

No. 25-1500

**IN THE
United States Court of Appeals
For the Fourth Circuit**

KATHERINE MOORE, et al.,

Appellants,

v.

MIKE SILVER, in his individual and official capacity

**as Director of Training and Services, North Carolina Administrative Office of the
Courts,**

Appellee.

**On Appeal from the United States District Court for the Eastern District of North
Carolina**

No. 24-cv-00686, Hon. Terrence W. Boyle, District Judge

**SUPPLEMENT TO MOTION FOR CONSIDERATION OF SEVERANCE OF
PLAINTIFFS-APPELLANTS PALACIOS AND BASISTA AND MOTION TO
EXPEDITE**

NOW COMES Plaintiff-Appellant Katherine Moore, pro se, pursuant to Federal Rule of Appellate Procedure 27 and Fourth Circuit Local Rule 27(a) and respectfully moves this Honorable Court to review new information regarding Appellant Moore's request to sever Plaintiffs-Appellants Amy Palacios and Edyta Hannah Basista from the above-captioned appeal. In support of this motion, Plaintiff Moore states as follows:

I. PROCEDURAL HISTORY

This appeal arises from the United States District Court for the Eastern District of North Carolina, Case No. 5:24-cv-686. On December 30, 2024, all three Plaintiffs-Appellants jointly sought emergency injunctive relief for systemic violations of due process, equal protection, and rights under federal law. An amended Motion for Injunctive Relief was filed on January 31, 2025, and On March 11, 2025, Appellants filed a Motion for Expedited Review because there had been no disposition on the emergency request in over four months. During that time, Appellant Moore's daughter suffered ongoing, untreated medical issues. On April 18, 2025, Appellants filed a Writ of Mandamus with the Fourth District Court of Appeals and provided a copy to the District Court on April 23, 2025. On April 25, the District Court denied the Injunctive relief. Following denial of that injunction, this joint appeal was docketed under Case No. 25-1500.

Since that time, Co-Appellants have filed a federal action 5:25-cv-00249FL and refuse to file the Financial Disclosure required for continuation of case 25-1500 to proceed.

Additionally, Pursuant to Fourth Circuit Local Rule 27(f), Plaintiff-Appellant Katherine L. Moore respectfully moves this Honorable Court to expedite consideration of the pending appeal and emergency injunctive relief. Good cause exists to grant this motion because the health and welfare of Appellant's minor child are under ongoing and escalating threat, and further delay will cause irreparable harm. In support thereof, Appellant states the following:

II. MANDATORY PROCEDURAL DEFAULT BY CO-APPELLANTS

Pursuant to Fourth Circuit Local Rule 26.1 and Federal Rule of Appellate Procedure 26.1, all corporate disclosure statements must be filed by each party at the outset of an appeal. Plaintiffs-Appellants Palacios and Basista have refused to execute or file the required Financial Disclosure Statements, despite notice of the requirement. Their noncompliance constitutes a fatal procedural defect and risks dismissal of the entire appeal. *See In re Jackson*, 554 F. App'x 211, 212 (4th Cir. 2014) (per curiam) (failure to comply with mandatory appellate procedures may result in dismissal of appeal); see also *United States v. Cothran*, 302 F.3d 279, 287 (5th Cir. 2002) (recognizing appellate courts' inherent authority to dismiss appeals for procedural default).

The Court has inherent authority to expedite proceedings "in the interests of justice and judicial economy." *United States v. Becker*, 502 F.3d 122, 127 n.1 (4th Cir. 2007). Local Rule 27(f) further authorizes motions to expedite where "time is of the essence" and "extraordinary circumstances" justify deviation from normal briefing schedules.

Where constitutional rights are implicated and the subject of litigation involves a minor child's health and safety, expedited treatment is especially warranted. See *Doe v. Public Citizen*, 749 F.3d 246, 263 (4th Cir. 2014) (recognizing that courts must act with urgency in matters involving imminent harm to constitutional interests); *Newby v. Enron Corp.*, 443 F.3d 416, 420 (5th Cir. 2006) (finding that risk of irreparable harm to vulnerable individuals justifies emergency appellate intervention).

