
No. 14-3756

IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

**Ohio State Conference of the National Association for the
Advancement of Colored People, et al.,**

Plaintiffs-Appellees

v.

Jon Husted, et al.,

Defendants-Appellants

On Appeal from the United States District Court
for the Southern District of Ohio, Case No. 2:14-cv-00404

**Reply of Appellant, The Ohio General Assembly,
In Support of Motion to Expedite Appeal**

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The Ohio General Assembly submits this reply memorandum in support of its motion to expedite this appeal. First, the General Assembly seeks to correct its statement in its motion to expedite that the Attorney General sought leave to supplement its memorandum in opposition to Plaintiff's motion for a preliminary injunction in the district court by attaching copies of the General Assembly's memorandum in opposition and related evidence. Plaintiffs are correct that no such motion for leave was filed, which was an oversight on the part of counsel for the General Assembly, and for which it apologizes. It was unclear, however, at the time of the General Assembly's filing of its motion to expedite whether the Court would accept the Attorney General's supplemental filing, though Plaintiffs have now conceded that the General Assembly's brief is incorporated by Docket #54 and a part of the docket for the district court's review through that filing. Despite Plaintiffs' admission, however, there is still a risk that the district court could reject the Attorney General's supplemental filing, and, thus no arguments or evidence would be in the record on SB 238. Thus, the General Assembly seeks an expedited ruling of the district court's opinion and order denying its motion to intervene to remove all doubt that such arguments and evidence are before the Court on Plaintiffs' motion for a preliminary injunction.

Additionally, regardless of whether the General Assembly's opposition brief and evidence are a part of the record through incorporation by the Attorney

General, the General Assembly asserts that it still has a right to participate in any hearing on Plaintiffs' motion for a preliminary injunction. Because the parties have agreed to no live testimony at the hearing, and briefing on Plaintiffs' motion for preliminary injunction is complete, there is no prejudice in allowing the General Assembly to participate in that hearing. With a hearing date scheduled for August 11, 2014, however, an expedited resolution of this appeal is necessary. Otherwise, the General Assembly—the party that has by far most strongly advocated for the defense of SB 238—will be shut out from participating in the preliminary injunction proceedings before the district court. And importantly, as the district court indicated in its opinion and order denying the General Assembly's motion to intervene, the hearing “could as a practical matter resolve the merits of the litigation.” (Order at 3, RE 48, Page ID #1476). Thus, the General Assembly would be excluded from having any chance to participate as a party in a lawsuit attacking legislation enacted pursuant to the General Assembly's constitutionally granted authority to set forth laws governing Ohio's elections.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically on the Court's electronic case filing system on August 5, 2014. Notice will be served by operation of the Court's filing system. Copies of the filing are available on the Court's system. Electronic service will also be made upon all counsel of record at the e-mail addresses on file with the Clerk of the District Court.

/s/ Robert J. Tucker
Robert J. Tucker