

**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 IN
SUPPORT OF THEIR RENEWED
MOTION FOR ORAL ARGUMENT
AND MOTION FOR EXPEDITED
CONSIDERATION OF MOTION FOR
PRELIMINARY INJUNCTION AND
FURTHER PROCEEDINGS**

Plaintiffs David Harris, Christine Bowser, and Samuel Love (“Plaintiffs”), by and through their counsel, submit this Memorandum in Support of their Renewed Motion for Oral Argument and Motion for Expedited Consideration of Motion for Preliminary Injunction and Further Proceedings.

I. INTRODUCTION

In this action, Plaintiffs request declaratory and injunctive relief enjoining the State of North Carolina from conducting elections for the United States House of Representatives under a racially gerrymandered redistricting plan. Specifically, Plaintiffs

assert that the State has “packed” African-American voters into Congressional Districts 1 and 12 (“CD 1” and “CD 12,” respectively); that race was the predominant factor in drawing those districts; and that the State had no compelling interest in drawing race-based districts. Plaintiffs do not—as Defendants have suggested—seek to delay the 2014 congressional elections. *See* Defs.’ Mem. in Opp’n to Pls.’ Mot. for Preliminary Injunction (“PI Opp’n”) at 40 (Dkt. 29). Instead, Plaintiffs seek to have a lawful voting map adopted quickly so that the 2014 elections may proceed as scheduled.

North Carolina’s congressional plan is currently the subject of a challenge in state court, which is on appeal before the North Carolina Supreme Court. The North Carolina Supreme Court has not stayed the 2014 election schedule. In the meantime, the qualifying period for federal candidates has begun. As a result, unless this Court grants expedited relief, the 2014 elections will proceed under an unlawful voting map, causing irreparable injury to Plaintiffs and similarly situated voters.

II. STATEMENT OF FACTS

Plaintiffs’ Memorandum in Support of their Motion for Preliminary Injunction (“PI Memo”) sets forth in detail the factual and legal bases of Plaintiffs’ claims and the reasons Plaintiffs are entitled to preliminary injunctive relief. *See* PI Memo at 5-38 (Dkt. 36). Plaintiffs incorporate those arguments and authorities here. The PI Motion is fully briefed and ready for decision.

The Court held an initial pretrial conference on February 12, 2014. At that time, Plaintiffs urged the Court to hear oral argument on Plaintiffs' PI Motion, decide the Motion as soon as possible thereafter, and adopt a remedial map, if necessary, well ahead of the 2014 congressional elections.

Defendants opposed Plaintiffs' requests for expedited consideration, arguing that the requests were futile because Plaintiffs are not entitled to relief before the 2014 elections even if Plaintiffs' claims have merit. Specifically, Defendants argued that the Court must allow the 2014 elections to proceed under the State's current map, *even if the map is unconstitutional*, because adopting a remedial map at this time would disrupt the election schedule and unduly inconvenience North Carolina's election officials.

Defendants are wrong. Plaintiffs are entitled to oral argument and expedited consideration of their PI Motion because Plaintiffs seek to vindicate the fundamental voting rights of North Carolina's citizens. The State's vague concerns about disruption and inconvenience cannot outweigh those rights. Moreover, North Carolina's primary election is still nearly three months away, and courts routinely resolve voting rights cases and fashion appropriate relief on similar or shorter timetables.

III. ARGUMENT

A. Oral Argument and Expedited Consideration Are Appropriate.

1. Oral argument is warranted because this case involves complicated factual and legal issues and implicates important public interests.

