

SUPREME COURT OF NORTH CAROLINA

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

Plaintiffs-Appellees,

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,

Defendants-Appellants.

MOTION TO DISMISS PLAINTIFF-APPELLEE BRENDON JADEN PEAY

TO THE HONORABLE SUPREME COURT OF NORTH CAROLINA:

Plaintiffs-Appellees 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 37, respectfully request an order from this Court dismissing Plaintiff-Appellee Brendon Jaden Peay from this appeal. In support of this motion Plaintiffs-Appellees state as follows:

1. On 19 December 2018, Plaintiffs-Appellees (“Plaintiffs”) brought this action against Defendants-Appellants (“Defendants”) challenging the constitutionality of Senate Bill 824 (2018 N.C. Sess. Law 144) (“S.B. 824”).
2. On 17 September 2021, following a three-week trial, a majority of a three-judge panel entered its final judgement in favor of Plaintiffs.
3. On 24 September 2021 and 27 September 2021, Defendants filed notices of appeal seeking review of the three-judge panel’s order.
4. On 20 January 2022, Defendants’ appeal was docketed as Case Number 22-16 before the North Carolina Court of Appeals.
5. On 2 March 2022, this Court certified this cause for review prior to a determination by the Court of Appeals.
6. Since the filing of Defendants’ appeal, Plaintiff Brendon Jaden Peay has been caused to relocate from the state of North Carolina in connection with a multi-year military service commitment, and, at this juncture, is no longer able to continue in these appeal proceedings.

7. Plaintiffs Jabari Holmes, Fred Culp, Daniel E. Smith, and Paul Kearney, Sr. will continue to defend the trial court's final judgment in favor of Plaintiffs before this Court.

8. Plaintiffs have conferred with Defendants regarding this motion, and Defendants do not oppose this motion.

Accordingly, for the reasons stated above, Plaintiffs respectfully request that this Court enter an order dismissing Plaintiff Brendon Jaden Peay from these appeal proceedings.

Respectfully submitted this the 9th day of March, 2022.

SOUTHERN COALITION FOR
SOCIAL JUSTICE

/s/ Jeffrey Loperfido

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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