

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

Latasha Holloway, et al.,

*Plaintiffs,*

v.

City of Virginia Beach, et al.,

*Defendants.*

Case No. 2:18-cv-0069

**DEFENDANTS' MOTION TO DISMISS OR, IN THE ALTERNATIVE, TO CERTIFY  
AN INTERLOCUTORY APPEAL OR HOLD THE CASE IN ABEYANCE**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendants City of Virginia Beach, the Virginia Beach City Council, David Hutcheson, Barbara Henley, Michael Berlucchi, Amelia Ross-Hamond, Rosemary Wilson, Worth Remick, Calvern "Cash" Jackson-Green, Stacy Cummings, Joshua Schulman, Jennifer Rouse, and Robert "Bobby" Dyer, in their official capacity as members of the Virginia Beach City, Council, Patrick Duhaney, in his official capacity as City Manager, and Chistine Lewis, in her official capacity as Director of Elections, move to dismiss this action.

Plaintiffs' Second Amended Complaint fails to state a claim under both Section 2 of the Voting Rights Act (VRA) and the Virginia Voting Rights Act (VAVRA), for reasons set forth in the accompanying brief in support, which is incorporated herein by reference. VRA Section 2 liability does not arise from a general redistricting framework but from a specific redistricting plan, yet Plaintiffs do not present a challenge against a specific plan. If the Court believes this action should be maintained, it should hold it in abeyance until Plaintiffs are able to plead a cognizable claim, i.e. until such time as the City adopts a specific plan that Plaintiffs contend is dilutive in effect. Plaintiffs' VRA claim should be dismissed for the additional reason that Section 2 does not

recognize the coalition claims Plaintiffs assert here. In the alternative, Defendants request that the Court certify an interlocutory appeal pursuant to 28 U.S.C. § 1292(b) to permit the Fourth Circuit to decide the following legal question: whether Section 2 of the Voting Rights Act authorizes separately protected minority groups to aggregate their populations for purposes of a vote dilution claim.

Plaintiffs' VAVRA claim is likewise deficient for two reasons. First, VAVRA does not permit a retrogression claim to be brought outside of a statutory "waiting period" that has not commenced, and Plaintiffs' challenge is barred as unripe. Second, VAVRA only permits challenges to action of a local governing body, and the Second Amended Complaint challenges no action of the City but only legislation promulgated by the Virginia General Assembly.

For these reasons and the reasons stated in the accompanying brief in support, Defendants' Motion should be granted and this case should be dismissed.

DATE: August 21, 2025

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Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 21, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of the filing to all parties of record.

*/s/ Katherine L. McKnight*

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