While motions are ordinarily decided on the pleadings and other papers, the Court may require oral argument based on “[s]pecial considerations thought by counsel sufficient to warrant a hearing or oral argument.” L.R. 7.3(c)(1). This case involves a variety of “[s]pecial considerations.” For example, Plaintiffs allege that the State racially gerrymandered two congressional districts in violation of the United States Constitution, and Plaintiffs ask the Court to cure those constitutional violations by enjoining elections under the current version of the Congressional district maps, and holding that the North Carolina General Assembly (or, in the absence of timely action by the General Assembly, this Court) shall adopt a remedial map prior to the 2014 congressional elections. This case therefore implicates important issues of constitutional law, complicated factual disputes (including disputes involving expert opinions), and weighty matters of public interest. In addition, this is one of the first cases in the country requiring a federal court to assess the impact of *Shelby County, Alabama v. Holder*, 133 S. Ct. 2612 (2013), in which the Supreme Court foreclosed the possibility of covered jurisdictions using Section 5 of the Voting Rights Act as a justification for racially motivated redistricting.

Each of those circumstances independently—and certainly in combination—warrants oral argument on Plaintiffs’ PI Motion. Plaintiffs therefore respectfully request

that the Court schedule a hearing and entertain oral argument as soon as possible.

Plaintiffs request a hearing in March 2014.

2. Expedited consideration is necessary to cure ongoing constitutional violations and prevent future violations.

Plaintiffs also request that the Court decide Plaintiffs' PI Motion and, if necessary, adopt a remedial map as soon as possible after hearing oral argument. Expedited relief is necessary to cure ongoing constitutional violations and to prevent future violations.

"It is beyond cavil that voting is of the most fundamental significance under our constitutional structure." *Burdick v. Takushi*, 504 U.S. 428, 433 (1992) (internal quotation marks and citation omitted). As the Supreme Court has explained, "[n]o right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined." *Wesberry v. Sanders*, 376 U.S. 1, 17-18 (1964). An abridgment of voting rights constitutes an irreparable injury. *See Dixon v. Md. State Admin. Bd. of Election Laws*, 878 F.2d 776, 782 (4th Cir. 1989) (denial of voting rights is "injury of great magnitude"); *Cannon v. N.C. St. Bd. of Educ.*, 917 F. Supp. 387, 391 (E.D.N.C. 1996) (denial of voting rights is "irreparable harm"). Thus, courts routinely grant preliminary injunctive relief where plaintiffs allege serious voting rights violations. *See id.* (granting preliminary injunctive relief in racial gerrymandering case because otherwise "plaintiffs' constitutional rights would be placed in great jeopardy, and the likelihood of irreparable harm would thus be quite high");

Republican Party of N.C. v. Hunt, 841 F. Supp. 722, 727-28 (E.D.N.C. 1994) (granting preliminary injunctive relief; reasoning that “should the 1994 elections . . . take place under the present system, the likelihood of irreparable harm to plaintiffs is significant”); *Johnson v. Miller*, 929 F. Supp. 1529, 1560 (S.D. Ga. 1996) (“We find irreparable harm in its purest sense will be occasioned by denying this preliminary injunction and by permitting use of a [districting] plan violating Plaintiffs’ equal protection rights. Plaintiffs, indeed all citizens of Georgia, should not be denied their right to a constitutional districting plan.”).

As explained in Plaintiffs’ PI Memo, the same result is warranted here. Plaintiffs have identified substantial evidence showing that CD 1 and CD 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. *See* PI Memo. at 5-38 (Dkt. 36). Plaintiffs are therefore entitled to preliminary injunctive relief to cure past and potential violations of North Carolinians’ voting rights.¹

The same considerations that support Plaintiffs’ request for preliminary injunctive relief also support Plaintiffs’ request for expedited consideration. “Constitutional violations, once apparent, should not be permitted to fester; they should be cured at the earliest practicable date.” *Desena v. Maine*, 793 F. Supp. 2d 456, 462 (D. Me. 2011) (requiring reapportionment in time for 2012 elections). The Court should therefore

¹ The State’s map also violates the Constitution because, by unlawfully classifying voters by race, it “threaten[s] to stigmatize individuals by reason of their membership in a racial group and to incite racial hostility.” *Shaw v. Reno*, 509 U.S. 630, 643 (1993).

decide Plaintiffs' PI Motion as quickly as possible and hold that the North Carolina General Assembly (or, in the absence of timely action by the General Assembly, this Court) shall adopt a remedial map prior to the 2014 congressional elections.

