No. 201PA12-4 TENTH DISTRICT

SUPREME COURT OF NORTH CAROLINA

****

MARGARET DICKSON, *et al.* *Plaintiffs,*	)	
v.	)	
ROBERT RUCHO, *et al.* *Defendants.*	)	**From Wake County**
NORTH CAROLINA STATE CONFERENCE OF BRANCHES OF THE NAACP; *et al.* *Plaintiffs,*	)	11 CVS 16896 11CVS 16940 *(Consolidated)*
v.	)	
THE STATE OF NORTH CAROLINA, *et al.* *Defendants.*	)	

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LEGISLATIVE DEFENDANTS-APPELLEES' BRIEF ON SECOND REMAND

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INDEX

INTRODUCTION 1

STATEMENT OF THE CASE 4

ARGUMENT 7

1. The only claims remaining in this case, Plaintiffs' claims under the Fourteenth Amendment of the United States Constitution and their parallel claims under Article I, Section 19 of the North Carolina Constitution, are now moot. 7

2. Under this Court's redistricting jurisprudence, Plaintiffs' claims regarding the 2011 districting plans have been fully resolved and any challenges to the 2016 congressional plan or any legislative districts enacted by the General Assembly for the 2018 General Election are subject to challenge only in new civil actions 16

CONCLUSION 19

CERTIFICATE OF SERVICE 21

APPENDIX 23

TABLE OF AUTHORITIES

Page(s)

Cases

Alabama Legislative Black Caucus v. Alabama,
135 S. Ct. 1257 (2015) 4

Baker v. Morehouse Parish School Bd.,
956 So.2d 121 (La. App. 2d Cir. 2007) 7

Benvenue PTA Ass'n v. Nash County Bd. of Elec.,
275 N.C. 675, 170 S.E. 2d 473 (1969) 10, 16

Calabria v. North Carolina State Bd. of Elections,
198 N.C. App. 550, 680 S.E.2d 738 (2009) 15

Cochran v. Rowe,
225 N.C. 645, 36 S.E.2d 75 (1945) 10

Cooper v. Harris,
137 S. Ct. 1455 (2017) 3, 6

Covington v. North Carolina,
316 F.R.D. 117 (M.D.N.C. 2016) .... *passim*

Dickson v. Rucho,
367 N.C. 542, 766 S.E.2d 238 (2014) ("*Dickson I*"), *cert. granted*,
135 S. Ct. 1843 (2015) 2, 4, 5, 8

Dickson v Rucho,
368 N. C. 481, 781 S.E. 2d 404 (2015) ("*Dickson II*"), *cert. granted*, 137 S. Ct. 2186 (2017) .... *passim*

Harris v. McCrory,
159 F. Supp. 3d 600 (M.D.N.C. 2016) .... *passim*

In re Hartley,
291 N.C. 693, 231 S.E. 2d 633 (1997) 15

North Carolina Ass'n of Educators v. North Carolina,
368 N.C. 277, 786 S.E. 2d 255 (2016) 9, 12

North Carolina v. Covington,
137 S. Ct. 2211 (2017) 3, 7

Pearson v. Martin,
319 N.C. 449, 355 S.E.2d 496 (1997) 13, 16

Powell v. McCormick,
395 U.S. 486 (1969) 10, 11, 12

Russell v. Campbell,
112 N.C. 404, 17 S.E. 149 (1893) 10

Simeon v. Hardin,
339 N.C. 358, 451 S.E.2d 858 (1994) 7, 10

Smith-Price v. Charter Behavioral Health Sys.,
164 N.C. App. 349, 595 S.E. 2d 778 (2004) 7

Stephenson v. Bartlett,
355 N.C. 354, 562 S.E.2d 377 (2002) ("*Stephenson I*") 8, 17, 18

Stephenson v. Bartlett,
357 N.C. 301, 582 S.E. 2d 247 (2003) ("*Stephenson II*") 17, 18

