

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
NO. 1:20-CV-613

NATIONAL ASSOCIATION FOR THE)
ADVANCEMENT OF COLORED PEOPLE,)
Alamance County Branch; TAMARA O.)
KERSEY; COLLEEN TENAE TURNER;)
TERENCE COLIN DODD; DESTINY)
CLARKE; NERISSA RIVERA; ADAM)
ROSE; ANNIE SIMPSON; GREGORY B.)
DRUMWRIGHT,)

Plaintiffs,)

v.)

JERRY PETERMAN, in his official capacity)
as Mayor of the City of Graham, North)
Carolina; FRANKIE MANESS, in his official)
capacity as Graham City Manager; CHIP)
TURNER, in his official capacity as Mayor)
Pro-Tem of the City of Graham; MELODY)
WIGGINS, JENNIFER TALLEY, and RICKY)
HALL, in their official capacities as Graham)
City Council Members; JEFFREY PRICHARD)
in his official capacity as Chief of the Graham)
Police Department; TERRY S. JOHNSON, in)
his official capacity as Sheriff of Alamance)
County; BRYAN HAGOOD, in his official)
capacity as Alamance County Manager,)
Defendants.)

**DEFENDANTS TERRY S.
JOHNSON AND BRYAN
HAGOOD'S RESPONSE IN
OPPOSITION TO PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION**

COMES NOW Defendants Terry S. Johnson and Bryan Hagood, by and through
Counsel, and submit this Response in Opposition to Plaintiffs' Motion for Preliminary
Injunction as follows:

1. Plaintiffs filed the Complaint in this action on July 2nd, 2020 (D.E. 1). To this date, neither Defendant Hagood or Defendant Johnson have been served.
2. The filing of the lawsuit provided the first notice to these Defendants that Ordinance 18-175 et seq. of the City of Graham was unconstitutional. Plaintiffs submitted a letter (D.E. 8-1) to these Defendants on June 26, 2020, which expressed concern regarding Facebook posts made by Defendant Johnson, but the letter did not address the ordinance in question (D.E. 8).
3. Neither the Alamance County Sheriff's Office (hereinafter "A.C.S.O.") or Alamance County issue parade permits. See Declarations of Bryan Hagood and Lt. Scott Gaither attached hereto as Exhibits "A" and "B."
4. Upon receipt of this lawsuit and over the 4th of July holiday weekend, undersigned Counsel, and Counsel for the Graham Defendants were in frequent communication with Plaintiffs' Counsel. These communications resulted in the entry of a Consent Temporary Restraining Order on July 6, 2020 (D.E. 15), which states, in part, that the A.C.S.O. would no longer enforce the current Graham ordinance. Defendant Hagood is not mentioned in the Consent Order.
5. Defendant Hagood is not a proper party to this suit. Alamance County, specifically the office of the manager, has no authority over the Office of Sheriff. See Parker v. Bladen Co., 583 F.Supp.2d 736 (E.D.N.C. 2008), Peele v. Provident Mutual Life Ins. Co., 90 N.C. App 447, 368 S.E.2d, appeal dismissed, disc. review denied, 323 N.C. 366, 373 S.E.2d 547 (1988), Clark v. Burke County, 117 N.C.App. 85, 450 S.E.2d 747 (1994), U.S. v. Johnson, 122 F.Supp. 3d 272

(M.D.N.C. 2015), and Declaration of Bryan Hagood (Exhibit “A”). The Complaint appears to seek to impose liability on Hagood for not responding to an email (See Compl. ¶¶159-160). These Defendants respectfully submit that these allegations are insufficient to impose liability on Hagood. Moreover, it appears the email was sent to an invalid address. *Id.*

6. On July 11th 2020, a large demonstration was held in Graham in front of the courthouse. It is estimated that protesters, advocating removal of a confederate monument by the courthouse, numbered approximately five hundred (500) and counter demonstrators numbering one hundred (100), were present. During that event two (2) people were arrested by law enforcement agencies. One for disorderly conduct and failure to disperse and another for second-degree trespassing. See Declaration of Lt. Scott Gaither (Exhibit “B”). Upon information and belief, these demonstrators did not have a permit from Defendant City of Graham as none was required. On July 14, 2020, the Graham City Council repealed the ordinance. The Ordinance Repealing Article VI, “Parade or Demonstration Permit,” of the Code of Ordinances, City of Graham, North Carolina, is attached hereto as Exhibit “C.”
7. These Defendants respectfully submit that the Consent Temporary Restraining Order entered by the parties now renders this matter moot. See Anderson v. North Carolina Board of Elections, 248 N.C. App. 1 (2016). These Defendants further submit that the entry of an injunction is improper as to both as they have not been

served. Finally, an injunction as to Defendant Hagood would be improper as he has no authority over the Office of Sheriff.

WHEREFORE, having responded to Plaintiffs' Request for a Preliminary Injunction, these Defendants respectfully pray unto the Court the following:

1. That Defendant Hagood be DISMISSED from this matter and;
2. That the Motion for Preliminary Injunction be DENIED as moot.

RESPECTFULLY SUBMITTED.

This the 15th day of July, 2020

/s/ William L. Hill

William L. Hill (NCSB #21095)

Attorney for Defendants Johnson & Hagood

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CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **NOTICE OF APPEARANCE** was duly served upon all parties hereto in accordance with the provisions of Rule 5 of the Federal Rules of Civil Procedure through the CM/ECF system in effect for the United States District Court for the Middle District of North Carolina as follows:

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This the 15th day of July, 2020.

/s/ William L. Hill
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