B. The Court Has Sufficient Time to Fashion Effective Relief.

As noted above, Defendants oppose Plaintiffs' requests for oral argument and expedited consideration, arguing that adopting a remedial map at this time would interfere with the orderly administration of the 2014 elections. That argument fails.

As an initial matter, Defendants' unsubstantiated fears of disruption cannot outweigh Plaintiffs' fundamental rights. As the Fourth Circuit has explained, "a state is in no way harmed by issuance of a preliminary injunction which prevents the state from enforcing restrictions likely to be found unconstitutional." *Giovani Carandola, Ltd. v. Bason*, 303 F.3d 507, 521 (4th Cir. 2002) (internal quotation marks and citation omitted).

Moreover, 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. The major deadlines for the 2014 elections are set forth in the table below.

PRIMARY ELECTION	
Candidate filing period ends	February 28, 2014
Absentee voting begins	March 17, 2014
Voter registration deadline	April 11, 2014
Last day to request absentee ballots by mail	April 29, 2014
Last day to return absentee ballots by mail	May 6, 2014
Primary election day	May 6, 2014
GENERAL ELECTION	
Absentee voting begins	September 5, 2014
Voter registration deadline	October 10, 2014
Last day to request absentee ballots by mail	October 28, 2014
Last day to return absentee ballots by mail	November 4, 2014
General election day	November 4, 2014

See N.C. St. Bd. of Elections, Election Calendar, <http://www.ncsbe.gov/ncsbe/election-calendar> (last visited February 19, 2014). As the table shows, *even the earliest major deadline*—the candidate filing deadline—has not yet passed. The primary election is nearly *three months* away, and the general election is nearly *nine months* away. Under 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. N.C. Gen. Stat. § 120-2.4. Defendants’ nebulous concerns about inconvenience and disruption therefore ring hollow. See *NAACP-Greensboro Branch v. Guilford Cnty. Bd. of Elections*, 858 F. Supp. 2d 516, 528 (M.D.N.C. 2012) (granting preliminary injunctive relief in voting-rights case; explaining that “a preliminary

injunction during these early stages of the filing period would better serve the public than waiting until the eve of the election”).

Nor are Plaintiffs seeking extraordinary relief by asking for expedited consideration. In fact, courts routinely resolve redistricting claims under more compressed schedules. For example, in Florida’s 2002 round of redistricting, plaintiffs challenged state and congressional redistricting plans in federal court. The plans were enacted in late March 2002. Plaintiffs filed suit nearly one month later, trial was held, and the district court issued its final order on July 2, 2002. *See Martinez v. Bush*, 234 F. Supp. 2d 1275, 1278-79, nn.1 & 5 (S.D. Fla. 2002). Litigation proceeded even more quickly in Florida’s prior redistricting cycle; that case lasted just over one month. *See Johnson v. DeGrandy*, 512 U.S. 997, 1002 (1994). Federal and state courts across the country have resolved redistricting claims on similarly accelerated timetables. *See Stenger v. Kellett*, No. 4:11CV2230 TIA, 2012 WL 601017, at *2-3 (E.D. Mo. Feb. 23, 2012) (discovery completed, case tried, and new voting plan adopted in about two months); *Twin Falls Cnty. v. Idaho Comm’n on Redistricting*, 271 P.3d 1202, 1203 (Idaho 2012) (plaintiffs sued in November 2011; oral argument held on January 5, 2012; opinion published on January 18, 2012); *Stephenson v. Bartlett*, 582 S.E.2d 247, 248 (N.C. 2003) (plaintiffs filed suit on November 13, 2001; after removal and remand to state court, plan invalidated on February 20, 2002); *Wolpoff v. Cuomo*, 600 N.E.2d 191, 192-93 (N.Y. 1992) (redistricting plan took effect on May 4, 1992; after removal and

remand to state court, plan invalidated on June 12, 1992). And after *Shelby County*, any remedial map the Court may adopt will not need to be precleared by the Department of Justice, further expediting the remedial phase of this case.²