Stephenson v. Bartlett,
358 N.C. 219, 595 S.E. 2d 112 (2004) ("*Stephenson III*") 18, 19

Thomas v. N.C. Dept. of Human Resources,
124 N.C. App. 698, 478 S.E. 2d 816 (1996) 13, 14

Wesberry v. Sanders,
376 U.S. 1 (1964) 14

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LEGISLATIVE DEFENDANTS-APPELLEES' BRIEF ON SECOND REMAND

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INTRODUCTION

These cases involve challenges to two majority black congressional districts and twenty-six majority black legislative districts enacted by the General Assembly in 2011 to protect the State from liability under the Voting Rights Act. In their amended complaints, two sets of plaintiffs asked that

these districts be declared illegal, that the State of North Carolina be enjoined from conducting elections under the 2011 Congressional Plan and the 2011 Legislative Plans, and that the State be ordered to draw new congressional and legislative districts. (R pp 135-36, 255-56). In a Judgment and Memorandum Decision entered July 8, 2013, a three-judge state trial court unanimously rejected Plaintiffs' claims. (R pp 1264-1436). This Court then affirmed the decision by the state trial court on two different occasions. *Dickson v. Rucho*, 367 N.C. 542, 546, 766 S.E.2d 238, 242 (2014) ("*Dickson I*"), *cert. granted*, 135 S. Ct. 1843 (Mem.) (2015) (vacating judgment and remanding case to North Carolina Supreme Court in light of *Alabama Legislative Black Caucus v. Alabama*, 135 S. Ct. 1257 (2015)); *Dickson v Rucho*, 368 N. C. 481, 486, 781 S.E. 2d 404, 410-11 (2015) ("*Dickson II*"), *cert. granted*, 137 S. Ct. 2186 (Mem.) (2017) (vacating judgment and remanding case to North Carolina Supreme Court in light of *Cooper v. Harris*, 137 S. Ct. 1455 (2017)).

After losing their challenges before the three-judge panel in state court and while the case was pending before this Court, lawyers who represent the Plaintiffs in this case filed two different cases again challenging the 2011 congressional and legislative plans in the Middle District of North Carolina. *See Harris v. McCrory*, 159 F. Supp. 3d 600 (M.D.N.C. 2016) (filed October

24, 2013); *Covington v. North Carolina*, 316 F.R.D. 117, 128 (M.D.N.C. 2016) (filed May 19, 2015).

In both of these federal cases, the three-judge federal courts declared that the challenged districts violated the Fourteenth Amendment to the United States Constitution, enjoined the State of North Carolina from conducting elections under the challenged plans, and ordered the State to enact new congressional and legislative plans. *Harris*, 159 F. Supp. 3d at 627; *Covington*, 316 F.R.D. at 177-78. These decisions have been affirmed by the United States Supreme Court. *Cooper v. Harris*, 137 S. Ct. 1455, 1463 (2017); *North Carolina v. Covington*, 137 S. Ct. 2211 (Mem.) (2017).

The relief provided to the plaintiffs in *Harris* and *Covington* is identical to the relief sought by Plaintiffs in these cases. All of the majority black districts enacted by the General Assembly in 2011 have been declared unconstitutional under the Fourteenth Amendment, the State has been enjoined from conducting further elections under the 2011 plans, and the State has been ordered to enact new districting plans. To that end, the General Assembly has already adopted a new districting plan for Congress and elections were held under that plan in 2016. Under the federal court's order in *Covington*, new legislative plans must be enacted for the 2018 General Election and the General Assembly is in the process of enacting new legislative plans. Because the judgments in the federal cases have provided

Plaintiffs all of the relief they have requested in this state court case, all issues before this Court are moot and Plaintiffs' appeal should be dismissed.

