

STATE OF NEW HAMPSHIRE
SUPREME COURT

Hannah Rivers, et al.

v.

The State of New Hampshire

EMERGENCY MOTION FOR STAY

NOW COMES the Appellant, the State of New Hampshire (the "State"), by and through its attorneys, the Office of the Attorney General, and moves pursuant to Supreme Court Rule 7-A for an emergency stay of the Order of the Strafford County Superior Court (Lewis, J.), dated September 24, 2012, granting the Appellees' request for preliminary injunctive relief (attached as Exhibit A), which is the subject of the State's Petition for Original Jurisdiction filed contemporaneously with this motion.¹ In support thereof, the States says as follows:

1. The State files this motion for stay of the Superior Court's Order granting the Appellees' request for preliminary injunctive relief. The Superior Court's Order directs the Secretary of State to:

a. Strike from the new voter registration form the paragraph that states:

In declaring New Hampshire as my domicile, I am subject to laws of the state of New Hampshire which apply to all residents, including laws requiring a driver to register a motor vehicle and apply for a New Hampshire's driver's license within 60 days of becoming a resident.

b. Re-issue the voter registration form without the above stated

¹ In addition, the State is filing a contemporaneous Motion to Reconsider with the Superior Court in the event this Court rejects the Petition for Original Jurisdiction.

paragraph.

- c. Notify every New Hampshire Town and City that the re-issued voter registration form must be used forthwith in registering new voters.
- d. Add to its website by October 1, 2012, information regarding driver licenses and car registration attached to the Order.

3. The Superior Court has issued an extraordinary remedy close to the November 6th General Election. Such a crucial decision relates to the role of the legislature to enact procedures for elections conducted in this State. Once the election passes, gone with it is the prime opportunity for the Court to correct any errors.

4. Pursuant to Supreme Court Rule 7-A, “[a] motion to stay an order or judgment of a lower tribunal shall not be filed in this court unless the movant has first unsuccessfully sought similar relief from the lower tribunal.” Supr. Ct. R. 7-A.

However, “[t]his requirement may be waived by the court upon motion in extraordinary circumstances.” *Id.*

5. Given the extremely limited amount of time left before the General Election, the State has not first filed a motion for stay with the Superior Court. Accordingly, the State moves that this Court waive this procedural requirement pursuant to Supreme Court Rule 7-A on the grounds of the presence of extraordinary circumstances. Given that the General Election is just over six weeks away, there is an insufficient amount of time available for the State to go through the process of having the Superior Court address a motion for stay in the Superior Court before filing this instant motion with this Court.

7. Staying the Superior Court’s Order will not negatively impact the Appellees or any individuals seeking to register to vote in New Hampshire. As explained

in the State's Petition for Original Jurisdiction, the new voter registration form does not require any voter to register their vehicle in this State and obtain a New Hampshire driver's license in order to vote. The form also does not require any voter to swear or affirm that they are a resident, will register their vehicle in this State and/or will obtain a New Hampshire driver's license. Further, the new registration form does not alter the statutory definitions of domicile or resident. Without regard to whether or not a voter is a resident, the form does not affect any individual's right or ability to register or vote in the State of New Hampshire.

8. Staying the Superior Court's Order will save the Secretary of State's Office time, money and resources in that it would no longer be required to distribute, to all municipalities, a version of the registration form without the statutory language that has been struck down by the Order.

WHEREFORE, the State of New Hampshire respectfully requests that this Honorable Court order as follows:

A. That the Order of the Strafford County Superior Court (Lewis, J.), dated September 24, 2012, in Case No. 219-2012-CV-00458 is suspended during the pendency of the State's appeal; and

B. For such other and further relief as justice may required

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

By its attorneys,

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Date: September 27, 2012

CERTIFICATE OF SERVICE

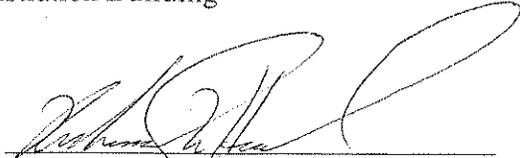
I hereby certify that a copy of the foregoing was via mail this day to Alan J. Cronheim, Esq., counsel of record, at the following address:

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I hereby certify that a copy of the foregoing was via mail this day to Julie W. Howard, Clerk of the Strafford County Superior Court at the following address:

William A. Grimes Justice & Administration Building
259 County Farm Road, Suite 301
Dover, NH 03820


Richard W. Head

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