In any event, this Court has the authority to adjust election deadlines, if necessary, to ensure adequate time to approve a constitutional map before the 2014 elections. *See, e.g., Sixty-Seventh Minn. State Senate v. Beens*, 406 U.S. 187, 201 n.11 (1972) (“If time presses too seriously, the District Court has the power appropriately to extend the time limitations imposed by state law.”); *Perez v. Perry*, No. 5:11-CV-00360-OLG-JES-XR, Order at 4-10 (W.D. Tex. Mar. 1, 2012) (ordering adjustments to election schedule) (attached as Exhibit A); *Larios v. Cox*, 305 F. Supp. 2d 1335, 1342 (N.D. Ga. 2004) (explaining that the “court has broad equitable power to delay certain aspects of the electoral process if necessary”). Thus, even if adopting a new map at this time posed some risk of inconvenience (and it does not), it would be well within this Court’s power to eliminate that risk.

Lastly, any disruption that might arise from resolving Plaintiffs’ PI Motion now pales in comparison to the disruption that would be caused by allowing the 2014 elections to go forward under an unconstitutional map. If this Court found in Plaintiffs’ favor *after*

² Defendants have argued that Plaintiffs cannot obtain relief before the 2014 elections because courts have “permit[ted] elections under illegal plans [that] were not invalidated until late in the election process.” PI Opp’n at 40 (Dkt. 29). But the cases on which Defendants rely are easily distinguishable, *see* Pls.’ Reply in Supp. of Mot. for Preliminary Injunction at 14-15 (Dkt. 37), not least because Plaintiffs are not asking the Court to grant relief “until late in the election process.” Instead, Plaintiffs are asking the Court to grant relief in the *preliminary stages* of the election process.

the 2014 elections, then it would likely need to order special elections as a remedy. *See League of United Latin Am. Citizens v. Perry*, 457 F. Supp. 2d 716, 721 (E.D. Tex. 2006) (ordering special elections in redrawn congressional districts); *Wright v. City of Albany*, 306 F. Supp. 2d 1228, 1239-40 (M.D. Ga. 2003) (ordering special election because if the “voting public has been prevented from electing its leaders pursuant to a plan which meets constitutional requirements,” then the “citizens should not be further unduly delayed, even if inconvenient to voting officials”). Plainly, undoing the 2014 elections would be far more costly, inconvenient, and disruptive than establishing a lawful map before the elections. *See Hunt*, 841 F. Supp. at 728 (granting preliminary injunctive relief in voting-rights case because a “victory on the merits by plaintiffs would require the court either to nullify the elections that had already taken place and thereafter order new elections at considerable cost and time to the public and to all involved, or to bring the campaigns then in process to a staggering halt”).

In sum, the Court has adequate time and authority to decide Plaintiffs’ PI Motion and adopt a constitutional map, if necessary, well before the 2014 congressional elections and well before any significant deadlines in the election schedule. Defendants’ purported concerns about inconvenience and disruption counsel in favor of resolving Plaintiffs’ PI Motion now rather than later. *See NAACP-Greensboro Branch*, 858 F. Supp. 2d at 528 (granting preliminary injunctive relief in part because “a preliminary injunction during

these early stages of the filing period would better serve the public than waiting until the eve of the election”).