STATEMENT OF THE CASE

The procedural history of this case is summarized by this Court in its decision in *Dickson II*, 368 N. C. 481, 485-86, 781 S.E.2d at 410-11. This Court first affirmed the districts challenged by Plaintiffs in a decision issued December 19, 2014. *Dickson I*, 367 N.C. 542, 766 S.E. 2d 238. In that decision, this Court rejected Plaintiffs' claims under the Fourteenth Amendment as well as all of plaintiffs' state law claims, including Plaintiffs' claim that the challenged majority black districts violate Article I, Section 19 of the North Carolina Constitution because the districts were racial gerrymanders. Plaintiffs thereafter sought review from the United States Supreme Court only for their claims under the Fourteenth Amendment of the United States Constitution. Plaintiffs did not appeal this Court's rulings under the State Constitution.

On April 20, 2015, the United States Supreme Court granted Plaintiffs' petition for *certoriari*, vacated the decision in *Dickson I*, and directed this court to reconsider plaintiffs' federal claims in light of the decision in *Alabama Legislative Black Caucus v. Alabama*, 135 S. Ct. 1257 (2015). 135 S. Ct. 1843 (Mem.). On remand, this Court reaffirmed the decision of the

State three-judge trial court. *Dickson II*, 368 N. C. 481, 486, 781 S.E. 2d 404, 410-11

On October 24, 2013, four months after the three-judge state trial panel's decision and before this Court's decision in *Dickson I*, attorneys representing the *Dickson* Plaintiffs filed a separate civil action in the United States District Court for the Middle District of North Carolina, challenging two 2011 North Carolina congressional districts (the First and Twelfth) as racial gerrymanders. *Harris v. McCrory*, 159 F. Supp. 3d 600, 609 (M.D.N.C. 2016). On February 5, 2016, the three-judge federal court found that both districts constituted racial gerrymanders under the Fourteenth Amendment of the United States Constitution. *Id.* at 627. As a result, the State was enjoined from conducting elections under the 2011 congressional plan and given two weeks to adopt a new congressional plan. *Id.*

In compliance with this order, the North Carolina General Assembly enacted a new congressional plan on February 19, 2016. The three-judge court then overruled objections to the 2016 Congressional Plan filed by the *Harris* plaintiffs who have since appealed the order by the three-judge court on the grounds that the 2016 Congressional Plan constitutes a political gerrymander. This appeal remains pending.

On May 19, 2015, after this Court's decision in *Dickson I* but before its decision in *Dickson II*, lawyers for both sets of Plaintiffs in these cases filed a

third civil action challenging the majority black legislative districts enacted by the North Carolina General Assembly in 2011. *Covington*, 316 F.R.D. at 128. On August 11, 2016, the three-judge court found that all of the 2011 majority black legislative districts constituted racial gerrymanders. *Id.* at 124. The three-judge court ordered the General Assembly to draw new legislative districts in time for the 2018 General Election. *Id.* at 177-78. In its Order and Judgment, the *Covington* three-judge court specifically stated that:

> Plaintiffs' request for injunctive relief is GRANTED as follows:
>
> a. The State of North Carolina is ordered to redraw new House and Senate districts plans.
>
> b. The State of North Carolina is enjoined from conducting any elections for State House and State Senate offices after November 8, 2016, until a new redistricting plan is in place.

Order and Judgment, *Covington v. North Carolina*, No. 1:15-cv-399 (M.D.N.C. Aug. 15, 2016) (Doc. 125) (App. 1 - 2).

On May 22, 2017, the United States Supreme Court affirmed the decision by the three-judge court in *Harris*, holding that the 2011 First and Twelfth Congressional Districts constituted racial gerrymanders. 137 S. Ct. at 1463. On May 30, 2017, the United States Supreme Court vacated this Court's decision in *Dickson II* in light of its decision in *Harris*. 137 S. Ct. 2186 (Mem.). Then, on June 5, 2017, the United States Supreme Court

affirmed the decision by the three-judge court in *Covington*. 137 S. Ct. 2211 (Mem.).

