

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA

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|---------------------------------|---|----------------------|
| Paul Goldman |) | Case No: 3:21-CV-420 |
| |) | |
| Plaintiff |) | |
| |) | |
| v. Ralph Northam, <i>et al.</i> |) | |
| |) | |
| Defendants |) | |



**PLAINTIFF’S MOTION FOR AN EXTENSION OF TIME TO RESPOND TO DEFENDANT’S
MOTION TO DISMISS**

Plaintiff, *pro se*, files this motion to ensure fairness to both Plaintiff as a litigant and the important public interests involved in the instant matter.

FACTS

1. Defendants filed their Motion to Dismiss on August 3.
2. Citing *Roseboro v Garrison*, 528 F.2d 309 (4th Cir. 1975), Defendants said Plaintiff “is entitled to file a response opposing the motion...within twenty-one (21) days of the date on which this motion was filed.” Motion to Dismiss, page 1.
3. In the Motion to Dismiss, Defendants claim “[i]ndeed, Plaintiff’s alleged injury does not exist, as the census data has not yet been received by the Defendants from the U.S. Census Bureau.” Memorandum of Support, page 5.
4. Plaintiff relied on the best Census data then available.
5. The relevant data referenced by Defendants in paragraph #3 *infra* was received from the U.S. Census Bureau on August 12, 2021. Virginia Redistricting Commission website, virginiaredistricting.org.
6. Defendants have said such information is fundamental for the proper judicial resolution of the instant matter.
7. However, upon information and belief, the official Census-certified House District population counts (essentially, the key data points in the instant matter), while embedded in the data referenced in paragraph #3, *infra*, have not yet been made available to the public.
8. When Defendants filed their Motion to Dismiss, they had reason to believe such Census data would be delivered to state officials during the 21-day period cited by Defendants in paragraph #2 *infra*.
9. In March 2021, the Virginia Redistricting Commission cited a Census Bureau press release stating that such data would be provided by mid-to-late

August 2021. See Virginia Redistricting Commission website cited in paragraph #5 *infra*.

10. In the Complaint, Plaintiff pointed out that August 16 seemed to be the specific target date. Complaint, paragraph #51.
11. Then on August 1, NBC Richmond, reported that the Virginia Redistricting Commission's meeting to be held on August 3 was "the last in-person session before the state receives data from the U.S. Census Bureau." <https://nbc12.com/2021/08/01/virginias-redistricting-commission-hold-public-meeting-tuesday/>.
12. Upon information and belief, the appropriate state officials knew the Census data referenced in paragraph #3 *infra* by Defendants would be made available to the state of Virginia on August 12. See Virginia Redistricting Commission website cited in paragraph #5 *infra*.
13. But even if, *arguendo*, the August 16 date for Census data transmittal to the state was anticipated, the timeline above demonstrates that when Defendants filed their Motion to Dismiss, it is fair and reasonable to assume said Defendants and/or their counsel, should have known state government would have been in possession of said data before the 21-day period would have run out.
14. Put another way, while the factual claim made by Defendants as to their lack of possession of said data may have been true on the date their Motion to Dismiss had been filed, the timeline demonstrates a reasonable inference that they should have known such an assertion would not be true during the period they knew this Plaintiff had to respond.
15. Therefore, Plaintiff wrote counsel to Defendants asking whether they would at least not oppose extending the time for Plaintiff to file a Response so he could have equal access to the Census data that Defendants referenced in their assertions in paragraph #3 *infra*.
16. Based on all the circumstances, Plaintiff believed he was making a most reasonable request.
17. Plaintiff was not asking for secret data, but rather data the Virginia Redistricting Commission and the Census Bureau has said is public information.
18. Indeed, based on Plaintiff's conversation with a helpful employee of the Census Bureau, the Census Bureau is working to make sure citizens like Plaintiff with normative computer skills can get the information in an easily useable format on the Census Bureau's website as soon as possible.
19. Unfortunately, Defendants have written Plaintiff saying they in no uncertain terms oppose this Motion or any extension of time. Email from Assistant Attorney General Carol Lewis.
20. Defendants' position is a catch-22.

21. On one hand, Defendants say Plaintiff should be thrown out of Court for not having said data. Indeed, they assert the alleged injury cannot exist until Defendants have the data.
22. But on the other hand, Defendants are prepared to block Plaintiff from getting access to such public, governmental data in a timely manner they concede is necessary to reply to their Motion to Dismiss, even if the data is in possession of the state government.
23. Plaintiff is unaware of any legitimate state interests that might be harmed by assuring Plaintiff has fair and timely access to official population count information which is considered public information by the Census Bureau, and which said agency and its Virginia counterpart are working diligently to make publicly available at this moment.
24. Plaintiff understands the Defendants' right to play hardball.
25. But hardball is one thing, dodgeball another.

CONCLUSION

THEREFORE, Plaintiff, *pro se*, respectfully asks this Court to grant this Motion and provide an additional fourteen (14) day extension period to respond to the Motion to Dismiss by setting a return date of no later than September 6, 2021, with leave to request further extension if the required public data has not been made publicly available in a reasonably timely fashion.

Respectfully submitted,



Paul Goldman
Plaintiff, *pro se*
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CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on August 16, 2021, I mailed this Motion for An Extension of Time to the Clerk of the Court in paper form via U.S. mail. A true copy of said Motion was also sent, via first class mail, to:

Calvin Brown
Carol Lewis
Brittany A. McGill
Office of the Attorney General

202 North Ninth Street
Richmond, Virginia 23219

A handwritten signature in black ink, appearing to read 'Paul Goldman', written over a horizontal line.

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