IV. CONCLUSION

“No right is more precious in a free country” than the right to vote, *Wesberry*, 376 U.S. at 17, and it is therefore the “duty of federal courts to preserve constitutional rights in the electoral process,” *Hutchinson v. Miller*, 797 F.2d 1279, 1283 (4th Cir. 1986). Thus, Plaintiffs respectfully request that the Court expedite proceedings in this action, including but not limited to the Court’s hearing and ruling upon Plaintiffs’ Motion for Preliminary Injunction in March 2014 or as soon as the Court’s schedule permits, as well as expediting all other proceedings that may be necessary for or subsequently required by such ruling, in order to allow for a timely award of preliminary injunctive relief and further proceedings in this matter.

Respectfully submitted, this the 20th day of February, 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 IN SUPPORT OF THEIR RENEWED MOTION FOR ORAL ARGUMENT AND 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 20th day of February, 2014.

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

Residency

It is ORDERED that for the 2012 elections to the Texas House of Representatives and Texas Senate, a person must be a continuous resident of the district the person seeks to represent from April 9, 2012 until the date of the General Election.

It is further ORDERED that an incorrect precinct, district or place designation on an application for a place on the ballot shall not render the application invalid if the designation is corrected on or before March 9, 2012, at 6:00 p.m. If a previously filed application indicated a district, precinct, or place designation specifying a particular map to which that designation applied, or if the application did not specify a district, precinct, or place designation, and one is required for the office sought, the application shall be rejected if not amended to correct such designation prior to 6:00 p.m., March 9, 2012. Any petition submitted in lieu of filing fee or otherwise required for judicial office must contain valid signatures of registered voters of the territory from which the office sought is elected in the number required by the Texas Election Code, and must be submitted to the appropriate filing authority no later than 6:00 p.m., March 9, 2012. Candidates who filed during the prior filing period in late 2011 who still wish to seek the same office need not re-file their applications, assuming no information contained therein has subsequently been rendered inaccurate.

Notwithstanding the provisions of the foregoing paragraph or any other provision of this Order, the election for the office of precinct chair will be held concurrently with the July 31, 2012 runoff, with a plurality vote required for election. Candidates for precinct chair may file, amend, or withdraw their application for a place on the ballot no later than 6:00 p.m., June 1, 2012. The county chair shall be responsible for posting notice of this filing deadline on the county party's

website and via electronic mail to any distribution list maintained by the county party. An application for the office of precinct chair may be filed, amended, or withdrawn by the candidate using the official forms prescribed by the Secretary of State via facsimile or electronic mail. The office of precinct chair shall not be included in the official ballot drawing prescribed below, but the list of candidates for that office must be forwarded by the county chair, in the order of filing, to the authority responsible for preparing the ballot in each county no later than 6:00 p.m., June 4, 2012. Furthermore, an application for a place on the ballot for the office of precinct chair shall not be invalid if filed more than 90 days before the end of the filing period.

Schedule for Reopened Filing Period and General Primary

The Court hereby adopts and orders this procedure with respect to the 2012 Primary Election for federal, state, county and local offices. The reopened filing period applies to all races for federal, state and county officers. All those dates, deadlines or requirements not specifically adjusted by this order remain as required under state or federal law. Because the time period for the 2012 Primary Election includes shortened deadlines, a few of the deadlines necessarily fall on a weekend, notwithstanding § 1.006 of the Texas Election Code. Unless stated otherwise, § 1.006 of the Texas Election Code is superseded for purposes of this order.

