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**VIA EMAIL (dbickell@supremecourt.gov) and HAND DELIVERY**

October 7, 2014

Mr. Danny Bickell  
Deputy Clerk for Practice and Procedure  
United States Supreme Court  
One First Street, NE  
Washington, DC 20543

Re: Docket No. 14A358

Dear Mr. Bickell:

This letter is in response to the letter from Respondents' counsel of record, Michael F. Williams, in the above-captioned matter following the status conference held this afternoon in the United States District Court for the Middle District of North Carolina. The purpose of this conference was to address how the State Board of Elections intended to comply with the Preliminary Injunction, not to address the harms and burdens on elections officials or the dangers and risks that will accompany changing election rules and procedures this late in the election cycle that will inevitably result if the Preliminary Injunction entered in this matter is not stayed by this Court.

In his letter, Mr. Williams, who was not present in the district courtroom today, states that at this afternoon's status conference Applicants told the court that implementing the preliminary injunction with respect to out-of-precinct voting was "simple" because "provisional ballots will be provided as required under federal law to voters as necessary and the County Boards of Election will simply count the ballot." It is true that even in the absence of a Preliminary Injunction, the State of North Carolina would have been required by federal law to provide provisional ballots to voters who appear and insist upon voting in the wrong precinct. What Mr. Williams's letter ignores is that, unless the Preliminary Injunction entered by the District Court is stayed by this Court as Applicants have requested, each of the County Boards of Election will have to determine whether provisional ballots cast in the wrong precincts must be

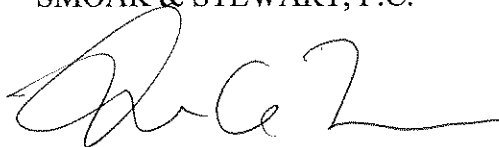
counted, an administrative burden the Boards did not know they would have to bear until the Fourth Circuit entered its order last Wednesday.

Regarding Same-Day Registration (“SDR”), the State Board of Elections has adopted a plan to administer SDR by hand because doing so would be less of a risk than conducting computer-based SDR. Applicants never represented to the district court during today’s conference that manual SDR would not be problematic. To the contrary, manual administration of SDR has never been done before in North Carolina and poll workers have never been trained on this procedure which increases the possibility of human error and could result in longer lines for SDR voters in some counties and longer lines for all early voters in other counties.

As stated in today’s status conference, while Applicants are committed to good-faith compliance with all applicable court orders and having an election process that is as seamless as possible for North Carolina’s voters over the next few weeks, the Fourth Circuit’s last-minute “resurrection” of both out-of-precinct voting and SDR will cause unnecessary confusion among poll workers and voters and is precisely the sort of harm this Court warned against in *Purcell v. Gonzalez*, 549 U.S. 1 (2006). For these reasons, Applicants respectfully ask this Court to recall and stay the mandate entered by the Fourth Circuit on October 1, 2014 and to stay the injunction entered by the U.S. District Court for the Middle District of North Carolina on October 3, 2014 pursuant to the Fourth Circuit’s mandate.

Very Truly Yours,

OGLTREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.



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Cc: All counsel of record (via email and U.S. Mail)