

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

George Maglaras, Robert J. Watson, and Deanna Rollo

*Plaintiffs,*

v.

David M. Scanlan, in his official capacity as the Acting New Hampshire Secretary of State, and  
John M. Formella, in his official capacity as the New Hampshire Attorney General,

*Defendants.*

Case No. 217-2024-CV-00247

**PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION AND  
EXPEDITED HEARING**

NOW COME Plaintiffs George Maglaras, Robert J. Watson, and Deanna Rollo, by and through counsel, Shaheen & Gordon, P.A. and, pursuant to Rule 48 of the Rules of the Superior Court of the State of New Hampshire, move for a preliminary injunction enjoining enforcement of House Bill 75 ("HB 75") and for an expediting hearing on the within motion and state their reasons as the following.<sup>1</sup>

1. This case involves the constitutionality of HB 75 under the New Hampshire Constitution.
2. Pursuant to the New Hampshire Constitution, the legislature must reapportion elective districts once every ten years, following the decennial census. In Re Below, 151 N.H. 135

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<sup>1</sup> A preliminary injunction is a provisional remedy that preserves the status quo pending a final determination of the case on the merits. Kukene v. Genuardo, 145 N.H. 1, 4 (2000). An injunction should issue if there is an immediate danger of irreparable harm to the party seeking injunctive relief, and there is no adequate remedy at law. Murphy v. McQuade Realty, Inc., 122 N.H. 314, 316 (1982). Also, a party seeking an injunction must show that it would likely succeed on the merits. Kukene, 145 N.H. at 4. It is within the trial court's sound discretion to grant an injunction after consideration of the facts and established principles of equity. Thompson v. N.H. Bd. of Medicine, 143 N.H. 107, 109 (1998).

(2004). “Once the legislature has enacted a valid apportionment law, no future act may be passed by [it] until after the next regular apportionment period prescribed by the Constitution.” Id. at 137 (quotations omitted). “Limitations on the frequency of reapportionment are justified by the need for stability and continuity in the organization of the legislative system.” Reynolds v. Sims, 377 U.S. 533, 583 (1964); Below, 151 N.H. at 148 (quoting Reynolds). “[O]nce the legislature has fulfilled its constitutional obligation to reapportion based upon the decennial census figures, it has no constitutional authority to make another apportionment until after the next federal census.” Below, 151 N.H. at 148.

3. In 2022, the New Hampshire legislature enacted HB 54 which reapportioned county commissioner districts based upon the 2020 federal census. In Strafford County, HB 54 created a single county wide district in which the three county commissioners were elected at large. In the 2022 election that followed, Commissioners George Maglaras, Robert Wilson, and Deanna Rollo were elected. All three Commissioners are Democrats.

4. In 2023, the legislature enacted HB 75 which reapportioned the Strafford County commissioner districts to create three single member districts starting with the 2024 election. As a result, Commissioners Maglaras and Rollo were packed into the same district requiring them to enter the Democratic primary against one another.

5. However, because the legislature may reapportion or redistrict an elective district only once after the decennial census, it had no authority to enact HB 75. Accordingly, HB 75 must be enjoined under Part I, Articles 11 and 15 of the New Hampshire Constitution.

6. Facts supporting this Motion are detailed in Plaintiffs’ contemporaneously filed Verified Complaint for Declaratory and Injunctive Relief (“Verified Complaint”) and are incorporated by reference.

7. In support of this Motion, Plaintiffs state that there is an immediate danger of irreparable harm and that a preliminary injunction is necessary to protect the fundamental rights of New Hampshire voters and elected officials to vote and serve in districts set forth in Part I, Article 11 and the right to due process set forth in Part I, Article 15 of the New Hampshire Constitution. As alleged in the Verified Complaint, HB 75 will redistrict the Stafford County commissioner district starting with the 2024 election. The filing period for candidates for the 2024 election begins on June 4, 2024 and ends on June 15, 2024. Therefore, voters and candidates require certainty concerning whether candidates will be elected at large as called for by HB 54 or in three single member districts as required by HB 75.

8. No adequate remedy at law exists for the real and imminent constitutional deprivation as alleged in the Verified Complaint.

9. Plaintiffs are likely to succeed on the merits of this case because the Verified Complaint presents a pure question of law and the New Hampshire Supreme Court has held that districts may be redistricted once, following the decennial census. Below, 151 N.H. at 137. Nevertheless, with HB 75, the legislature redistricted Strafford County for a second time after the decennial census.

10. Further, it is in the public interest for the Court to grant the preliminary injunctive relief that Plaintiffs seek because without such an order, New Hampshire voters and elected officials will be denied the “stability and continuity in the organization of the legislative system” required by the Constitution prior to the June 4<sup>th</sup> filing period and the 2024 election.

11. Because the Verified Complaint sets forth the factual and legal arguments relevant to the relief sought and due to the expedited nature of this filing, a memorandum of law may follow prior to any hearing on the Preliminary Injunction.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court:

- a. Schedule an expedited hearing so that the Court may issue an Order prior to June 4, 2024;
- b. Declare that HB 75 violates the New Hampshire Constitution;
- c. Permanently enjoin each defendant and his or her agents, officers, employees, successors, and all persons acting in concert with each or any of them from implementing, enforcing, or giving effect to HB 75;
- d. Award plaintiffs their costs, disbursements, and reasonable attorney's fees incurred in bringing this action, pursuant to the Court's inherent equitable power, see Claremont Sch. Dist. v. Governor, 144 N.H. 590, 595 (1999); and
- e. Award such other relief as the Court deems just and proper.

Respectfully submitted,

George Maglaras  
Robert J. Watson  
Deanna Rollo

By Their Attorneys:  
SHAHEEN & GORDON, P.A.

Dated: April 15, 2024

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