- a. Subsections (c)-(m) of this Court's Order of November 7, 2011 (Dkt. Nos. 57 and 489) are vacated. Ballot drawings and delivery of candidate lists as provided for in that order are not required until after the close of the reopened filing period as set forth below.
- b. The first day to file an application for a place on the Primary Ballot during the reopened filing period as described in Texas Election Code § 172.023(b) shall be

- March 2, 2012. Any applications and petitions received by county judges, county chairs, or state chairs after December 19, 2011 but before March 2, 2012 will be deemed submitted as of March 2, 2012, unless later withdrawn by the candidate.
- c. An application for a place on the general primary election ballot during the reopened filing period must be filed not later than 6:00 p.m. on March 9, 2012 as described in Texas Election Code § 172.023(a). All amendments to previously filed applications with respect to office, precinct, place or any other material detail must be completed by this time. Candidates, and not filing authority election staff, may amend their applications by replacing the whole page of such application that requires changes. Each submitted page must contain the notarized signature of the candidate and the date it was signed. Political parties that make their nominations by convention and do not hold a primary election may accept applications until 6:00 p.m., March 9, 2012. Applications filed with the incorrect authority are deemed to have been timely received by the correct authority if the authority who received the application was the correct authority at the time the application was originally filed. Applications filed with the incorrect authority shall be forwarded to the correct authority without delay.
- d. The last day on which a vacancy for an unexpired term in an office of the state or county government may occur and appear on the primary ballot, as described in Texas Election Code § 202.004(a), is March 5, 2012.
- e. The deadline for the county chair (or secretary of the county executive committee) to post a notice on the bulletin board used for posting notices of the commissioners court's meetings, containing the address at which the county chair and secretary of

the county executive committee will be available to receive applications on the last day for filing an application, as described in Texas Election Code § 172.022, is March 8, 2012.

- f. If a candidate withdraws, dies or is declared ineligible by March 12, 2012, the name is omitted from the primary ballot as described in Texas Election Code §§ 172.057 and 172.058.
- g. The deadline for the state chair to deliver a certified list of statewide and multi-county district candidates to each county chair, as described in Texas Election Code § 172.028(b), is March 12, 2012.
- h. The deadline for a write-in candidate for the office of county or precinct chair to file a declaration of write-in, as described in Texas Election Code § 171.0231(d), is March 9, 2012.
- i. The deadline for the state or county chair, as applicable, to receive applications for a place on the general primary election ballot for an unexpired term for a vacancy in an office of the state or county government that occurs on or before March 1, 2012, as described in Texas Election Code § 202.004(b), is March 9, 2012.
- j. The deadline for a county executive committee to conduct a drawing for candidate order on the ballot at the county seat (unless the committee provides by resolution that the primary committee is to conduct the drawing), as described in Texas Election Code § 172.082(c), is March 12, 2012.
- k. The deadline by which the state chair shall deliver the chair's list to the Secretary of State, and each county chair shall deliver a copy of the chair's list to the county clerk,

the state chair, and the Secretary of State as described in Texas Election Code § 172.029(c), is March 12, 2012.

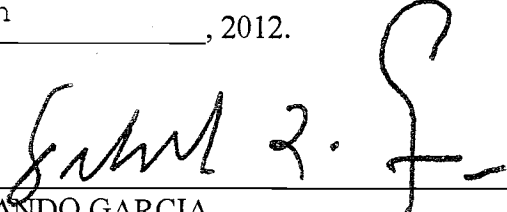
- i. If changes in county election precinct boundaries are necessary to give effect to a redistricting plan under Article III, Section 28, of the Texas Constitution, each commissioners court shall order the changes on or before March 20, 2012, notwithstanding Texas Election Code § 42.032. The requirements of Texas Election Code §§ 42.035 and 42.036 are suspended for an order of a commissioner's court adopted to comply with this section of this Court's Order.
- m. The first day of the period for a voter to submit an application for an early ballot by mail for the general primary, or for both the general primary and the runoff election, as described in Texas Election Code §§ 84.001(d) and (e) and § 84.007, shall be March 30, 2012. Unless previously rejected as prematurely filed under earlier orders of this Court by the early voting clerk, applications received before the date of this Order and denominated for the Primary Election or for both the Primary and Primary Runoff Elections shall be deemed to have been received on March 30, 2012.
- n. On or before April 25, 2012, the registrar shall issue a voter registration certificate to each voter in the county whose registration will be effective as of the date issued and whose name does not appear on the suspense list, as described in Texas Election Code § 14.001.
- o. The early voting clerk shall mail general primary ballots to voters subject to the MOVE Act requirements on or before April 14, 2012.

