

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

THE CITY OF GREENSBORO, LEWIS A.
BRANDON, III, JOYCE JOHNSON,
NELSON JOHNSON, RICHARD ALAN
KORITZ, SANDRA SELF KORITZ, AND
CHARLI MAE SYKES, MAURICE
WARREN II AND GEORGEANNA
BUTLER WOMACK,

Plaintiffs,

v.

GUILFORD COUNTY BOARD OF
ELECTIONS,

Defendant,

1:15-CV-559

ORDER

On June 12, 2017, the defendant filed a motion seeking to extend the deadline to appeal the judgment entered on April 13, 2017 because the individual plaintiffs have indicated an intent to file a motion for attorneys' fees. The motion will be denied.

Any notice of appeal of the Court's April 13 judgment should have been filed by May 15, 2017. No one filed a notice of appeal. Nothing else appearing, the matter became final.

No motion for attorneys' fees was filed before that date, therefore Fed. R. Civ. P. 58(e) and Fed. R. App. P. 4(a)(4)(A)(iii) do not apply to toll the appeal period. The defendant has not sought the extension under Fed. R. App. P. 4(a)(5), and in any event it

has not asserted any facts to support a finding of good cause or excusable neglect under Rule 4(a)(5).

The individual plaintiffs have since sought and received an extension of time within which to file a motion for attorneys' fees, but no such motion is pending. To the extent that possibility gives the court discretion to extend the deadline, the Court finds an extension is not appropriate. An extension of the time to appeal would unfairly prejudice all plaintiffs, who have an interest in finality, and would particularly prejudice the City of Greensboro, which has no intention of seeking attorneys' fees. It would also be contrary to the public interest, as the Court's judgment affects upcoming City Council elections; allowing a late appeal injects renewed uncertainty into an electoral process which the public and potential candidates had no doubt assumed was a settled issue when no one appealed within the allotted time. Finally, the extension of time is not needed in order to ensure that the defendant could obtain appellate review of an attorneys' fee award. If the individual plaintiffs file a motion for attorneys' fees, the Board's equitable concerns related to its lack of responsibility for the enjoined legislation can be considered. If the Court grants any such motion, such order would be independently appealable.

The motion to extend the deadline, Doc. 140, is **DENIED**.

This the 10th day of July, 2017.


UNITED STATES DISTRICT JUDGE