ARGUMENT

1. The only claims remaining in this case, Plaintiffs' claims under the Fourteenth Amendment of the United States Constitution and their parallel claims under Article I, Section 19 of the North Carolina Constitution, are now moot.

It is black-letter law in North Carolina that when an intervening event either grants the relief sought by a plaintiff or resolves the controversy at issue the case is moot and must be dismissed. *Simeon v. Hardin*, 339 N.C. 358, 370, 451 S.E.2d 858, 866 (1994). State court claims can be mooted by decisions issued by federal courts. *See Smith-Price v. Charter Behavioral Health Sys.*, 164 N.C. App. 349, 595 S.E. 2d 778, 781 (2004) (ruling by United States Bankruptcy Court for the District of Delaware disallowing plaintiffs' claims against the defendant mooted plaintiff's state court appeal of summary judgment ruling in favor of defendant); *see also Baker v. Morehouse Parish School Bd.*, 956 So.2d 121, 125 (La. App. 2d Cir. 2007) (federal court order approving decision by school board to close schools mooted "any issues related to them" on appeal in state court). When a case "becomes moot while on appeal, the usual dispensation is simply to dismiss the appeal." *State ex rel. Utilities Comm'n*, 289 N.C. 289, 221 S.E. 2d 322, 324 (1976).

Under these standards, this case is now moot and should be dismissed. Both sets of Plaintiffs have alleged several claims under the North Carolina Constitution that were separate and distinct from their primary claim that the challenged majority black districts constituted illegal racial gerrymanders under the Fourteenth Amendment and Article I, Section 19 of the North Carolina Constitution. These claims were finally resolved by this Court in its initial decision in *Dickson I*, and then reaffirmed in its decision in *Dickson II*. Nothing in the Supreme Court's decision to vacate the *Dickson II* decision impacts this Court's final resolution of these separate and distinct state law claims. *See Stephenson v. Bartlett*, 355 N.C. 354, 362, 562 S.E.2d 377, 384 (2002) ("*Stephenson I*") (stating that the North Carolina Supreme Court is the final arbiter of "issues concerning the proper construction and application of . . . the Constitution of North Carolina.") (quoting *State ex rel. Martin v. Preston*, 325 N.C. 438, 449, 385 S.E.2d 473, 479 (1989) (other citations omitted)).

There can be no doubt, however, that the United States Supreme Court has reversed this Court's decision in *Dickson I* and *II* related to the 2011 First and Twelfth congressional districts and that both districts have been found by the Supreme Court to be racial gerrymanders. These districts have, in fact, been replaced by the North Carolina General Assembly and new districts were enacted in 2016.

Similarly, there can be no doubt that the majority black districts established by the 2011 legislative plans have been found unconstitutional by a three-judge federal court in an opinion that has been affirmed by the United States Supreme Court. The State has been enjoined from conducting elections under the 2011 legislative plans and ordered to establish new plans for the 2018 General Election. More recently, the three-judge court has ordered the General Assembly to enact new legislative plans no later than September 1, 2017, at which time they will be reviewed by the three-judge court for compliance with its orders prohibiting the State from conducting elections under the 2011 legislative plans.

Under these circumstances, there is no possible reason for this Court to grant the relief sought by the Plaintiffs. The majority black districts found in the 2011 congressional and legislative districting plans have been found by the federal courts to violate the Fourteenth Amendment. This Court is therefore bound by the decisions of the United States Supreme Court in both *Harris* and *Covington*. And, when a statute is found to be unconstitutional under the United States Constitution, this Court has declined to address alternative claims under the North Carolina Constitution. *See North Carolina Ass'n of Educators v. North Carolina*, 368 N.C. 277, 792, 786 S.E. 2d 255, 792 (2016) ("Because we hold the repeal is unconstitutional in its retroactive application based on the Contract Clause of the United States

Constitution, we need not address plaintiffs' alternative claim based on Article I, Section 19 of the North Carolina Constitution."). The claims alleged by Plaintiffs have been fully resolved by the decisions in *Harris* and *Covington*. This Court will not hear a moot case on appeal just "to . . . determine which party should have rightly won in the lower court." *Benvenue PTA Ass'n v. Nash County Bd. of Elec.*, 275 N.C. 675, 679, 170 S.E. 2d 473, 475 (1969). Because the decisions in *Harris* and *Covington* fully resolve the controversy at issue, these cases are moot and should be dismissed.[1] *Simeon*, 339 N.C. at 370, 451 S.E. 2d at 866.

