

Case Nos. 11-3060, 11-3059, and 10-4481

**IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

TRACIE HUNTER, Committee to Elect Tracie M. Hunter for Judge
Plaintiff – Appellee

**NORTHEAST OHIO COALITION FOR THE HOMELESS; OHIO
DEMOCRATIC PARTY**
Intervenors – Appellees

v.

HAMILTON COUNTY BOARD OF ELECTIONS, et al.
Defendants-Appellants

And

JOHN WILLIAMS
Intervenor – Appellant

**RESPONSE OF DEFENDANT/APPELLANT
HAMILTON COUNTY BOARD OF ELECTIONS TO
MOTION OF PLAINTIFF/APPELLEE TO SHORTEN TIME TO
ISSUE MANDATE**

Defendant/Appellant Hamilton County Board of Elections respectfully asks this Court to deny Plaintiff/Appellee Hunter's Motion to Shorten Time to Issue Mandate for the reasons set forth in the attached memorandum.

MEMORANDUM

Plaintiff/Appellee Hunter has moved this Court to shorten the time to issue its mandate pursuant to Fed. R. App. Proc. 41(b). “The mandate issues 21 days after the entry of judgment. . . .” Sixth Cir. IOP R.41(a).

Hunter’s motion was filed shortly after the District Court held a status conference to discuss the implication of this Court’s order of January 27, 2011. The District Court inquired of Defendant of its intention to file a petition for an en banc review of the January 27, 2011 order. Counsel for Defendant replied that it is quite likely that the Defendant would pursue that remedy.

Hunter does not suggest a specific date on which the mandate should issue. Additionally, other than point out that these appeals have moved quickly, Hunter offers no reason or advances any argument to support her position. Fed. R. App. Proc. 40(a)(1) provides that “Unless the time is shortened or extended by order or local rule, a petition for panel rehearing may be filed within 14 days after entry of judgment.” Fed. R. App. Proc. 41(b) states “the court’s mandate must issue 7 calendar days after the time to file a ... petition for rehearing en banc.” Hunter’s motion presumably relies upon the last sentence of 41(b) that states “This court may shorten or extend the time.” Hunter’s reliance on Fed. R. App. Proc. 41(b) for this request is

misplaced to the extent it seeks to restore jurisdiction to the District Court prior to the expiration of the 14 day period in which to request a rehearing en banc.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed on January 28, 2011 using the Court's CM/ECF system, which will transmit notice of the filing to all counsel of record in this case.

/s/ James W. Harper
James W. Harper