



**OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.**

*Attorneys at Law*

4208 Six Forks Road, Suite 1100

Raleigh, NC 27609

Telephone: 919.787.9700

Facsimile: 919.783.9412

[www.ogletreedakins.com](http://www.ogletreedakins.com)

Thomas A. Farr  
Tom.Farr@ogletreedakins.com  
(919) 789-3174

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

October 5, 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:

We are submitting this reply to the Respondents' Response to Applicants' Emergency Motion for Recall and Stay of Mandate. We wish to reply to only a few points.

Respondents cite to several newspaper articles attributing statements to County Boards of Elections directors ("county directors") to the effect that reinstating same-day registration ("SDR") will not be burdensome. The statements attributed to these county directors suggest that they are unaware that SDR can no longer be implemented using the computer application employed in the past. Moreover, none of these county directors have any responsibility for updating the statewide computer system or the SDR computer application. As indicated by the sworn testimony by the Executive Director of the State Board of Elections ("SBE"), if this Court does not issue a stay, SDR will be implemented by hand with a manual process. The SBE is already in the process of developing a protocol for manual administration of SDR which has never existed in North Carolina.

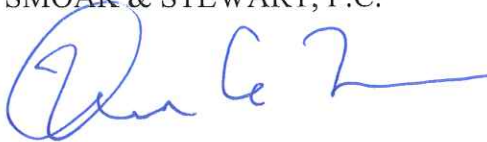
In addition, please find enclosed an article published yesterday, October 4, 2014, regarding an investigation into fraud related to SDR in Robeson County, North Carolina. The article attributes comments to the Robeson County District Attorney, Johnson Britt, regarding his investigation into SDR and other fraud arising out of the 2013 election for Pembroke Town Council. We also note the district court's factual finding that the SBE ordered a new election in the Pembroke Town Council election "when improper and unverified votes cast as a result of

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SDR tainted the outcome of [that election].” *North Carolina State Conference of Branches of the NAACP v. McCrory*, 997 F. Supp. 2d 322, 354 (2014).

Very Truly Yours,

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



Thomas A. Farr  
*Counsel of Record for Applicants*

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

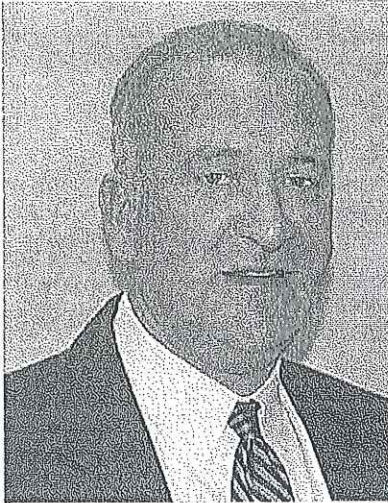
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## **Britt: Same-day provision 'ripe' for fraud**

By Bob Shiles bshiles@civitasmedia.com

October 4, 2014



LUMBERTON — Robeson County District Attorney Johnson Britt says that his department's ongoing investigation into alleged voting irregularities in local elections has found fraud related to same-day voter registration during early voting periods.

"I have concerns about same-day voter registration and early voting," Britt said. "Same-day registration and early voting are ripe for fraud and the potential for fraud."

Elimination of same-day registration during early voting is one of two provisions in the state's new election law that the 4th U.S. Circuit Court of Appeals ruled Wednesday cannot be implemented in the November General Election. The other provision of the law the three-judge panel ruled could not be implemented is a restriction on votes being counted in any other precinct than the precinct in which the voter is assigned.

Britt said that he is more concerned that same-day voter registration during the early voting period might be reinstated than he is about voters once again being able to cast a ballot in precincts other than where they are assigned.

"With an extended voting period it is difficult, if not impossible, for campaigns and board of elections officials to watch everything and prevent all voting irregularities," Britt said. "Historically, with a one-day election, it was easier for monitoring."

Britt said that he personally doesn't like the concept of voters being able to register and vote on the same day.

"If someone really wants to participate in the election process, they will take steps to register prior to the day they vote," he said.

Since April, Britt's office has been investigating all of the county's 2013 municipal elections, with a focus on one-stop voting in Pembroke and Lumberton. The investigation was initiated at the request of the State Board of Elections, and is being headed up by Erich Hackney, an investigator for the District Attorney's Office and a Lumberton councilman.

The State Board of Elections in December called for a new election for the Pembroke Town Council because it determined that November's election was tainted with voting irregularities and possible instances of fraud, mostly having to do with voters not meeting residency requirements. At the same time, the state board asked that all accusations of election fraud be turned over to the District Attorney's Office.

The do-over election, held March 11, flipped the results of the previous one. The results of a Lumberton City Council race in 2007 that prompted allegations of fraud also changed dramatically in a do-over election.

Britt said Thursday that "literally hundreds of people" are being hunted by his department for questioning.



"It's difficult to get people to talk to us because in some cases they have to admit they voted illegally," he said. "They are put in a position of being charged for a criminal act. In some cases they are put in a position of incriminating themselves."

Britt said that his department's investigation is extensive, looking into all aspects of alleged voter allegations, including vote buying and voters using another's identification for election-related activities.

According to Britt, the investigation has found cases of voters in Pembroke and Lumberton who voted but were not eligible to do so. These cases include ballots being cast by individuals in municipalities and precincts in which they did not reside.

"We are in a position to bring charges, but I'm trying to look at the bigger picture," Britt said. "More important is whether there was organized efforts to bring these ineligible voters into an area and have them vote so there could be an impact on the election. The concern is whether there were organized fraudulent activities related to the elections process."

Britt said there is no time limit on his department's investigation, but said it will not end soon.

"The investigation will continue until we think we have exhausted all leads," he said.

Same-day registration during early voting and counting of out-of-precinct ballots had been in place for several years before the 2013 law was approved by the GOP-controlled General Assembly and signed by Gov. Pat McCrory, also a Republican. Both of these voting activities were not permitted during the most recent May primary.

The Court of Appeals ruling is being appealed by the state to the U.S. Supreme Court, which could decide to allow the two provisions to stand for the November General Election. The high court is likely to get the case next year.

Steve Stone, a Republican and chairman of the Robeson County Board of Elections, has said it is unfair to use different rules for the General Election than were used during the May primary.

Advocate of same-day registration and voting say it allows some people to vote who otherwise would not do so; critics, such as Britt, say it is too easy to exploit.

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Link: <http://robesonian.com/apps/pbcs.dll/article?AID=/20141004/news/310049996/>

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