Plaintiffs note that there are exceptions to the mootness doctrine but they have failed to demonstrate how this case fits any of these exceptions. For example, in one of the cases cited by Plaintiffs, *Powell v. McCormick*, 395 U.S. 486 (1969), Congressman Adam Clayton Powell challenged the decision by the United States House of Representatives to unseat him during the 90th Congress. Congressman Powell was then reelected and seated in the 91st

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[1] Any request by Plaintiffs for "fees and costs," (Pl. Br. at 18), does not change the fact that their appeal in these cases should be dismissed as moot. *See Cochran v. Rowe*, 225 N.C. 645, 646, 36 S.E.2d 75, 75 (1945) ("As a general rule this Court will not hear any appeal when the subject matter of the litigation has ceased to exist, and the only matter to be decided is the disposition of the costs."); *Russell v. Campbell*, 112 N.C. 404, 17 S.E. 149 (1893) ("Since the appeal was taken the appellant has come into possession of the property, or its equivalent. The court will not hear a matter merely to adjudicate the costs when the subject-matter of the appeal has been disposed of.").

Congress. *Id.* at 495-96. The *Powell* respondents argued that Congressman Powell's claim had become moot because he had been seated in the 91st Congress following his reelection. *Id.* The Supreme Court rejected this argument because the Congressman's lawsuit also included a claim for back pay which had been denied the Congressman during the 90th Congress after he was removed from his seat. *Id.* at 498 (stating that Congressman Powell's "complaint names the official responsible for the payment of salaries and asks for both mandamus and an injunction against that official."). There are no similar unresolved issues here because the decisions by the federal courts in *Harris* and *Covington* provide Plaintiffs with all of the relief they were seeking in their amended complaints in these cases.

Plaintiffs next argue that the *Harris* and *Covington* decisions do not render these cases moot because they have not "yet obtained the injunctive relief they sought and are entitled to." (Pl. Br. at 16). This contention is wrong because all of the relief sought by Plaintiffs under the Fourteenth Amendment has been granted by the federal courts and there is no reason for this Court to address Plaintiffs' claims under the State Constitution which have also become moot based upon the federal rulings. *See North Carolina Ass'n of Educators*, 368 N.C. at 792, 786 S.E. 2d at 792. The two cases cited by Plaintiffs for this argument do not apply to the circumstances in this case.

As with *Powell*, in *Groves v. McDonald*, this Court found that the trial court erred in dismissing the plaintiff's entire lawsuit for breach of contract on mootness grounds where the plaintiff had already been replaced as principal of a North Carolina high school and the injunctive relief the plaintiff had requested would no longer provide him with a remedy. 23 N.C. 150, 151, 25 S.E.2d 387, 388 (1943). In explaining its decision, the Court stated that, in this breach of contract action, the "[i]junction was only ancillary and not the sole purpose of plaintiff's action" because the plaintiff was asking for a "declaration of his rights under the facts alleged, and is content to withhold his election of remedies, if any he have, whole awaiting such declaration." *Id.* Here, unlike the plaintiff in *Groves*, there is no injunctive or declaratory relief that might be ordered by this Court that has not already been mooted by the federal courts. The federal courts declared the challenged districts here unconstitutional and the State has either already replaced the districts with new ones in the case of the challenged congressional districts or, in the case of the challenged legislative districts, has been enjoined from using them in any future elections and is in the process of drawing new districts.

