

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

PROJECT VOTE/VOTING FOR AMERICA,

Plaintiff,

v.

Case

No. 2:10-CV-75

**ELISA LONG, General Registrar for the
City of Norfolk, Virginia, and
DONALD PALMER, Secretary of the
Virginia State Board of Elections,**

Defendants.

**DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT
OF MOTION FOR EXPEDITED RULING**

The Defendants, Donald Palmer, Secretary of the Virginia State Board of Elections ("SBE"), and Elisa Long, the General Registrar for the City of Norfolk, Virginia, through counsel, respectfully ask the Court for an expedited ruling on their Motion to Stay Judgment, before the 14-day period passes under Rule 62(a), after which the Plaintiff could seek to enforce the Court's July 20, 2011 Order. As noted in their accompanying Motion, this would require entry of a court order staying that judgment by no later than August 3, 2011, which would require modification of the Court's normal briefing schedule under Local Rule 7.

I. ARGUMENT

The Defendants believe that expedited consideration is necessary because, absent a court order, the Court's July 20, 2011 judgment will become enforceable after the 14-day period set forth in Rule 62(a). *See, e.g., Mars Steel Corp. v. Continental Bank N.A.*, 880 F.2d 928, 937 (7th Cir. 1989)(judgment becomes effective absent entry of a court

order under Rule 62); *see also Duncan v. Farm Credit Bank*, 940 F.2d 1099, 1103 (7th Cir. 1991); *In re Combined Metals Reduction Co.*, 557 F.2d 179, 188 (9th Cir. 1977).

For all the reasons stated in their Motion to Stay Judgment and their accompanying Memorandum of Law, the Defendants cannot implement the Court's July 20 ruling immediately because of additional legal requirements placed on the Defendants regarding Voter Registration Applications ("Applications"), including:

1. The SBE (which is comprised of three members) would first have to approve a proposed Application under relevant Virginia statutes and regulations; then,
2. Consistent with Public Participation Guidelines adopted by the SBE in July 2010, SBE staff would request that the Board approve exposing an edited version of the draft application, inviting comments from the public, including the plaintiff in *Greidinger v. Davis*, Case No. 3: 91-CV-00476 (E.D.Va.), for a period of 30 days;
3. Based on comments received, the SBE would approve a revised draft and request that the Office of the Attorney General submit the revised text both to this Court and the plaintiff in *Greidinger* for approval under the Consent Decree in that case (a copy of which is attached to the Memorandum of Law in Support of Motion to Stay Judgment); and
4. After a text was approved by the district court under *Greidinger*, the SBE, in conjunction with the Office of the Attorney General, would submit that final text for approval to the U.S. Department of Justice under Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c.

As stated in the Motion to Stay Judgment and Memorandum of Law in Support, this would take approximately six months to complete, after which approximately \$78,500 would be spent reprinting and stocking new Applications. If the Court's July 20 ruling is reversed on appeal, all the time and money expended on these Applications would be wasted. But because of the need to complete these steps, if at all possible, before the 2012 national elections, the SBE would have to begin this work immediately

without a stay. Consequently, the Defendants seek a ruling on their Motion to Stay Judgment by August 3, 2011, before the July 20 Order can be enforced under Rule 62(a).

The SBE also has no way to comply with the Court's July 20 Order in time for the 2011 primaries and state office elections in Virginia for the reasons stated in the Motion to Stay and Memorandum of Law. The July 20 Order also violates the provisions in the Consent Decree in *Greidinger*, again placing the Defendants in a position where they cannot comply with the July 20 Order without violating another Order from this Court.

The Defendants have endeavored to bring this Motion, and their Motion to Stay under Rule 62(c), as promptly as possible given the availability of Defendants' counsel and those parties. The Plaintiff has refused to agree to a consent order staying the judgment despite the Court's earlier statements about such a stay.

II. CONCLUSION

For the reasons stated above, the Defendants ask the Court to enter an Order requiring the completion of briefing for the Motion to Stay Judgment in time for the Court to rule on that Motion by no later than August 3, 2011.

Respectfully submitted,

DONALD PALMER

Defendant

By _____/s/

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CERTIFICATE OF SERVICE

I certify that on this 25th day of July, 2011, I filed with the Court's ECF system a true copy of the forgoing instrument, which will then be sent electronically to the following counsel of record:

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