

FILED

STATE OF NORTH CAROLINA  
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
18 CVS 014001

2019 FEB 26 PM 2: 41

WAKE CO., C.S.C.

COMMON CAUSE, *et al.* )  
*Plaintiffs,* )  
) )  
v. )  
) )  
Representative DAVID R. LEWIS, )  
in his official capacity as Senior )  
Chairman of the House Select )  
Committee on Redistricting, *et al.*, )  
*Defendants.* )

ORDER

THIS MATTER comes before the undersigned Three-Judge Panel upon the Motion to Intervene filed by Intervenor-Applicants Reginald Reid, Carolyn Elmore, Cathy Fanslau, Ben York, Connor Groce, and Aubrey Woodard pursuant to Rule 24 of the North Carolina Rules of Civil Procedure. Intervenor-Applicants desire to intervene in this matter as defendants.

In this litigation, Plaintiffs seek a declaration that the North Carolina Senate and House of Representative districts established by an act of the General Assembly in 2017, N.C. Sess. Laws 2017-207 (Senate Bill 691) and 2017-208 (House Bill 927), violate the rights of Plaintiffs and all Democratic voters in North Carolina under the North Carolina Constitution. Plaintiffs seek to enjoin the future use of the 2017 districts.

*Procedural History*

On November 13, 2018, Plaintiffs filed their Complaint in Superior Court, Wake County. On November 27, 2018, this action was assigned to the undersigned

panel by the Chief Justice of the Supreme Court of North Carolina. On December 7, 2018, Plaintiffs filed an Amended Complaint. On December 14, 2018, Defendants Representative David R. Lewis, Senator Ralph E. Hise, Jr., Speaker Timothy K. Moore, and President Pro Tempore Philip E. Berger (“Legislative Defendants”), and the State of North Carolina, filed notice of removal to the U.S. District Court for the Eastern District of North Carolina. On December 17, 2019, Plaintiffs filed their Motion for remand. On January 2, 2019, Plaintiff’s Motion for remand was granted and the matter was thereafter returned to this Panel’s jurisdiction. On February 15, 2019, Legislative Defendants filed their Answer to the Amended Complaint. Plaintiffs, Legislative Defendants, and the State Board of Elections filed a stipulated proposed case management order on February 15, 2019, and trial in this action is set to commence on July 15, 2019.

*Motion to Intervene*

On January 29, 2019, Intervenor-Applicants filed their Motion to Intervene pursuant to Rule 24 of the North Carolina Rules of Civil Procedure, accompanied by a pleading setting forth the claim or defense for which intervention is sought. On February 4, 2019, Plaintiffs filed their opposition to the Motion.

“Intervention in North Carolina is governed by statute. Rule 24 of the North Carolina Rules of Civil Procedure determines when a third party may intervene as of right or permissively.” *Virmani v. Presbyterian Health Servs. Corp.*, 350 N.C. 449, 458, 515 S.E.2d 675, 682 (1999). Permissive intervention in an action is provided by Rule 24(b), which states that “[u]pon timely application anyone may be permitted to

intervene in an action” “[w]hen an applicant's claim or defense and the main action have a question of law or fact in common.” N.C.G.S. § 1A-1, Rule 24(b)(2).

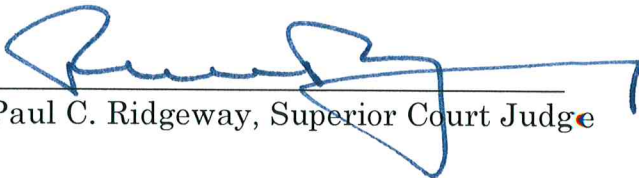
Permissive intervention “rests within the sound discretion” of the court, *Virmani*, 350 N.C. at 460, 515 S.E.2d at 683, and “[i]n exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties,” N.C.G.S. § 1A-1, Rule 24(b)(2).

As an initial matter, this Panel considers Intervenor-Applicants’ Motion to be timely made. The Motion was filed shortly after remand from federal court and before entry of a case management order.

As to the substance of Intervenor-Applicants’ Motion, this Panel finds that Intervenor-Applicants’ claim or defense has a question of law or fact in common with the main action. Intervenor-Applicants are registered voters, Republicans, and residents of the districts Plaintiffs contend are unconstitutional. This Panel also finds that intervention by these Intervenor-Applicants at this early stage of the litigation will not unduly delay or prejudice the adjudication of the rights of the original parties in this action.

For the foregoing reasons, Intervenor-Applicants are hereby granted, at the Panel’s discretion, permissive intervention under Rule 24(b), provided that Intervenor-Applicants adhere to the already-filed February 15, 2019, stipulated proposed case management order. Intervenor-Defendants shall file an Answer to Plaintiffs’ Amended Complaint within three (3) days of the entry of this order.

So ORDERED, this the 26<sup>th</sup> day of February, 2019.

  
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Paul C. Ridgeway, Superior Court Judge

**/s/ Joseph N. Crosswhite**

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Joseph N. Crosswhite, Superior Court Judge

**/s/ Alma L. Hinton**

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Alma L. Hinton, Superior Court Judge