To the extent Plaintiffs contend that they somehow remain entitled to a declaration of their rights under the challenged districts, (Pl. Br. at 16), this Court has held that "[u]nder the Declaratory Judgment Act, jurisdiction does

not extend to questions that are altogether moot." *Pearson v. Martin*, 319 N.C. 449, 451-52, 355 S.E.2d 496, 498 (1997) ("The statute does not require the court to give a purely advisory opinion which the parties might, so to speak, put on ice to be used if and when occasion might arise.") (quoting *Tryon v. Power Co.*, 222 N.C. 200, 204, 22 S.E.2d 450, 453 (1942)).

Plaintiffs next wrongfully argue that this case falls within the "public interest" exception to the mootness doctrine. This is once again plainly incorrect. Plaintiffs cite only the decision in *Thomas v. N.C. Dept. of Human Resources*, 124 N.C. App. 698, 478 S.E. 2d 816 (1996), a case that is clearly distinguished from the facts before the Court here. In *Thomas*, while an appeal was pending, the N.C. Department of Human Resources ("NCDHR") voluntarily ended a practice for determining food stamp eligibility that the United States Department of Agriculture had rescinded and that had been previously invalidated by a prior decision the North Carolina Court of Appeals. 124 N.C. App. at 703, 478 S.E.2d at 819. In finding that the plaintiff's appeal was not moot, the *Thomas* court stated that "[i]f we were to decide that we must dismiss this or any substantially similar case as moot, defendants like the NCDHR here could virtually always manage to cease their offending practices in time to avoid meaningful review." *Id.* at 706, 478 S.E.2d at 821. Although the court found that the "public interest" and the "capable of repetition yet evading review" exceptions to the mootness doctrine

"apply to the case at bar," the court found the "voluntary cessation" exception "most applicable."[2] *Id.* The *Thomas* court provided no discussion or explanation of the "public interest" exception or its application to the facts of that case in its opinion. Nothing in *Thomas* supports Plaintiffs' contention that the "public interest" exception applies here. The relief Plaintiffs sought has been granted and North Carolina has been enjoined from using the 2011 districts at issue in these cases by two federal courts whose decisions were affirmed by the United States Supreme Court.

Plaintiffs cite generalized language about the importance of the right to vote in *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964) but that case did not involve the "public interest" exception to the mootness doctrine. While the right to vote is certainly of significant public importance, North Carolina's appellate courts have declined to invoke the "public interest" exception to the mootness doctrines in matters affecting elections where intervening events mooted a party's appeal. *See Calabria v. North Carolina State Bd. of Elections*, 198 N.C. App. 550, 559, 680 S.E.2d 738, 746 (2009) (dismissing as moot appeal regarding candidate's rights under public campaign financing statute where General Assembly amended statute before appeal was heard

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[2] Plaintiffs appear to concede that the "voluntary cessation" exception to the mootness doctrine does not apply here. In any event, it is clear from the facts in *Thomas* that this exception does not apply to these cases. There is no possibility that the State will reinstitute these districts should this appeal be dismissed as moot because of the binding orders of the federal courts.

and finding that the "public interest" and other exceptions to the mootness doctrine did not apply).

Finally, Plaintiffs have failed to show that a third exception to the mootness doctrine, the potential for future collateral legal consequences, applies. (Pl. Br. at 17). In support of this argument, Plaintiffs incorrectly cite the decision of *In re Hartley*, 291 N.C. 693, 231 S.E. 2d 633 (1997). There, the plaintiff challenged an order committing her to a mental institution. 291 N.C. at 694-95, 231 S.E.2d at 634-35. The State argued that the case was moot because the plaintiff's 90-day commitment period had expired and she had been released from confinement. *Id.* The Court refused to find that plaintiff's release mooted her claims because the plaintiff faced future legal consequences, including the possibility of another civil commitment, based upon the order finding her legally incompetent that was at issue in the appeal. *Id.* at 695, 231 S.E.2d at 634-35 (noting that "records of commitments to a mental institution will certainly be used in any subsequent proceedings for civil commitment, a factor which may well have been influential in the present case"). Here, there are no possible future collateral legal consequences facing any of the Plaintiffs following federal court judgments permanently enjoining the State's 2011 redistricting plans and ordering the State to draft a new Congressional Plan in 2016 and new legislative plans by September 1, 2017.

