

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2012-0338, City of Manchester & a. v. Secretary of State; City of Concord v. Secretary of State; Mary Jane Wallner & a. v. Secretary of State; Town of Gilford & a. v. Secretary of State; Marshall Quandt & a. v. Secretary of State, the court on May 22, 2012, issued the following order:

The petitioners' motion for preliminary injunction to delay the opening of the filing period for candidates for the New Hampshire House of Representatives is hereby denied.

The issuance of injunctions, either temporary or permanent, has long been considered an extraordinary remedy. N.H. Dep't of Envtl. Servs. v. Mottolo, 155 N.H. 57, 63 (2007). A preliminary injunction is a provisional remedy that preserves the status quo pending a final determination of the case on the merits. Id. An injunction should not issue unless there is an immediate danger of irreparable harm to the party seeking injunctive relief, and there is no adequate remedy at law. Id. Also, a party seeking an injunction must show that it would likely succeed on the merits. Id. The petitioners have not met this heavy burden.

RSA 662:5, the redistricting statute challenged by petitioners, comes before this court with a presumption of constitutionality, see N.H. Assoc. of Counties v. State of New Hampshire, 158 N.H. 284, 288 (2009), and at this threshold stage of the litigation we cannot say that the undisputed facts contained in the interlocutory appeal documents are sufficient to overcome this presumption and establish a likelihood of success on the merits. Moreover, although we recognize that if this court were to find RSA 662:5 unconstitutional, the filing period might have to be rescheduled and that this eventuality could be costly and inconvenient, we are not persuaded that this constitutes irreparable harm.

Although we decline to grant a preliminary injunction, nothing in this order precludes the secretary of state from exercising any discretion he may have to delay the filing period for such period as he deems proper.

Dalianis, C.J., and Hicks, Conboy and Lynn, JJ., concurred.

**Eileen Fox,
Clerk**

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