



State of North Carolina  
General Court of Justice  
10<sup>th</sup> Judicial District

PAUL C. RIDGEWAY  
SENIOR RESIDENT SUPERIOR COURT JUDGE

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November 12, 2021

Chief Justice Paul Newby  
North Carolina Supreme Court  
2 East Morgan Street  
Raleigh, North Carolina 27601

Re: *Pending Redistricting Challenges*

Dear Chief Justice Newby:

I write to update you on several pending matters in Wake County Superior Court pertaining to the recent redistricting of North Carolina's legislative and congressional districts. Because these matters implicate your three-judge panel appointment and assignment authority under North Carolina Gen. Stat. 1-267.1, I feel it important that you be aware of these developments.

The North Carolina General Assembly ratified the 2021 Redistricting Plans for House districts (SL 2021-175), Senate districts (SL 2021-173) and Congressional districts (SL 2021-174) on November 4, 2021.

There are presently pending in Wake County Superior Court two actions that relate to these plans: *NC NAACP v. Berger* (21 CVS 14476) and *Harper v. Lewis* (19 CVS 12667).

*NC NAACP v. Berger* was filed on October 29, 2021 prior to the enactment of the 2021 Redistricting Plans. The Plaintiffs seek a declaratory judgment and injunctive relief, including pushing back the initial election deadlines and March primaries by two months. The action challenges the process used by the General Assembly to adopt congressional and state legislative districts. The Plaintiffs, citing N.C. Gen. Stat. 1-81.1, assert that a three-judge panel is not required for this action because, at the time the litigation was filed, it did not challenge an "act" of the General Assembly.

On November 9, 2021, the Legislative Defendants in *NC NAACP v. Berger* filed a “motion to transfer” seeking to initiate the process set out in N.C. Gen. Stat. 1-267.1 to transfer this matter to a three-judge panel appointed by the Chief Justice. Legislative Defendants seek to have this motion heard expeditiously. Legislative Defendants have also filed a motion to dismiss Plaintiff’s complaint.

In *Harper v. Lewis*, on November 5, 2021, Plaintiffs filed a motion for leave to file a supplemental complaint pursuant to Rule 15(d) in litigation brought in 2019 challenging the 2016 congressional districts. The supplemental complaint, among other things, seeks to have the 2021 congressional districts declared unconstitutional and to enjoin the defendants from moving forward with the 2022 primary and general elections for Congress using the 2021 plan. The Plaintiffs assert that the three-judge panel originally appointed in 2019 has the authority to grant the motion for leave to file the supplemental complaint, and further assert that two members of the three-judge panel could take such action, presumably recognizing that one member of the panel, the Honorable Alma Hinton, has retired from the bench.

On November 10, 2021, the Legislative Defendants in *Harper v. Lewis* filed a “motion to transfer” seeking to initiate the process set out in N.C. Gen. Stat. 1-267.1 to transfer this matter to a new three-judge panel appointed by the Chief Justice. Legislative Defendants seek to have this motion heard expeditiously.

In addition to these two matters, our office, by correspondence from counsel dated November 5, 2021, has been made aware of the anticipated filing of another action “challenging the General Assembly’s redistricting maps” that will, among other things, request the assignment by the Chief Justice to a three-judge panel pursuant to N.C. Gen. Stat. 1-267.1. As of the time of this writing, we have not received any indication that this action has been commenced.

As you are aware, N.C. Gen. Stat. 1-267.1 requires that an action challenging the validity of an act of the General Assembly that apportions or redistricts State legislative or congressional districts be heard by a three-judge panel of the Superior Court of Wake County organized by the Chief Justice. The senior resident superior court judge of Wake County shall be the presiding judge, and the Chief Justice shall appoint to the three-judge panel one resident superior court judge from the First through Third Judicial Divisions and one resident superior court judge from the Fourth through Fifth Judicial Divisions. The statute further provides that should the senior resident judge of Wake County be disqualified or otherwise unable to serve on the three-judge panel, the Chief Justice shall appoint another resident superior court judge of Wake County as the presiding judge.

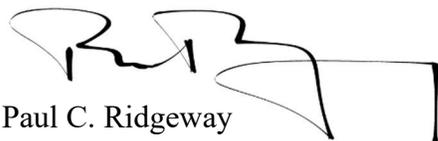
After a great deal of deliberation, as the current senior resident superior court judge in Wake County, I have concluded that I should not serve as a judge in matters concerning redistricting during the 2022 election cycle. I will be a candidate to retain my judicial position during the 2022 election cycle. My obligation under the North Carolina Code of

Judicial Conduct is to carefully consider whether, as a candidate, my impartiality as a judge could reasonably be questioned when ruling on matters directly impacting the administration of the 2022 primary and general elections. I have concluded that even the slightest concern about my impartiality in this regard would be an unnecessary distraction from this important litigation, and I therefore have concluded that I should recuse myself from the matters described above, as well as any further redistricting challenges brought in 2021 or 2022. I note that my predecessor senior resident superior court judge in Wake County, in 2011, reached this same conclusion as he stood for re-election to retain his seat in 2012, and he likewise recused himself from participating in redistricting challenges filed in 2011.

I therefore respectfully request that you exercise your authority under N.C. Gen. Stat. 1-267.1 to appoint another resident superior court judge of Wake County as the presiding judge of any and all panels needed to preside over redistricting challenges brought in 2021 or 2022, and that you likewise relieve me of my role as presiding judge of the three-judge panel in *Harper v. Lewis* and appoint a replacement Wake County judge to serve in my stead. Should the appointment of new three-judge panel(s) be required under N.C. Gen. Stat. 1-267.1 after the 2022 election cycle has concluded, assuming I retain my seat, I stand ready to serve at your request.

It has been a privilege to serve you, and your predecessor Chief Justices, as the presiding judge on redistricting panels since 2011, and I trust that you understand that it is with great reluctance, but with a compelling sense of duty to the integrity of our Courts, that I have reached this decision.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul C. Ridgeway". The signature is stylized with a large initial "P" and a long horizontal stroke extending to the right.

Paul C. Ridgeway

Cc: Counsel of record