Percy Squire
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served by operation of the United States District Court, Northern District of Ohio electronic filing system, on August 2, 2024.

s/Percy Squire, Esq.
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Attorney for Simon Party-Plaintiffs