

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
FILED SUPERIOR COURT DIVISION
15 CVS 15903

SABRA FAIRES, BENNETT COTTON, and
DIANE P. LAHTI,

2016 MAR -4 P 1:33

WAKE COUNTY, C.S.C.

Plaintiffs,

BY *ML*

vs.

ORDER

STATE BOARD OF ELECTIONS; A.
GRANT WHITNEY, Jr., Chair, and
RHONDA K. AMOROSO, JOSHUA D.
MALCOLM, MAJA KRICKER, and JAMES
L. BAKER, members of the State Board (in
their official capacities only); and KIM
WESTBROOK STRACH, Executive Director
of the State Board (in her official capacity
only),

Defendants.

THIS MATTER came on for hearing before the undersigned Three-Judge Panel of Wake County Superior Court on February 16, 2016, on plaintiffs' Motion for Summary Judgment. Having carefully reviewed and considered the pleadings, plaintiffs' motion and supporting affidavits, the briefs of the parties, and having heard and considered oral arguments presented by the lawyers, the Court concludes, pursuant to Rule 56 of the North Carolina Rules of Civil Procedure, that no genuine issue of material fact exists regarding the claims asserted by plaintiffs and that they are entitled to summary judgment as a matter of law as follows:

1. Summary Judgment is granted to plaintiffs with respect to their claim that S.L. 2015-66 violates Article IV, § 16 of the North Carolina Constitution in that a retention election is not an "election" for the office of supreme court justice as required by the constitution.

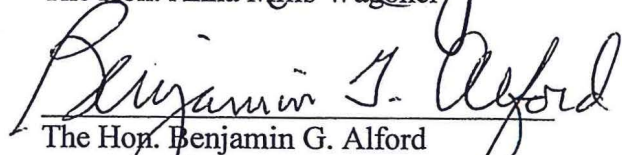
2. Summary Judgment is granted to plaintiffs with respect to their claim that S.L. 2015-66 violates Article VI, §§ 6 and 8, and Article IV, § 22 of the North Carolina Constitution in that it adds as an additional qualification for the office of supreme court justice that the candidate must be the incumbent justice.

For the reasons stated above, the Court enters SUMMARY JUDGMENT IN FAVOR OF PLAINTIFFS and orders as follows:

1. Session Law 2015-66 is declared unconstitutional and void;
2. Defendants are enjoined from conducting a retention election for supreme court justice pursuant to Session Law 2015-66; and
3. The parties shall each bear their own costs and attorney's fees.

SO ORDERED, this 29th day of February 2016.


The Hon. Anna Mills Wagoner


The Hon. Benjamin G. Alford


The Hon. Lisa C. Bell


CERTIFIED TRUE COPY FROM ORIGINAL
Clerk of Superior Court, Wake County

By 
Assistant Deputy Clerk of Superior Court

Date 3-4-16

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document was served on the parties listed below by mailing a copy thereof to each of said parties, addressed, postage prepaid, and via electronic mail, as follows:

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This the 4th day of March, 2016.



Lisa R. Tucker
Wake County Trial Court Coordinator