

Nos. 18-11510, 18-13510, 20-10394

In the United States Court of Appeals
for the Eleventh Circuit

MATHIS WRIGHT, JR.,

Plaintiff-Appellee

v.

SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION,

Defendant-Appellant.

On Appeal from the United States District Court
For the Middle District of Georgia
No. 1:14-cv-00042
The Honorable W. Louis Sands

Time-Sensitive Renewed and Amended Motion To Consolidate and Expedite and for Other Relief

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CERTIFICATE OF INTERESTED PERSONS

Pursuant to Rule 26.1-1 of this Court, Appellant certifies that the below listed persons and entities have interests in the outcome of this case:

Trial Judge:

Sands, W. Louis

Attorneys for Plaintiff-Appellee:

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Plaintiff:

Wright, Mathis Kears, Jr.

Defendant:

Sumter County Board of Elections and Registration

Time-Sensitive Renewed and Amended Motion To Consolidate and Expedite and for Other Relief

The Defendant-Appellant, the Sumter County Board of Elections and Registration (the “County”), hereby renews its motion to consolidate, expedite and for other relief, originally filed in these three cases (Nos. 18-11510, 18-13510, and 20-10394) on February 5, 2020. That motion was fully briefed as of February 24, 2020. However, the Plaintiff-Appellee filed a Rule 59 motion in the district court on February 11, requesting that the final judgment and injunction issued in this case be amended. Dist. Ct. Dkt. 287. The Rule 59 motion suspended these appeals, and this Court has not ruled on the County’s February 5 motion to consolidate, expedite and for other relief. The district court ruled yesterday, April 8, on Plaintiff’s Rule 59 motion (which it granted). Dist. Ct. Dkt. 303. Jurisdiction is returned to this Court.¹

The County therefore renews its February 5 motion, and it incorporates that motion and its February 24 reply brief here by reference. For reasons stated there, the Court should (1) consolidate Case No. 20-10394 with the

¹ The County has amended its notices of appeal in these matters to include all related modifications to the final judgment and the various injunctions issued along the way. Dist. Ct. Dkt. 304. Yet the County does not intend to challenge on appeal anything other than the district court’s liability ruling. It tendered those amendments and subsequent notices of appeal out of an abundance of caution. It is the County’s position today, as it was two years ago in April 2018, that the liability opinion was erroneous, and the remedial events that occurred after that ruling was entirely unnecessary and unwarranted.

other cases, (2) expedite resolution of these appeals, and (3) relieve the parties of further obligations to submit briefing or other filings in this matter, which has fully briefed since February 22, 2019. No other issues are relevant to this appeal, which challenges only the district court's liability ruling.

If the Court concludes, as Plaintiff recommends, that further briefing should occur, the Court should set an expedited schedule and provide for truncated briefs limited to how the remedial proceeding affects the liability issues (they, in fact, have no effect—since the liability ruling was made on the liability record, not on a subsequent remedial record). The Court should give Plaintiff one week from the date of its ruling to file a supplemental brief and give the County one week from Plaintiff's filing to file a supplemental brief. *See* Reply Brief in Support of Motion to Expedite, Consolidate, and for Other Relief at 2–3 (filed February 24, 2020). Any such briefs should be limited to 4,000 words. The Court should require only those additional appendix items that the parties choose to present and otherwise abrogate the appendix requirement (which would otherwise largely duplicate the extensive appendixes already submitted). In short, it should tailor the procedural requirements to the needs of these very limited issues that are not germane to the arguments the County is presenting in its appeal.

The County also amends its February 5 motion to request that these cases be resolved on the briefs **without argument**. The County needs clarity on what redistricting plan to use for the upcoming November election, and it is therefore willing to forego argument and rest its appeal on its briefing.

To be sure, the County would ordinarily prefer to present its case at argument, and, all things being equal, would request argument here. In fact, the County's merits brief requested argument (Appellant Brief at iii (filed May 22, 2018)), argument was originally scheduled in this case for July 2019, and the County expected to prosecute its appeal there before the Court. The County's position for reversal or vacatur of the decision below are compelling, and the County would ordinarily avail itself of all opportunities to prosecute its position.

However, the numerous delays in this case now present a potential public-policy problem. This case concerns a matter of public importance, elections to the Sumter County school board, and it was filed in 2014. The County and its residents need finality and direction, and it would be far preferable for the case to be resolved well in advance of the November 2020 election rather than near that date or after it. A decision in the County's favor that occurs too late to impact the November 2020 election may necessitate special elections. Further, the current global health pandemic may place

atypical burdens on the Court, and the County appreciates that these factors may limit its ability both to resolve this case in a prompt matter and conduct argument on the way to a ruling. Accordingly, the County is willing to forego argument to achieve a prompt resolution of this matter.

The Court, of course, is free to reject this proposal and hear argument. If it chooses this path, the County implores the Court to act quickly and set argument for the earliest possible date. Counsel for the County is available at any time to present argument in person or via telephonic conference line.

For these reasons, and those stated in the County's motion of February 5 and reply of February 24, the Court should: (1) consolidate all three appeals, (2) expedite this case for a prompt ruling, (3) resolve the case with no further briefing (or with expedited, truncated briefing), and (4) rule without argument (or expedited argument).

Dated: April 9, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing will be filed electronically with the Court by using the CM/ECF system on the 9th day of February, 2020. I further certify that the foregoing document will be served on all those parties or their counsel of record through the CM/ECF system.

Dated: April 9, 2020

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CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limit of Rule 27(d)(2)(A) of the Federal Rules of Appellate Procedure because, excluding the cover page, tables, certificates, and signature blocks, this document contains 903 words.

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Dated: April 9, 2020

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