

SUPREME COURT OF NORTH CAROLINA

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

Petitioners,

v.

From Wake County
18-CVS-15292
No. 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,

Respondents.

MOTION FOR EXPEDITED CONSIDERATION OF
PETITION FOR DISCRETIONARY REVIEW

TO THE HONORABLE SUPREME COURT OF NORTH CAROLINA:

Plaintiffs-Petitioners Jabari Holmes, Fred Culp, Daniel E. Smith, Brendon Jaden Peay, and Paul Kearney, Sr., by and through their undersigned counsel and pursuant to North Carolina Rule of Appellate Procedure 2 and 29, move this Court for an order to expedite the consideration of Plaintiffs-Petitioner’s Petition for Discretionary Review, filed 14 January 2022. In support of this motion Plaintiffs-Petitioners state as follows:

1. Plaintiffs-Petitioners brought this action against Defendants-Respondents on 19 December 2018 challenging the constitutionality of Senate Bill 824 (2018 N.C. Sess. Law 144) (“S.B. 824”). On 17 September 2021, following a three-week trial, a majority of the three-judge panel below entered its final judgement in favor of Plaintiffs-Petitioners, finding that S.B. 824 violated the Equal Protection Clause of the North Carolina Constitution because it was enacted with the intent to discriminate against African American voters.

2. On 24 September 2021 and 27 September 2021, Defendants-Respondents filed notices of appeal seeking review of the three-judge panel’s final judgment, and on 7 January 2022, Defendants-Respondents filed the Record on Appeal with the Court of Appeals.

3. On 14 January 2022, Plaintiffs-Petitioners filed a Petition for Discretionary Review with this Court, which Defendants-Respondents responded to on 27 January 2022. Briefing on the petition is now closed.

4. The briefing schedule before the Court of Appeals requires Defendants-Respondents to file their opening briefs no later than 7 February 2022; Plaintiffs-Petitioners to file their brief no later than 9 March 2022, and Defendants-Respondents to file any reply briefs no later than 23 March 2022.

5. Rule 29(b) of the North Carolina Rules of Appellate Procedure provides, in relevant part, that “appeals will be calendared for hearing in the order which they are docketed, but the court may vary the order for any cause deemed appropriate.” Similarly, Rule 2 provides that the Court may suspend or vary its rules in a particular case to prevent manifest injustice or to expedite decisions in the public interest.

6. All parties agree this case is significant and raises issues of importance to the public and the jurisprudence of the State. *See* State Defendants-Respondents’ Response to Plaintiffs-Appellees’ Petition for Discretionary Review (“State’s Br.”) at 2; Legislative Defendants-Respondents’ Response to Petition for Discretionary Review Prior to Determination by the Court of Appeals (“Legislators’ Br.”) at 16. State Defendants-Respondents have noted “no objection to review by this Court,” State’s Br. at 2, whereas Legislative Defendants-Respondents’ oppose the petition.

7. Plaintiffs-Petitioners have conferred with counsel for Defendants-Respondents regarding this motion for expedited consideration. State Defendants-Respondents take no position on the motion. Legislative Defendants-Respondents also take no position on this motion and state they are prepared to file their opening brief in the Court of Appeals on 7 February 2022.

WHEREFORE, Plaintiffs-Petitioners respectfully request that the Court enter an order expediting consideration of Plaintiffs-Petitioners' pending Petition for Discretionary Review.

Respectfully submitted this the 28th day of January, 2022.

SOUTHERN COALITION FOR
SOCIAL JUSTICE

/s/ Jeffrey Loperfido
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N.C.R. App. P. 33(b) Certification: I certify that all of the attorneys listed below have authorized me to list their names on this document as if they had personally signed it.

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