III. GROUNDS FOR SEVERANCE

In addition to the procedural default, Palacios and Basista have jointly filed a

separate action in the Eastern District of North Carolina, *Basista et al. v. Senator Batch et al.*, Case No. 5:25-cv-00249-FL, asserting legal claims distinct from those raised by Plaintiff Moore. Plaintiffs Basista and Palacios both have distinct mental and substance abuse pasts that they believe need to be addressed properly and separately by not just the courts but also their mental health professionals, attorneys, judges and a Senator that were active in their cases. Their lawsuit focuses on the failure of state officials to appropriately address their mental health diagnoses and involves new the aforementioned newly named defendants that do not comport with the legal theories proffered in the current case.

Plaintiff Moore's appeal, by contrast, centers on an urgent, continuing medical crisis impacting her four-year-old daughter as well as the extrinsic fraud that has been pervasive in her case. Plaintiff Moore is unable to obtain necessary treatment for her child's worsening hearing condition due to court orders stripping her of medical and educational decision-making authority and transferring primary custody from her to the father when she had the baby examined after she returned home with injuries of an unspecified origin.

At present, the child's father, Scott Mills, has failed to respond to multiple requests for care, and the child's hearing has continued to decline. The baby currently has noticeable hearing loss. This was true at the emergency appointments where Plaintiff Moore took the baby for treatment in November and in March. Since that time, the hearing loss has progressed. At the November and March appointments, the doctors explicitly stated that if left untreated, the hearing loss could become permanent. This was relayed to the baby's father and girlfriend, Amie Sexton. The Amie Sexton (the third live-

in partner in 4 years), who the father makes the baby call ‘Mommy’, is the only one who will communicate with Plaintiff Moore. Amie Sexton clearly states in the recording that the baby stated to her that she could not hear out of her ear. All of this information is contained in the recorded exchange that was transcribed. Plaintiff Moore submitted the transcript of the admission from the father's girlfriend, Amie Sexton, acknowledging the hearing impairment over a month ago. Plaintiff Moore requested a follow up doctor's appointment and hearing assessment via email. The father has not responded or had the baby seen for any follow-up or treatment.

With this knowledge, Co-Appellants, Basista and Palacios definitively refuse to sign the Financial Disclosure forms so that the court can consider whether the baby can potentially receive a hearing assessment and medical care with the intentions of dismissing the case.

Federal Rule of Civil Procedure 21 authorizes federal courts to “add or drop a party” or “sever any claim against a party” at any time and on just terms. While the Federal Rules of Civil Procedure do not formally apply in appellate proceedings, appellate courts routinely rely on Rule 21 to evaluate whether misjoinder or procedural defects among parties in lower court proceedings warrant severance for purposes of judicial economy or preservation of viable claims on appeal. The Supreme Court has affirmed the discretionary authority of federal courts to manage joinder and severance issues where continued joinder would prejudice the rights of any party or delay adjudication. See *United States v. Mississippi*, 380 U.S. 128, 143 (1965).

The Fourth Circuit has consistently upheld the use of severance when plaintiffs raise claims based on divergent factual narratives, legal theories, or remedies sought. In

Mayo v. City of Charlottesville, 89 F.3d 828 (4th Cir. 1996), the Court affirmed that claims involving distinct parties and factual allegations—even if arising under the same constitutional framework—may properly be severed where joinder “would confuse the issues, unfairly prejudice one party, or delay the resolution of claims deserving of urgent attention.”

Similarly, in *Sowers v. Bradford Area Sch. Dist.*, 694 F.2d 427, 431 (4th Cir. 1982), the Court noted that “misjoinder of parties is not a ground for dismissing an action,” but severance is proper to “preserve fairness and promote efficient judicial administration.” These principles apply even more strongly in the appellate context, where noncompliant co-appellants may jeopardize the appellate posture of compliant parties.

