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Subject: Defendants' response to Court's 6/02/2023 inquiry; NAACP, et al. v. Tate Reeves, et al.; No. 3:23-cv-00272-HTW-LGI
Date: Tuesday, June 6, 2023 3:36:00 PM
Attachments: [6.06.2023 LTR to Court NAACP v. Reeves signed.pdf](#)
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Dear Judge Wingate:

On behalf of the remaining defendants in the above-referenced matter, attached is correspondence replying to the Court's e-mail inquiry of June 2, 2023.

All counsel of record are copied on this e-mail. We appreciate the Court's consideration of this matter.

Regards,
Rex

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Lynn Fitch
ATTORNEY GENERAL

CIVIL LITIGATION DIVISION

June 6, 2023

VIA E-MAIL ONLY

Hon. Henry T. Wingate
United States District Judge
Southern District of Mississippi
wingate_chambers@mssd.uscourts.gov

RE: NAACP, et al. v. Tate Reeves, et al.; in the United States District Court for the Southern District of Mississippi (Northern Division); Case No. 3:23-cv-00272-HTW-LGI

Dear Judge Wingate:

On behalf of the remaining defendants in the above-referenced matter, I write in response to the Court's June 2, 2023, e-mail inquiry, wherein the Court requested that the parties advise of their respective positions on the status of the temporary restraining order given the June 1 dismissal of Chief Justice Randolph on judicial immunity grounds.

The defendants submit that since Chief Justice Randolph has now been dismissed, this Court no longer has personal jurisdiction over him and cannot enjoin him from making the challenged judicial appointments required by H.B. 1020. Therefore, the temporary restraining order extended on May 23, 2023, should be immediately dissolved without the need for further hearing.

Further, given the dismissal of the Chief Justice, there is no longer anyone with the subject power of appointment who is left to enjoin in this case. The remaining defendants have no authority to make the challenged judicial appointments. Thus, any alleged injury stemming from the appointments is not redressable by them, and Plaintiffs lack standing to assert their judicial-appointment claim. See *Okpalobi v. Foster*, 244 F.3d 405, 424-29 (5th Cir. 2001) (It is an "elemental fact that a state official cannot be enjoined to act in any way that is beyond his

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authority to act in the first place.”); *Latitude Solutions, Inc. v. DeJoria*, 922 F.3d 690, 695 (5th Cir. 2019) (“a plaintiff must demonstrate standing for each claim he seeks to press and have standing separately for each form of relief sought”) (cleaned up). Relatedly, because the remaining defendants are not specifically tasked with enforcing the challenged judicial-appointment provision, Plaintiffs’ judicial-appointment claim is further barred by sovereign immunity. *See Tex. All. For Retired Americans v. Scott*, 28 F.4th 669, 672 (5th Cir. 2022). For either and both of these reasons, the dismissal of Chief Justice Randolph robs this Court of subject-matter jurisdiction over Plaintiffs’ judicial-appointment claim. Accordingly, that claim should be dismissed—and Plaintiffs’ motion for preliminary injunction [Dkt. #40] should be denied—without the need for further hearing.

Please let us know if Your Honor requires any further response from the defendants at this time. We appreciate the Court’s consideration of this matter.

All counsel of record are copied on this transmittal.

Very truly yours,

MISSISSIPPI ATTORNEY GENERAL’S OFFICE



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All Counsel of Record (via e-mail only)