

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

NATIONAL ASSOCIATION FOR THE  
ADVANCEMENT OF COLORED PEOPLE, ET  
AL.,

*Plaintiffs,*

v.

TATE REEVES, in his official capacity as  
Governor of the State of Mississippi, ET AL.,

*Defendants.*

Case No. 3:23-cv-272-HTW-LGI

**MOTION TO STAY THE  
FORTHCOMING ORDER LIFTING  
THE TRO AGAINST DEFENDANT  
RANDOLPH PENDING APPEAL**

Pursuant to Fed. R. Civ. P. 62(d) and this Court's inherent powers to control the disposition of cases on its docket, Plaintiffs respectfully request that the Court stay, pending appeal, its forthcoming order lifting the TRO that has preliminarily enjoined Chief Justice Randolph from appointing special circuit judges under H.B. 1020 § 1—unless the Court first grants leave to amend (Dkt. 80) and the replacement TRO sought against those proposed John/Jane Doe defendants to prevent them from accepting the appointments (Dkt. 82). Alternatively, and at minimum, Plaintiffs request an administrative stay of 21 days to allow them to seek an emergency, expedited stay pending appeal from the Fifth Circuit.

A stay of the Court's forthcoming order lifting the existing TRO (or issuance of the replacement Doe TRO) is necessary “[t]o maintain the status quo and to avoid possible irreparable harm from any violation of constitutional rights to equal protection of the law,” as this Court twice found in issuing and then renewing the existing TRO. Dkts. 26, 38. The statutory deadline for the H.B. 1020 § 1 appointments has passed. If the current TRO is lifted and no replacement TRO is in place, the Chief Justice will be immediately required to appoint

and swear in the special circuit judges. The Court’s forthcoming order thus threatens to upend the status quo and cause irreparable harm to Plaintiffs’ constitutional rights, unless it is paired with (1) an order granting leave to amend (Dkt. 80) and the replacement TRO (Dkt. 82), or (2) a stay pending appeal.

As explained in the memorandum filed herewith, Plaintiffs intend to appeal the Court’s forthcoming dismissal of the Chief Justice and—unless the Court grants the replacement TRO (Dkt. 82)—its lifting of the TRO against him. Each of the Fifth Circuit’s stay factors favors staying the Court’s lifting of the existing TRO in the absence of a replacement TRO. The Court’s June 1, 2023 dismissal ruling underlying its planned lifting of the TRO involved a serious and difficult legal question that warrants a stay pending appellate review, and in the alternative, Plaintiffs respectfully submit that they are likely to succeed on appeal. Additionally, Plaintiffs will suffer irreparable harm absent a stay; a stay will not harm Defendants; and it would be in the public interest.

Accordingly, if the Court does not grant the replacement TRO (Dkt. 82), then it should stay its forthcoming order dissolving the TRO against the Chief Justice pending appeal. Alternatively, the Court should issue an administrative stay of 21 days from the issuance of the forthcoming order to allow Plaintiffs to seek a stay pending appeal from the Fifth Circuit.

Respectfully submitted this 20th day of September, 2023.

/s/ Mark H. Lynch

Eric H. Holder, Jr.,\* DC Bar # 303115  
Megan A. Crowley,\* DC Bar # 1049027  
Gary S. Guzy,\* DC Bar # 375977  
Mark H. Lynch,\* DC Bar # 193110  
Brenden J. Cline,\* DC Bar # 1021317  
David Leapheart,\* DC Bar # 1032122  
**COVINGTON & BURLING LLP**  
One CityCenter  
850 Tenth Street NW  
Washington, DC 20001  
Tel: (202) 662-6000  
Fax: (202) 662-6291  
eholder@cov.com  
mcrowley@cov.com  
gguzy@cov.com  
mlynch@cov.com  
bcline@cov.com  
dleapheart@cov.com

*Counsel for NAACP*

\**Pro Hac Vice*

/s/ Carroll Rhodes

Carroll Rhodes, MS Bar # 5314  
**LAW OFFICES OF CARROLL RHODES**  
POST OFFICE BOX 588  
HAZLEHURST, MS 39083  
Telephone: (601) 894-4323  
Fax: (601) 894-1464  
crhode@bellsouth.net

Joe R. Schottenfeld,\* DC Bar # 1735796  
Evan Walker-Wells,\* NY Bar # 6050645  
**NATIONAL ASSOCIATION FOR THE  
ADVANCEMENT OF COLORED  
PEOPLE**  
4805 Mt. Hope Drive  
Baltimore, MD 21215  
Tel: (410) 580-5777  
Fax: (410) 358-9350  
jschottenfeld@naacpnet.org  
ewells@naacpnet.org

*Counsel for All Plaintiffs*

#### **CERTIFICATE OF SERVICE**

I hereby certify that on September 20, 2023, I electronically filed the foregoing with the Clerk of the Court by using the Court's CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Brenden J. Cline

Brenden J. Cline