

A Transitionally Unrepresented District Because of District Restructuring

NAACP—Greensboro Branch
v. Guilford County Board of Elections
(*William L. Osteen, Jr., M.D.N.C. 1:12-cv-111*)

The Greensboro branch of the NAACP and two voters filed a federal complaint in the Middle District of North Carolina on February 2, 2012, eleven days before the beginning of a filing period for candidates for Guilford County’s board of commissioners, alleging that a state-mandated change in commission structure from eleven members, two at large, to nine members, one at large, would result in a two-year transition period in which districts could have no representative or multiple representatives.¹ According to the complaint, for example, no incumbent resided in the newly drawn district 6, but an election for district 6 was not scheduled until 2014.² On the other hand, two incumbents resided in district 3, which also was not scheduled for an election until 2014.³

Five days after filing their complaint, the plaintiffs filed separate motions for a temporary restraining order⁴ and a preliminary injunction.⁵ Judge William L. Osteen, Jr., held a status conference on February 9 and set the case for hearing on February 17.⁶ On February 13, Judge Osteen ruled that the plaintiffs did not need immediate relief in advance of the February 17 hearing, because although the filing period had opened, it would not close until February 29.⁷ On February 17, Judge Osteen enjoined the election.⁸

On February 23, Judge Osteen decided that a 2012 election in district 6 should substitute for the 2012 election in district 7 to avoid a two-year vacancy for dis-

1. [Complaint](#), NAACP—Greensboro Branch v. Guilford Cnty. Bd. of Elections, No. 1:12-cv-111 (M.D.N.C. Feb. 2, 2012), D.E. 1; [NAACP—Greensboro Branch v. Guilford Cnty. Bd. of Elections](#), 858 F. Supp. 2d 516, 518 (M.D.N.C. 2012); see Taft Wireback, *Challenge to Redistricting Law Filed*, Greensboro News & Rec., Feb. 3, 2012, at A2.

2. [Complaint](#), *supra* note 1, at 6–7.

3. *Id.*

4. [Temporary Restraining Order Motion](#), NAACP—Greensboro Branch, No. 1:12-cv-111 (M.D.N.C. Feb. 7, 2012), D.E. 9; [NAACP—Greensboro Branch](#), 858 F. Supp. 2d at 517–18.

5. [Preliminary Injunction Motion](#), NAACP—Greensboro Branch, No. 1:12-cv-111 (M.D.N.C. Feb. 7, 2012), D.E. 12; see Joe Killian, *Filing Period May Be Held Up*, Greensboro News & Rec., Feb. 8, 2012, at A1.

6. [Docket Sheet](#), NAACP—Greensboro Branch, No. 1:12-cv-111 (M.D.N.C. Feb. 2, 2012); see Joe Killian, *Judge May Rule on Delay in Filing by Next Week*, Greensboro News & Rec., Feb. 10, 2012, at A1.

7. [Order](#), NAACP—Greensboro Branch, No. 1:12-cv-111 (M.D.N.C. Feb. 13, 2012), D.E. 19; [NAACP—Greensboro Branch](#), 858 F. Supp. 2d at 518; see Robert C. Lopez, *Judge Doesn’t Halt Filing for County*, Greensboro News & Rec., Feb. 14, 2012, at A1.

8. [Order](#), NAACP—Greensboro Branch, No. 1:12-cv-111 (M.D.N.C. Feb. 17, 2012), D.E. 26; [NAACP—Greensboro Branch](#), 858 F. Supp. 2d at 517–18; see Joe Killian, *Judge Freezes Filings for Now*, Greensboro News & Rec., Feb. 18, 2012, at A1.

trict 6.⁹ Judge Osteen explained his reasoning more fully in a published March 14 opinion.¹⁰ Judge Osteen acknowledged that he left unresolved the problem of two representatives for district 3.¹¹ “[This matter is] not appropriately addressed as part of preliminary injunctive relief as there is no threat of irreparable harm in the absence of injunctive relief.”¹²

Legislative action established one of the two district 3 representatives as the at-large representative until 2014.¹³ The parties stipulated on September 18 to a dismissal of the action.¹⁴

9. [Amended Order](#), *NAACP—Greensboro Branch*, No. 1:12-cv-111 (M.D.N.C. Feb. 27, 2012), D.E. 37; [Docket Sheet](#), *supra* note 6; *NAACP—Greensboro Branch*, 858 F. Supp. 2d at 517; *see* Joe Killian, *Judge Oks Commissioners Filing*, Greensboro News & Rec., Feb. 24, 2012, at A1.

10. *NAACP—Greensboro Branch*, 858 F. Supp. 2d 516.

11. *Id.* at 531.

12. *Id.*

13. *See* Morgan Josey Glover, *Bill Will Put Cashion in At-Large Seat*, Greensboro News & Rec., May 17, 2012, at A1; David Nivens, *GOP Takes Control of Guilford County Board of Commissioners*, High Point Enterprise, Dec. 3, 2012.

14. [Stipulation](#), *NAACP—Greensboro Branch*, No. 1:12-cv-111 (M.D.N.C. Sept. 18, 2012), D.E. 44.