There is nothing left for this Court to do in this case other than to issue an advisory opinion about which party should have prevailed in the court below if the federal courts had not already resolved all of the issues remaining in this case. *Benvenue PTA Ass'n*, 275 N.C. at 679, 170 S.E. 2d at 476 ("When, pending an appeal to this Court, a development occurs, by reason of which the questions originally in controversy between the parties are no longer at issue, the appeal will be dismissed for the reason that this Court will not entertain or proceed with a cause merely to determine abstract propositions of law or to determine which party should rightly have won in the lower court.") (collecting cases and authorities); *see also Pearson v. Martin*, 319 N.C. at 451-52, 355 S.E.2d at 498. The federal decisions have already rendered the challenged statutes unconstitutional and Plaintiffs have already been granted the relief they were seeking in this case.[3]

2. **Under this Court's redistricting jurisprudence, Plaintiffs' claims regarding the 2011 districting plans have been fully resolved and any challenges to the 2016 congressional plan or any legislative districts enacted by the General Assembly for the 2018 General Election are subject to challenge only in new civil actions.**

Application of the mootness doctrine to dismiss Plaintiffs' appeal is reinforced by this Court's decisions in the *Stephenson* line of cases. In 2002,

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[3] Although Plaintiffs argue in their brief that the Supremacy Clauses of the United States and North Carolina Constitution require this Court to enter judgment in their favor in these cases, they cite no case law from any jurisdiction adopting their novel interpretation of these constitutional provisions. (Pl. Br. at 13-14).

a group of plaintiffs challenged the constitutionality of the 2001 legislative plans under the "whole county provisions" ("WCP") of the North Carolina Constitution. *See Stephenson I*, 355 N.C. 354, 562 S.E. 2d 377. In *Stephenson I*, the North Carolina Supreme Court found that the 2001 legislative plans violated the WCP, established criteria under the WCP for the drawing of legislative districts, and remanded the case to Superior Court for further proceedings. Thereafter, the Superior Court found that legislative plans enacted in 2002 by the General Assembly also violated the WCP and adopted interim plans for the 2002 election. In *Stephenson v. Bartlett*, 357 N.C. 301, 582 S.E. 2d 247 (2003) ("*Stephenson II*"), the North Carolina Supreme Court affirmed the findings by the Superior Court including its approval of the Supreme Court's interim plans used only for the 2002 General Election.

Thereafter, in 2003, the General Assembly enacted new legislative plans to be used in the 2004 General Election. The General Assembly also enacted legislation vesting exclusive jurisdiction for all future districting lawsuits in a three-judge panel of the Superior Court. *Stephenson v. Bartlett*, 358 N.C. 219, 595 S.E. 2d 112 (2004) ("*Stephenson III*"). After this legislation was enacted, the *Stephenson* plaintiffs challenged the 2003 legislative plans by filing a motion to enforce the judgment entered in *Stephenson II*. The Supreme Court affirmed the decision by the Superior

Court denying plaintiffs' motion and directing the plaintiffs to file a new lawsuit to challenge the constitutionality of the 2003 legislative plans. In relevant part, the Supreme Court of North Carolina held:

> In other words, as a result of our opinions in *Stephenson I* and *II*, there is no longer any case or controversy before the Court relating to the constitutional requirements for a North Carolina legislative redistricting plan. Final orders have been issued as to the 2001 plans and the 2002 plans, and the 2002 election has been held. *This case is over.*

Stephenson III, 358 N.C. at 225-26, 595 S.E. 2d at 117 (emphasis added).

