

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

AMERICAN CIVIL LIBERTIES)	
UNION OF NORTH)	
CAROLINA,)	
)	
Plaintiff,)	Civil Action No. 1:23-cv-302
)	
v.)	Oral Argument Requested
)	
JOSH STEIN et al.)	
)	
Defendants.)	

PLAINTIFF’S MOTION FOR A PRELIMINARY INJUNCTION

Pursuant to Rule 65(a) of the Federal Rules of Civil Procedure, Plaintiff American Civil Liberties Union of North Carolina respectfully moves the Court to preliminarily enjoin Defendants Deberry, Crump, and Freeman in their official capacities and as representatives of a class of all elected district attorneys in North Carolina, and Defendant Stein in his official capacity (hereinafter “Defendants”), from enforcing N.C. Gen. Stat. § 14-288.2 (the “Anti-Riot Act” or “Act”) as amended and re-enacted in House Bill 40, *see* ECF 1-1. The Act infringes upon Plaintiff’s fundamental speech, assembly, petitioning, and due process rights in violation of the First and Fourteenth Amendments to the United States Constitution and article I, sections 12, 14, and 19 of the North Carolina Constitution.

As demonstrated in the accompanying brief and exhibits supporting this Motion, Plaintiff will likely succeed on the merits of its state and federal constitutional claims because the Act as applied through its definitional provision, N.C. Gen. Stat. § 14-288.2(a), North Carolina Session Law 2023-6, Section 1 (to be codified as N.C. Gen. Stat. § 14-288.2(a)), and its provisions prohibiting “urg[ing]” a riot, N.C. Gen. Stat. §§ 14-288.2(d)-(e), North Carolina Session Law 2023-6, Section 1 (to be codified as N.C. Gen. Stat. § 14-288.2(e1)), is overbroad and vague. Plaintiff is suffering and will continue to suffer irreparable harm without preliminary relief; Defendants will not be harmed by an injunction prohibiting them from enforcing an unconstitutional law; and preliminary relief is in the public interest. Plaintiff also moves for waiver of a security bond upon grant of the preliminary injunction. Additionally, Plaintiff seeks leave to present oral argument in support of this Motion.

Respectfully submitted this 8th day of May 2023 by:

**ACLU OF NORTH CAROLINA
LEGAL FOUNDATION**

/s/ Samuel J Davis

Samuel J. Davis

N.C. State Bar. No. 57289

Kristi L. Graunke

N.C. State Bar No. 51216

P.O. Box 28004

Raleigh, NC 27611

Tel. (Davis): (919) 354-5071

Tel. (Graunke): (919) 354-5066

sdavis@acluofnc.org
kgraunke@acluofnc.org

*Counsel for Plaintiff American Civil
Liberties Union of North Carolina*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this **MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR CLASS CERTIFICATION** was this day filed in in the Middle District of North Carolina using the Clerk's CM/ECF system, which will send notification of this filing to the parties. In addition, I also certify that I will this day serve upon counsel for the parties named below a copy of said brief by email and first-class mail as follows:

Kathryn H. Shields
**NORTH CAROLINA
DEPARTMENT OF JUSTICE**
kshields@ncdoj.org
P.O Box 629
Raleigh, NC 27602

*Counsel for Defendants Deberry,
Crump, and Freeman*

**ACLU OF NORTH CAROLINA LEGAL
FOUNDATION**

/s/ Samuel J Davis