

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. 04 CVD 1396

RICHARD CORBETT MULLINAX, JR.,)
et al.,)

Plaintiffs,)

v.)

WILLIE COVINGTON, Durham)
County Register of Deeds,)

Defendant.)

ORDER

THIS CAUSE coming on to be heard and being heard before the Honorable Craig B. Brown, Judge presiding over the May 10, 2004 session of Durham County Civil District Court, on motion of the Defendant, Willie Covington, to dismiss the above-entitled action for improper division pursuant to Rule 12(b)(3) of the North Carolina Rules of Civil Procedure, and the Plaintiffs being present and represented by Cheri C. Patrick, Esquire, and the Defendant being present and represented by S. C. Kitchen, County Attorney.

Upon consideration of argument of counsel, and after review of the file and the cases cited by counsel, the Court makes the following

FINDINGS OF FACT:

1. Plaintiffs are residents of the County of Durham, North Carolina.
2. The Defendant is a resident of the County of Durham, North Carolina.
3. The provisions of Chapter 50 of the General Statutes of North Carolina do not attach until there is a valid marriage.
4. This case raises serious constitutional issues which are best determined by the

Superior Court.

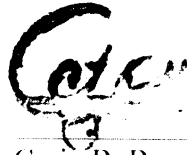
Based upon the foregoing findings of fact, the Court makes the following

CONCLUSIONS OF LAW:

1. The Court has subject matter jurisdiction in this matter.
2. The provisions of Chapter 50 of the General Statutes of North Carolina have not attached, and the District Court is not the proper division for this action.
3. The injunctive relief requested by the Plaintiffs is more properly heard before the Superior Court.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that this action be and is hereby dismissed without prejudice pursuant to Rule 12(b)(3) of the North Carolina Rules of Civil Procedure, and that the costs of this action be taxed to the Plaintiffs.

This the 17th day of May, 2004.



Craig B. Brown
Judge Presiding

