

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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Aug 29 2024

IN THE ORIGINAL JURISDICTION

S.C. SUPREME COURT

Appellate Case No. 2024-001227

League of Women Voters of South Carolina..... Plaintiff/Petitioner,

v.

Thomas Alexander, in his official capacity as President of the South Carolina Senate; Murrell Smith, in his official capacity as Speaker of the South Carolina House of Representatives; and Howard Knapp, in his official capacity as Director of the South Carolina Election Commission..... Defendants/Respondents,

**RESPONDENT SPEAKER SMITH’S RETURN
TO PETITION FOR ORIGINAL JURISDICTION**

Pursuant to Rule 245(c), SCACR, Respondent G. Murrell Smith, Jr., in his official capacity as Speaker of the South Carolina House of Representatives (“Speaker Smith”), submits this return to Plaintiff/Petitioner League of Women Voters of South Carolina’s Petition for Original Jurisdiction. Speaker Smith agrees with President Alexander’s Return filed on August 28, 2024 and agrees that the Court should exercise original jurisdiction over this matter and then dismiss the Complaint.

As a matter potentially affecting votes cast in elections for the United States Congress, this is a case where “the public interest is involved,” and “special grounds of emergency or other good reasons exist why the original jurisdiction of the Supreme Court should be exercised.” Rule 245(a), SCACR. Pursuant to Rule 245, this Court should grant Plaintiff/Petitioner’s request to hear this

case in its original jurisdiction in order to give the General Assembly and the voters of South Carolina finality and to avoid voter confusion. *See e.g., Duggins v. Lucas*, 431 S.C. 115, 847 S.E.2d 793 (2020) (granting original jurisdiction in an election-related case); *Richland Cnty. Sch. Dist. 2 v. Lucas*, 434 S.C. 299, 862 S.E.2d 920 (2021) (granting original jurisdiction in a constitutional challenge to statute); *Pinckney v. Peeler*, 434 S.C. 272, 862 S.E.2d 906 (2021) (same); *S.C. Pub. Int. Found. v. Lucas*, 416 S.C. 269, 270 n.1, 786 S.E.2d 124, 125 n.1 (2016) (finding “that the public interest requires we exercise our original jurisdiction to decide this case in an expeditious manner”).

As Plaintiff/Petitioner and its counsel are well aware, the South Carolina State Conference of the NAACP (“SC NAACP”) made racial gerrymandering claims in 2022 challenging the same district lines that are the subject of Plaintiff/Petitioner’s current claims. Those federal claims were litigated in federal court in the fall of 2022 in front of a panel of three federal judges (the “District Court”). During that multi-week trial, the SC NAACP was represented by a battery of lawyers (including attorneys for the ACLU, who now represent Plaintiff/Petitioner here) who called a number of witnesses (including Lynn Teague, Plaintiff/Petitioner’s long-standing Vice President for Issues & Action) in support of the SC NAACP’s claims. Following trial, the District Court erroneously found that the Respondents engaged in racial gerrymandering and intentional racial discrimination in violation of the 14th Amendment to the United States Constitution. President Alexander, Speaker Smith, and Director Knapp appealed to the Supreme Court of the United States, and Plaintiff/Petitioner filed an *amicus* brief in support of the SC NAACP. The United States Supreme Court reversed, ruling in favor of Respondents. *See S.C. State Conf. of NAACP v. Alexander*, 649 F. Supp. 3d 177 (D.S.C. 2023), *modified*, No. 3:21-cv-03302-MGL-TJH-RMG, 2024 WL 1327340 (D.S.C. Mar. 28, 2024), *and rev’d in part sub nom. Alexander v. S.C. State*

Conf. of the NAACP, 144 S. Ct. 1221 (2024). Now, Plaintiff/Petitioner attempts to implausibly and impermissibly stretch the plain language of the South Carolina Constitution to bring non-cognizable claims based on alleged partisan gerrymandering. Its arguments here are no more persuasive than those taken in its *amicus* brief filed with the Supreme Court of the United States.

The General Assembly should not be forced to re-litigate this issue “in a lower court in the first instance.” Rule 245(a), SCACR. The Court should exercise its original jurisdiction over this matter because, among other reasons, the challenges presented here—if allowed to drag out—would create voter confusion, which only a swift resolution by this Court can avoid.

However, in agreeing that the Court should entertain this matter in its original jurisdiction, Speaker Smith does not admit any of the allegations in Plaintiffs/Petitioner’s Complaint and Petition, nor does he agree with the legal positions outlined therein. Speaker Smith therefore reserves all defenses available under the law. Should the Court accept this matter in its original jurisdiction, Speaker Smith intends to file a Motion to Dismiss along with an accompanying brief and intends to participate fully in oral argument should the Court deem oral argument to be necessary.

President Alexander and Director Knapp were served prior to Speaker Smith. Undersigned counsel accepted service on August 14, 2024 and files this return within the 20 days allotted by Rule 245(c), SCACR. As noted earlier, Speaker Smith concurs with the positions taken by President Alexander in his August 28, 2024 Return. Finally, Speaker Smith would note that he is aware of the Motion to Intervene filed by Governor Henry D. McMaster on August 20, 2024 and he takes no position on that Motion.

[signature page follows]

Respectfully submitted,

s/Mark C. Moore

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Columbia, South Carolina
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