- p. Because of insufficient time between the mailing of voter registration certificates as described in Texas Election Code § 14.001 and the beginning of early voting, the registrar is required to comply with Texas Election Code §14.023 regarding the issuance of a confirmation notice in accordance with Texas Election Code § 15.051 on or before July 2, 2012. The deadline for entering the voter's name on the suspense list due to an undelivered renewal certificate pursuant to Texas Election Code §14.021 shall be July 3, 2012.
- q. **The 2012 General Primary Election shall be held on May 29, 2012.** All deadlines and dates specified as changed in this Order, or in previously issued orders in this action, shall be observed as provided for in the Texas Election Code.
- r. The deadline for runoff primary candidates to withdraw from the runoff ballot, as described in Texas Election Code § 172.059, is 9:00 a.m., June 11, 2012.
- s. The local canvass of the general primary for county and precinct offices by the county executive committee, as described in Texas Election Code §§ 172.116(b) and 172.084(b), shall occur on or before June 6, 2012. The political parties are ordered to make any necessary modifications to their Party Rules to give this section effect.
- t. The deadline for county chairs to submit canvassed returns for statewide and district offices to the state party chair as described in Texas Election Code §§ 67.007(d) and 172.119(b) is 12:00 noon, June 7, 2012.
- u. The deadline for the state executive committees to conduct the canvass of statewide and district offices with potential runoffs, and certify these candidates to county chairs as described in Texas Election Code §§ 172.120 and 172.121, is June 9, 2012.

- v. The ballot drawing conducted by county executive committees for all offices on the primary runoff ballot, as described in Texas Election Code §§ 172.084(b) and (c), shall occur no later than 9:00 a.m., June 12, 2012.
- w. The first day of the period for a voter to submit an application for an early ballot by mail for the runoff primary, as described in Texas Election Code §§ 84.001(d) and (e) and § 84.007, shall be June 1, 2012.
- x. The early voting clerk shall mail runoff ballots on or before June 16, 2012.
- y. **The 2012 General Primary Runoff Election shall be held on July 31, 2012.**
- z. Section 2.025, Texas Election Code, requiring that a runoff election be held no earlier than the 20th nor later than the 45th day after the final canvass of the main election, is waived for the purposes of any municipal, school, or other political subdivision election held on May 12, 2012. The requirements of any home-rule city charter relating to runoff election dates are also suspended to allow for compliance with this Order.
- aa. The last day on which minor party chairs may submit petitions and precinct convention lists to the Secretary of State and to the appropriate county clerk (or other county election officer) for placement on the ballot is June 29, 2012. Texas Election Code §§ 181.005(a), 181.006(b)(3), 182.003, 182.004.
- bb. The deadline for independent candidates, including candidates for U.S. President, to file applications and petitions is June 29, 2012. See Texas Election Code §§ 142.006, 192.032(c). The provisions of Texas Election Code § 142.009 are waived to the extent they are incompatible with this order.

Therefore, it is ORDERED that the 2012 elections for federal, state, county, and local officers shall proceed as required under state and federal law except as provided above. The State of Texas through the Secretary of State shall deliver a duplicate of this order to all election officials and county chairs, to the extent possible, within three days. The order shall also be posted by the Secretary of State on its website, and the official election calendar as posted on the Secretary of State's website shall be updated to reflect the terms of this order.

SIGNED this 1st day of March, 2012.



ORLANDO GARCIA
UNITED STATES DISTRICT JUDGE

And on behalf of:

JERRY E. SMITH
UNITED STATES CIRCUIT JUDGE
U.S. COURT OF APPEALS, FIFTH CIRCUIT

XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE
WESTERN DISTRICT OF TEXAS