As in the *Stephenson* line of cases, the 2011 congressional and legislative plans have been enjoined by the federal courts based upon their interpretation of the Fourteenth Amendment. These decisions, as Plaintiffs agree, are binding on this Court. The 2011 congressional plan has already been replaced by the General Assembly and elections have already been held under the 2016 Congressional Plan. The 2011 legislative plans have been enjoined and no future elections will be held under these plans. The General Assembly is in the process of replacing the 2011 legislative plans with new districts that will be reviewed by the federal three-judge court for compliance with its decision in *Covington*. There is nothing left for the state court to do because, as in *Stephenson III*, "this case is over." *Id.* at 225-26, 595 S.E. 2d at 117.

CONCLUSION

For the reasons explained above, and as recognized by this Court in the context of districting litigation, Plaintiffs have obtained all of the relief that was sought in this case as a result of the federal rulings in *Harris* and *Covington*. The issues raised in Plaintiffs' amended complaint are moot. Plaintiffs' lawsuit challenging the 2011 congressional and legislative plans is over. Plaintiffs' appeal must be dismissed under the mootness doctrine and based upon this Court's application of that doctrine to redistricting litigation.

Respectfully submitted this 18th day of August, 2017.

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N.C. R. App. P. 33(b) Certification: I certify that all of the attorneys listed below have authorized me to list their names on this document as if they had personally signed it.

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The undersigned hereby certifies that the foregoing document has been served this day by depositing a copy thereof in a depository under the exclusive care and custody of the United States Postal Service in a first-class postage-prepaid envelope properly addressed to the following:

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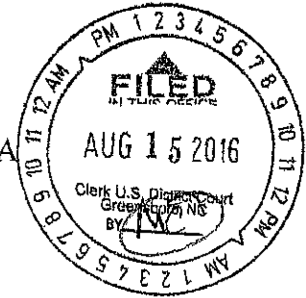
This the 18th day of August, 2017.

By: /s/ Michael McKnight
Michael McKnight

APPENDIX

Order and Judgment, *Covington v. North Carolina*, No. 1:15-cv-399
(M.D.N.C. Aug. 15, 2016) (Doc. 125) .... App. 1



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

SANDRA LITTLE COVINGTON, et al., Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, et al., Defendants.

1:15-CV-399

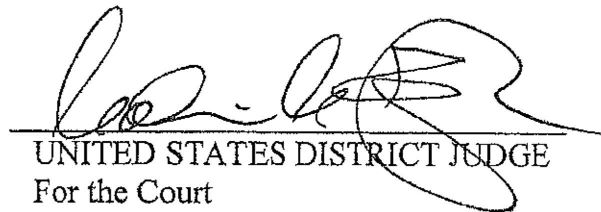
ORDER and JUDGMENT

For the reasons given in the memorandum opinion entered August 11, 2016, (Doc. 123), it is ORDERED and ADJUDGED that:

1. North Carolina House Districts 5, 7, 12, 21, 24, 29, 31, 32, 33, 38, 42, 43, 48, 57, 58, 60, 99, 102, and 107 and Senate Districts 4, 5, 14, 20, 21, 28, 32, 38, and 40 as drawn in 2011 are unconstitutional.
2. The plaintiffs' request to enjoin the November 2016 election is DENIED, but the plaintiffs' request for injunctive relief is GRANTED as follows:
    a. The State of North Carolina is ordered to redraw new House and Senate district plans;
    b. The State of North Carolina is enjoined from conducting any elections for State House and State Senate offices after November 8, 2016, until a new redistricting plan is in place.
3. This judgment is final.

4. The Court retains jurisdiction to enter such orders as may be necessary to enforce this Judgment and to timely remedy the constitutional violation.

This the 15th day of August, 2016.



UNITED STATES DISTRICT JUDGE
For the Court