

JONES DAY

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February 27, 2012

Mark Langer, Clerk
United States Court of Appeals for the
District of Columbia Circuit
333 Constitution Ave., NW
Washington, DC 20001

Re: No. 11-5349, *LaRoque v. Holder*

Dear Mr. Langer:

In this case, briefing on Appellants' appeal, and on Appellees' motion to dismiss on mootness grounds, has concluded, and a panel consisting of Judges Tatel, Griffith, and Williams is currently considering those submissions. I submit for the panel's consideration a declaration concerning a recent electoral change that is relevant to the pending mootness motion.

Attached is a declaration by Oscar Herring, a member of the Lenoir County Board of Elections, which describes a voting change that the Board recently adopted. That voting change specifically undercuts Appellees' assertion that the existence of future voting changes in Kinston is speculative, *see* MTD Reply at 3-4, and more generally underscores that Appellees cannot carry their heavy burden of proving the absence of any reasonable likelihood that Section 5 will injure Appellants in the future, *see* MTD Response at 6-10.

Sincerely,

/s/ Michael A. Carvin
Michael A. Carvin

Counsel for Appellants

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(all of whom the above-signing attorney certifies were served with this letter via ECF, on February 27, 2012, at their respective email addresses)

Attachment

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA**

STEPHEN LAROQUE, ET AL.,)	
)	
<i>Appellants,</i>)	
)	
v.)	No. 11-5349
)	
ERIC H. HOLDER, JR.,)	
ATTORNEY GENERAL)	
OF THE UNITED STATES, ET AL.)	
)	
<i>Appellees.</i>)	

DECLARATION OF OSCAR HERRING

I, Oscar Herring, hereby declare:

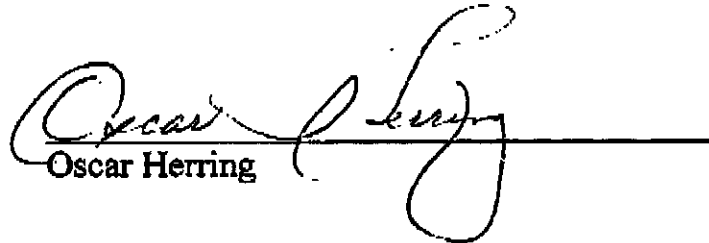
1. I am a member of the Lenoir County Board of Elections (“the Board”).
2. For elections held in Lenoir County, including the City of Kinston, voters are permitted to vote prior to election day at certain central locations. This process is called “one-stop early voting.” Currently, one-stop early voting locations are not open on Sundays.
3. On February 15, 2012, the Board held a regular meeting, which I attended and participated in.

4. At the February 15 meeting, the Board voted to change current election procedures by adopting a practice known as "Sunday Voting" for the upcoming primary. The Sunday Voting change will open the one-stop early voting locations on Sunday April 29, 2012 from 1:00 pm to 5:00 pm.

5. The Board's approval of the "Sunday Voting" change, while effective under North Carolina law, cannot be implemented until it is precleared by federal authorities under Section 5 of the Voting Rights Act.

6. I am Secretary of the Board and I am responsible for keeping the minutes for the meetings. Don Wright, the legal counsel for the North Carolina Board of Elections, told me that I cannot provide anyone with copies of the minutes for the February 15, 2012 meeting until the Board approves them. Sharon Kanter, the Chair of the Lenoir County Board of Elections, told me that she would not hold a special meeting in order to approve the minutes. The next regular Board meeting is currently scheduled for March 14, 2012.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on this day, February 27, 2012.


Oscar Herring