

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Case No. 5:10-CV-00265-H

MICHAEL BATEMAN, VIRGIL GREEN,)
FORREST MINGES, JR., GRNC/FFE, INC.,)
and SECOND AMENDMENT)
FOUNDATION, INC.,)

Plaintiffs,)

v.)

BEVERLY PERDUE, REUBEN F. YOUNG,)
STOKES COUNTY, and CITY OF KING,)

Defendants.)

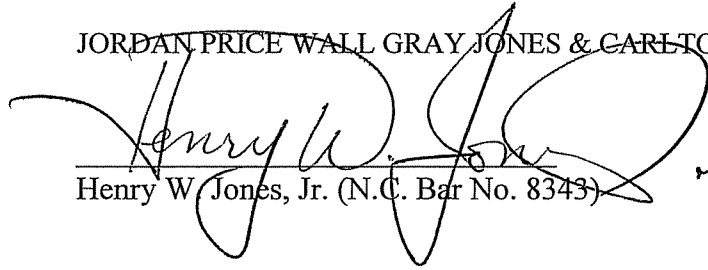
MOTION TO DISMISS
Fed. R. Civ. Proc. 12(b)(6)

NOW COMES Defendant Stokes County (“County”), by and through its attorneys of record listed below, and hereby moves pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure that this matter be dismissed for failure to state a claim upon which relief may be granted, on the grounds that Plaintiffs have failed to allege any action taken by Stokes County in contravention of their constitutional rights, and Plaintiffs only seek a determination as to the constitutionality of several state statutes, not any County ordinance, proclamation, declaration, custom, or action. This Motion is being filed prior to the filing of a responsive pleading in accordance with Rule 12(a)(4) of the Federal Rules of Civil Procedure.

WHEREFORE, for the reasons set forth herein and in the County’s Memorandum of Law that is being filed contemporaneously herewith, the County moves that Plaintiffs’ Complaint be dismissed with prejudice.

This the 11th day of August, 2010.

JORDAN PRICE WALL GRAY JONES & CARLTON, PLLC

A large, stylized handwritten signature in black ink, appearing to read "Henry W. Jones, Jr.", is written over a horizontal line.

Henry W. Jones, Jr. (N.C. Bar No. 8343)

/s/ Lori P. Jones

Lori P. Jones (N.C. Bar No. 32872)
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CERTIFICATE OF SERVICE

This is to certify that I have this day electronically filed the foregoing Motion to Dismiss with the Clerk of Court using the CM/ECF system which will serve notification of such filing on the following:

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This the 11th day of August, 2010.

JORDAN PRICE WALL GRAY JONES & CARLTON, PLLC

/s/ Lori P. Jones
Lori P. Jones (N.C. Bar No. 32872)
Attorneys for Stokes County