

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

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.

**PLAINTIFFS' MEMORANDUM OF
LAW IN SUPPORT OF THEIR
SECOND RENEWED MOTION FOR
ORAL ARGUMENT AND RENEWED
MOTION FOR EXPEDITED
CONSIDERATION OF MOTION FOR
PRELIMINARY INJUNCTION AND
FURTHER PROCEEDINGS**

Plaintiffs respectfully submit the following Memorandum of Law.

ARGUMENT

During the April 7, 2014 status conference, the Court scheduled this case for trial during the week of August 4, 2014. As to Plaintiffs' Motion for Preliminary Injunction (Dkt. No. 18), which has been pending since December 2013, the Court suggested it would soon take action on the Motion and would inform the parties if the Court required an evidentiary hearing before resolving the Motion.

In the interim, the North Carolina Supreme Court issued opinions on April 11, 2014,¹ but that Court did not issue an opinion in the State Redistricting Cases. The next

¹ See <http://appellate.nccourts.org/opinions/?c=sc&year=2014> (last accessed May 7, 2014).

scheduled date upon which the North Carolina Supreme Court may potentially release opinions or other rulings is not until June 12, 2014.²

Given that the North Carolina Supreme Court is not scheduled to issue any new opinions before mid-June 2014 at the earliest, Plaintiffs respectfully submit that action from this Court will be necessary to afford Plaintiffs any relief in advance of the General Election. Just yesterday, on May 6, 2014, the State of North Carolina conducted primary elections in state and federal races, including the races for Congressional Districts 1 and 12. The North Carolina Supreme Court allowed yesterday's primary elections to be conducted even though that Court has not yet issued an opinion in the State Redistricting Cases.

The United States Supreme Court has made clear that a federal court may appropriately act when a state court has delayed. *See Growe v. Emison*, 507 U.S. 25, 36, 113 S. Ct. 1075, 1082, 122 L. Ed. 2d 388 (1993) (“Of course the District Court would have been justified in adopting its own plan if it had been apparent that the state court, through no fault of the District Court itself, would not develop a redistricting plan in time for the primaries.”).

The Court's statement in *Growe* applies even more forcefully to this case, because the primary elections have now been conducted, and the general elections are approaching rapidly. Plaintiffs respectfully ask the Court to issue a ruling on Plaintiff's pending Motion for Preliminary Injunction and, if the Court deems necessary, to set an evidentiary hearing prior to its consideration of the motion.

² See <http://appellate.nccourts.org/petitions.php> (last accessed May 7, 2014).

Respectfully submitted, this the 7th day of May, 2014.

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Local Rule 83.1

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this date I served a copy of the foregoing **PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF THEIR SECOND RENEWED MOTION FOR ORAL ARGUMENT AND RENEWED MOTION FOR EXPEDITED CONSIDERATION OF MOTION FOR PRELIMINARY INJUNCTION AND FURTHER PROCEEDINGS** to be made by electronic filing with the Clerk of the Court using the CM/ECF System, which will send a Notice of Electronic Filing to all parties with an e-mail address of record, who have appeared and consent to electronic service in this action.

This the 7th day of May, 2014.

/s/ Edwin M. Speas, Jr.
Edwin M. Speas, Jr.