

SUPREME COURT OF NORTH CAROLINA

\*\*\*\*\*

JABARI HOLMES, FRED CULP,  
DANIEL E. SMITH, BRENDON  
JADEN PEAY, SHAKOYA CARRIE  
BROWN, and PAUL KEARNEY, SR.,

Plaintiffs-Appellees,

v.

From Wake County  
No. 21 CVS 015292  
COA 22-16

TIMOTHY K. MOORE in his official  
capacity as Speaker of the North  
Carolina House of Representatives;  
PHILLIP E. BERGER in his official  
capacity as President Pro Tempore of  
the North Carolina Senate; DAVID R.  
LEWIS, in his official capacity as  
Chairman of the House Select  
Committee on Elections for the 2018  
Third Extra Session; RALPH E.  
HISE, in his official capacity as  
Chairman of the Senate Select  
Committee on Election for the 2018  
Third Extra Session; THE STATE OF  
NORTH CAROLINA; and THE  
NORTH CAROLINA STATE BOARD  
OF ELECTIONS,

Defendants-Appellants.

\*\*\*\*\*

**STATE DEFENDANTS' RESPONSE TO**  
**PLAINTIFF-APPELLEES'**  
**PETITION FOR DISCRETIONARY REVIEW**

\*\*\*\*\*

The State of North Carolina and the North Carolina State Board of Elections (“State Board” and collectively the “State Defendants”), provide this response to Plaintiff-Appellees’ Petition for Discretionary Review.

### STATE DEFENDANTS’ POSITION

State Defendants are prepared to defend the challenged law on appeal and believe that Defendants will ultimately succeed in showing that it is constitutional. State Defendants acknowledge that the issues raised on appeal are of significant public interest and significant to the jurisprudence of the State, and have no objection to review by this Court. However, State Defendants also have no objection to the standard appellate process in which review by the Court of Appeals would precede possible review in this Court. In either event, State Defendants stand ready to defend the law whether before this Court now or the Court of Appeals.

The State Board wishes to note that resolution by the end of the current year, whether through the standard appellate process on an expedited basis or as a result of this petition, would allow the State Board to begin orderly implementation of the statute during the nine-month period before the first municipal election in September of 2023.<sup>1</sup> This would provide the time necessary for the State Board to engage in outreach efforts to raise public

---

<sup>1</sup> Following the November 2022 general election this fall, North Carolina will not have another election until the September 2023 municipal primary.

awareness, conduct training, work with state and local partners, develop software changes to the election information management system, engage in rulemaking, and numerous other actions necessary to implement the statute. In addition, implementing the law first during municipal elections, prior to statewide elections in 2024, would allow the State Board to address any issues with implementation, should they arise, allowing for a more orderly election process for the public when higher turnout arrives in the 2024 statewide elections. As noted in Legislative Defendants' response in opposition filed today, implementation of this law is a process that requires significant lead-time and should not be rushed. Leg. Defs. Brf. pp. 19-21. Likewise, resolution later than the end of this year would not allow as much time for the implementation and outreach efforts described above.

Electronically submitted this the 27<sup>th</sup> day of January, 2022.

JOSHUA H. STEIN  
ATTORNEY GENERAL

Electronically Submitted  
Terence Steed  
Special Deputy Attorney General  
N.C. State Bar No. 52809  
Email: [tsteed@ncdoj.gov](mailto:tsteed@ncdoj.gov)

N.C. R. App. P. 33(b) Certification:  
I certify that the attorney listed below has authorized me to list his name on this document as if he had personally signed it.

Laura McHenry  
Special Deputy Attorney General  
N.C. State Bar No. 45005  
Emails: [lmchenry@ncdoj.gov](mailto:lmchenry@ncdoj.gov)

Mary Carla Babb  
Special Deputy Attorney General  
N.C. State Bar No. 25713  
Email: [mcbabb@ncdoj.gov](mailto:mcbabb@ncdoj.gov)

N.C. Department of Justice  
P.O. Box 629  
Raleigh, N.C. 27602  
Phone: (919) 716-6820

RETRIEVED FROM DEMOCRACYDOCKET.COM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing document upon the parties to this action by electronic mail, addressed as follows:

**Counsel for the Plaintiffs:**

Allison J. Riggs  
Jeffrey Loperfido  
Southern Coalition For Social Justice  
1415 W. Highway 54, Suite 101  
Durham, NC 27707  
[allisonriggs@scsj.org](mailto:allisonriggs@scsj.org)  
[jeff@southerncoalition.org](mailto:jeff@southerncoalition.org)

Andrew J. Ehrlich\*  
Paul D. Brachman  
Jane B. O'Brien  
PAUL, WEISS, RIFKIND,  
WHARTON & GARRISON, LLP  
1285 Avenue of the Americas  
New York, NY 10019-6064  
[aehrich@paulweiss.com](mailto:aehrich@paulweiss.com)  
[pbrachman@paulweiss.com](mailto:pbrachman@paulweiss.com)  
[jobrien@paulweiss.com](mailto:jobrien@paulweiss.com)

**Counsel for Legislative Defendants:**

Nathan A. Huff  
Phelps Dunbar LLP  
GlenLake Four  
4140 ParkLake Avenue, Suite 100  
Raleigh, NC 27612  
[Nathan.Huff@phelps.com](mailto:Nathan.Huff@phelps.com)

COOPER & KIRK LLP  
Nicole Jo Moss  
David Thompson\*  
Peter Patterson\*  
Haley N. Proctor\*  
Joseph Masterson\*  
John Tienken\*  
Nicholas Varone\*  
1523 New Hampshire Ave., N.W.  
Washington, DC 20036  
[nmoss@cooperkirk.com](mailto:nmoss@cooperkirk.com)  
[dthompson@cooperkirk.com](mailto:dthompson@cooperkirk.com)  
[ppatterson@cooperkirk.com](mailto:ppatterson@cooperkirk.com)  
[hproctor@cooperkirk.com](mailto:hproctor@cooperkirk.com)  
[jmasterman@cooperkirk.com](mailto:jmasterman@cooperkirk.com)  
[nvarone@cooperkirk.com](mailto:nvarone@cooperkirk.com)  
[jtienken@cooperkirk.com](mailto:jtienken@cooperkirk.com)

Electronically submitted this the 27<sup>th</sup> day of January, 2022.

Electronically Submitted  
Terence Steed  
Special Deputy Attorney General