

SUPREME COURT OF NORTH CAROLINA

NORTH CAROLINA STATE)
CONFERENCE OF THE NATIONAL)
ASSOCIATION FOR THE)
ADVANCEMENT OF COLORED)
PEOPLE,)

Plaintiff-Petitioner,)

v.)

TIM MOORE, in his official capacity,)
PHILIP BERGER, in his official)
capacity, THE NORTH CAROLINA)
BIPARTISAN STATE BOARD OF)
ELECTIONS AND ETHICS)
ENFORCEMENT, ANDREW PENRY,)
in his official capacity, JOSHUA)
MALCOLM, in his official capacity, KEN)
RAYMOND, in his official capacity,)
STELLA ANDERSON, in her official)
capacity, DAMON CIRCOSTA, in his)
official capacity, STACY EGGERS IV, in)
his official capacity, JAY HEMPHILL, in)
his official capacity, VALERIE)
JOHNSON, in her official capacity,)
JOHN LEWIS, in his official capacity.)

Defendant-Respondents.)

From Wake County
18 CVS 9806

**NOTICE OF ORDER BY THE COURT OF APPEALS
GRANTING LEGISLATIVE DEFENDANTS'
MOTION FOR LEAVE TO WITHDRAW AND
DISSOLVING STAY OF PRINTING OF BALLOTS**

Plaintiff-Petitioner the North Carolina State Conference of the National Association for the Advancement of Colored People (“NC NAACP”) respectfully files this Notice to inform the Court that today, August 28, 2018, the Court of Appeals granted Legislative Defendants’ Motion for Leave to Withdraw their Petition of Writ of Supersedeas. The basis for Legislative Defendants’ motion for leave to withdraw their petition was that the two newly revised constitutional amendment proposals, which the General Assembly enacted during a Special Session convened on August 24, 2018, rendered moot the NC NAACP’s claims regarding Session Laws 2018-117 and 2018-118. A copy of that order is attached.

In that order, the Court of Appeals also dissolved the temporary stay it issued on August 23, 2018. Thus, there is currently no stay in place as to the preparation or printing of ballots for the November 2018 general election. Pending before this Court, however, remains NC NAACP’s August 22, 2018 Motion to Bypass the Court of Appeals, Motion for Stay, and Petition for Writ of Supersedeas, seeking this Court’s direct review of the denial of preliminary injunctive relief as to

the two other constitutional amendment proposals at issue in this case, those authorized by Session Law 2018-128 and Session Law 2018-119.

The NC NAACP furthermore provides this Court with notice that it intends to file before this Court a Motion to Expand its Petition for Supersedeas, to request this Court's direct review of the inadequate remedy posed by the two revised constitutional amendment proposals enacted during the most recent Special Session, as they fail to cure the constitutional infirmities that formed the bases for the NC NAACP's claims against their predecessors. Without this Court's review of that issue NC NAACP will be left without avenue for meaningful judicial relief. NC NAACP intends to file this Motion prior to August 29, 2018 at 9.00 a.m.

Accordingly, the NC NAACP renews its request that this Court immediately enter a temporary stay preventing the Bipartisan Board of Elections and Ethics Enforcement from preparing or printing ballots for the November 2018 general election until this Court rules on the NC NAACP's Motions and Petition.

Respectfully submitted this the 28th day of August 2018.

/s Kimberley Hunter

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CERTIFICATE OF SERVICE

The undersigned attorneys hereby certify that they served a copy of the foregoing Notice of Order by the Court of Appeals Granting Legislative Defendants' Motion for Leave to Withdraw and Dissolving Stay of Printing of Ballots upon the parties via e-mail to the attorneys for Defendants named below:

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This the 28th day of August, 2018.

s/ Kimberley Hunter

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North Carolina Court of Appeals

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No. P18-584

ROY A. COOPER III, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE STATE OF NORTH CAROLINA, PLAINTIFF,

VS.

PHILIP E. BERGER, IN HIS OFFICIAL CAPACITY AS PRESIDENT PRO TEMPORE OF THE NORTH CAROLINA SENATE; TIMOTHY K. MOORE, IN HIS OFFICIAL CAPACITY AS SPEAKER OF THE NORTH CAROLINA HOUSE OF REPRESENTATIVES; NORTH CAROLINA BIPARTISAN STATE BOARD OF ELECTIONS AND ETHICS ENFORCEMENT; JAMES A. ('ANDY') PENRY, IN HIS OFFICIAL CAPACITY AS CHAIR OF THE NORTH CAROLINA BIPARTISAN STATE BOARD OF ELECTIONS AND ETHICS ENFORCEMENT, DEFENDANTS.

NORTH CAROLINA STATE CONFERENCE OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE; AND CLEAN AIR CAROLINA, PLAINTIFFS,

VS.

PHILIP E. BERGER, IN HIS OFFICIAL CAPACITY, TIMOTHY K. MOORE, IN HIS OFFICIAL CAPACITY; THE NORTH CAROLINA BIPARTISAN STATE BOARD OF ELECTIONS AND ETHICS ENFORCEMENT; JAMES A. ('ANDY') PENRY, IN HIS OFFICIAL CAPACITY; JOSHUA MALCOM, IN HIS OFFICIAL CAPACITY; KEN RAYMOND, IN HIS CAPACITY; STELLA ANDERSON, IN HER OFFICIAL CAPACITY; DAMON CIRCOSTA, IN HIS OFFICIAL CAPACITY; STACY EGGERS IV, IN HER OFFICIAL CAPACITY; JAY HEMPHILL, IN HIS OFFICIAL CAPACITY; AND JOHN LEWIS, IN HIS OFFICIAL CAPACITY, DEFENDANTS.

From Wake
(18CVS9805-6)

ORDER

The following order was entered:

Defendants' motion for leave to withdraw their petition for writ of supersedeas is allowed. The temporary stay issued by this Court on 23 August 2018, including the stay of the preparation or printing of ballots for the November 2018 general election, is hereby dissolved.

Defendants' motion to dismiss their appeal is dismissed without prejudice to their right to file a notice

of withdrawal of the appeal in the trial court in accordance with N.C.R. App. 37(e)(1).

By order of the Court this the 28th of August 2018.

The above order is therefore certified to the Clerk of the Superior Court, Wake County.

WITNESS my hand and the seal of the North Carolina Court of Appeals, this the 28th day of August 2018.



Daniel M. Horne Jr.
Clerk, North Carolina Court of Appeals

Copy to:

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Hon. Jennifer Knox, Clerk of Superior Court