Here, co-Appellants Palacios and Basista not only pursue divergent claims in a separate lawsuit (*Basista et al. v. Senator Batch et al.*, Case No. 5:25-cv-00249-FL), but have also explicitly refused to comply with a mandatory procedural requirement: the filing of Financial Disclosure Statements under Fourth Circuit Local Rule 26.1 and Federal Rule of Appellate Procedure 26.1. This failure is not a mere technical oversight—it represents a jurisdictional and procedural default that threatens to result in the dismissal of the entire appeal. See *In re Jackson*, 554 F. App’x 211, 212 (4th Cir. 2014) (per curiam) (“[F]ailure to comply with court rules, including mandatory disclosures, may justify dismissal.”); see also *Baxter v. United Forest Products Co.*, 406 F.2d 1120, 1121 (8th Cir. 1969) (dismissing appeal due to procedural failure of one co-appellant despite another's compliance).

The inherent authority of the appellate court to preserve justiciability and procedural integrity further supports severance. As held in *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962), courts have the inherent power “to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” Severing Palacios and Basista, who have defaulted procedurally and whose claims no longer share factual or legal unity with Moore, is necessary to prevent unjust dismissal of Plaintiff Moore’s otherwise viable and urgent appeal.

Moreover, allowing Plaintiff Moore to proceed independently would serve the public interest in the efficient adjudication of her constitutional claims and the emergency medical circumstances involving her minor child. To the extent severance would avoid unnecessary delay or prejudice, it is not only justified but essential to fulfill the objectives of judicial economy, fairness, and due process under the Fifth and Fourteenth Amendments.

IV. GROUNDS FOR EXPEDITED REVIEW

Irreparable Harm to Minor Child

Appellant’s daughter has a history of untreated medical issues, including chronic infections and febrile episodes, that have worsened due to Appellant’s lack of medical decision-making authority—wrongfully stripped by a state court order issued without due process. These ongoing harms violate the child’s right to appropriate care and Appellant’s rights under the Fourteenth Amendment. Delay will likely result in permanent injury, further violating federal protections including those under the Parham

v. J.R., 442 U.S. 584 (1979), which affirms a parent's right to direct the medical care of their child.

Ongoing Constitutional Violations

Appellant's rights to familial association, procedural due process, and bodily integrity for her child are violated daily. These are the very types of rights the Fourth Circuit has held require prompt judicial protection. See *Weller v. Dep't of Soc. Servs. for City of Baltimore*, 901 F.2d 387, 393 (4th Cir. 1990).

District Court Delay Constitutes De Facto Denial

The district court's prolonged inaction amounts to a constructive denial of relief. In *In re United States*, 273 F.3d 380, 388 (4th Cir. 2001), the Court recognized mandamus or appellate review may be warranted where lower court delay frustrates the purpose of emergency relief.

Public Interest and Welfare of the Child

Federal courts have long recognized the special status of minors in litigation, and the government's *parens patriae* interest in ensuring their safety. The delay in this case undermines both private rights and the public interest. See *Stanley v. Illinois*, 405 U.S. 645, 651 (1972).

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff-Appellant Katherine Moore respectfully requests that this Honorable Court:

1. GRANT renewed consideration of the motion to sever;
2. SEVER Plaintiff-Appellants Palacios and Basista from the instant appeal;
3. PERMIT Plaintiff Moore to proceed independently under Case No. 25-1500;
4. EXPEDITE consideration of Plaintiff Moore's request for emergency relief concerning her minor daughter's urgent medical needs; and
5. GRANT such other relief as the Court deems just and proper.

Respectfully submitted,

Dated: May 14, 2025

/s/ Katherine Moore
Katherine Moore, Pro Se

CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2025, I served a true and correct copy of the foregoing Renewed Motion for Consideration of Severance via the Court's electronic filing system (CM/ECF) upon all registered parties, and where applicable, by U.S. Mail to any non-ECF participants.

/s/ Katherine Moore

Katherine Moore, *Pro-se*, J.D., M.S., CFE