

## **Injunction Against a State Law Singling Out One Municipality for a Change in Local Control**

*City of Greensboro v. Guilford County Board of Elections (Catherine C. Eagles, M.D.N.C. 1:15-cv-559)*

On July 13, 2015, two weeks before the beginning of a candidate filing period for mayor and city council in Greensboro, North Carolina, the city and six of its citizens filed in the Middle District of North Carolina a federal complaint against the county board of elections challenging a state law enacted on July 2 that, among other things, changed Greensboro’s city council from five members elected from districts and three members elected at large for two-year terms to eight members elected from districts for four-year terms and removed from the city future power to amend its form of government in manners other municipalities in North Carolina retained.<sup>1</sup> The same act converted the city council for Trinity from two members each elected from four districts for four-year terms to one member elected from each district plus one member elected at large, all for two-year terms, but the change in Trinity was not at issue in this case.<sup>2</sup> With their complaint, the plaintiffs filed a motion for a temporary restraining order<sup>3</sup> and a motion for a preliminary injunction.<sup>4</sup>

Following a telephonic conference on July 14, Judge Catherine C. Eagles provisionally set the case for hearing on July 23, ordered briefing completed by July 21, and invited briefing from the state’s attorney general.<sup>5</sup> On July 23, following the hearing, Judge Eagles determined that the plaintiffs were likely to prevail on their equal protection claim arising from the statute’s singling out Greensboro for deprivation of local control.<sup>6</sup> The attorney general declined to participate and the record showed no rational basis for the unequal

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1. Complaint, *City of Greensboro v. Guilford Cty. Bd. of Elections*, No. 1:15-cv-559 (M.D.N.C. July 13, 2015), D.E. 1; *City of Greensboro v. Guilford Cty. Bd. of Elections*, 120 F. Supp. 3d 479, 482–85 (M.D.N.C. 2015); see N.C. Sess. Law 2015-138, [www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2015-2016/SL2015-138.pdf](http://www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2015-2016/SL2015-138.pdf).

2. N.C. Sess. Law 2015-138: *City of Greensboro*, 120 F. Supp. 3d at 483 n.2.

3. Temporary Restraining Order Motion, *City of Greensboro*, No. 1:15-cv-559 (M.D.N.C. July 13, 2015), D.E. 3.

4. Preliminary Injunction Motion, *id.* (July 13, 2015), D.E. 7.

5. Order, *id.* (July 14, 2015), D.E. 23 see Order, *id.* (July 20, 2015), D.E. 28; see Joe Killian, *First Hearing in Greensboro Council Lawsuit Set for Next Week*, Greensboro News & Rec., July 15, 2015.

Judge Eagles denied a pro se motion to file an amicus brief. Order, *City of Greensboro*, No. 1:15-cv-559 (M.D.N.C. July 21, 2015), D.E. 29; see Amicus Motion, *id.* (July 14, 2015), D.E. 21.

6. *City of Greensboro*, 120 F. Supp. 3d at 483, 489–91; Docket Sheet, *City of Greensboro*, No. 1:15-cv-559 (M.D.N.C. July 13, 2015); see Joe Killian, *Judge Puts Stop to Redistricting*, Greensboro News & Rec., July 24, 2015.

treatment.<sup>7</sup> Judge Eagles ordered municipal elections to proceed as if the act had not been enacted.<sup>8</sup>

On March 23, 2016, Judge Eagles denied a motion by nine Greensboro voters, moving as intervenors in defense of the act, to require joinder of one or more state parties.<sup>9</sup> “Neither the plaintiffs, the defendant Guilford County Board of Elections, nor the defendant-intervenors have advised the Court of any problems or lack of power or authority experienced by the County Board in complying with this court’s preliminary injunction issued last year which applied to elections held last fall.”

The case is set for a bench trial beginning on February 6, 2017.<sup>10</sup>

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7. *City of Greensboro*, 120 F. Supp. 3d at 486, 488–89; see Joe Gamm, *N.C. Attorney General Asked to Defend Law Revamping Council*, Greensboro News & Rec., Sept. 2, 2015 (reporting that the attorney general declined to defend the act and the legislature declined to hire counsel to do so as well).

8. *City of Greensboro*, 120 F. Supp. 3d at 492; Preliminary Injunction, *City of Greensboro*, No. 1:15-cv-559 (M.D.N.C. July 23, 2015), D.E. 36.

9. Order, *City of Greensboro*, No. 1:15-cv-559 (M.D.N.C. Mar. 23, 2016), D.E. 72; see Order, *id.* (Oct. 30, 2015), D.E. 53 (granting intervention); see also Joe Killian, *Federal Judge: Greensboro Residents Can Defend Redistricting Lawsuit*, Greensboro News & Rec., Oct. 30, 2015; Joe Killian, *Group to Speak Up for New Districts*, Greensboro News & Rec., Aug. 26, 2015; Margaret Moffett, *Greensboro Lawsuit on Redistricting to Proceed*, Greensboro News & Rec., Mar. 25, 2016.

10. Docket Sheet, *supra* note 6; see Second Amended Complaint, *City of Greensboro*, No. 1:15-cv-559 (M.D.N.C. Dec. 8, 2016), D.E. 109 (adding an additional citizen as a plaintiff); Amended Complaint, *id.* (Feb. 13, 2016), D.E. 65 (adding an additional citizen as a plaintiff).