
In the United States Court of Appeals for the Fifth Circuit

MARC VEASEY; JANE HAMILTON; SERGIO DELEON; FLOYD J. CARRIER; ANNA BURNS; MICHAEL MONTEZ; PENNY POPE; OSCAR ORTIZ; KOBY OZIAS; JOHN MELLOR-CRUMLEY; LEAGUE OF UNITED LATIN AMERICAN CITIZENS (LULAC),
Plaintiffs-Appellees,

v.

RICK PERRY, GOVERNOR OF TEXAS; JOHN STEEN, TEXAS SECRETARY OF STATE,
Defendants-Appellants.

UNITED STATES OF AMERICA,
Plaintiffs-Appellees,

v.

STATE OF TEXAS; JOHN STEEN, IN HIS OFFICIAL CAPACITY AS TEXAS SECRETARY OF STATE; STEVE McCRAW, IN HIS OFFICIAL CAPACITY AS DIRECTOR OF THE TEXAS DEPARTMENT OF PUBLIC SAFETY,
Defendants-Appellants.

TEXAS STATE CONFERENCE OF NAACP BRANCHES; MEXICAN AMERICAN LEGISLATIVE CAUCUS OF THE TEXAS HOUSE OF REPRESENTATIVES,
Plaintiffs-Appellees,

v.

JOHN STEEN, IN HIS OFFICIAL CAPACITY AS TEXAS SECRETARY OF STATE; STEVE McCRAW, IN HIS OFFICIAL CAPACITY AS DIRECTOR OF THE TEXAS DEPARTMENT OF PUBLIC SAFETY,
Defendants-Appellants.

LENARD TAYLOR; EULALIO MENDEZ, JR.; LIONEL ESTRADA; ESTELA GARCIA ESPINOZA; MARGARITO MARTINEZ LARA; MAXIMINA MARTINEZ LARA; *LA UNION DEL PUEBLO ENTERO*,
Plaintiffs-Appellees,

v.

STATE OF TEXAS; JOHN STEEN, IN HIS OFFICIAL CAPACITY AS TEXAS SECRETARY OF STATE; STEVE McCRAW, IN HIS OFFICIAL CAPACITY AS DIRECTOR OF THE TEXAS DEPARTMENT OF PUBLIC SAFETY,
Defendants-Appellants.

On Appeal from the United States District Court
for the Southern District of Texas, Corpus Christi Division
Cases No. 2:13-cv-193 (lead case), 2:13-cv-263 and 2:13-cv-291 (consolidated)

ADVISORY TO THE COURT



On Saturday, October 11, 2014, at 12:21 P.M., the district court entered a “final judgment” in these consolidated cases. *See* Appendix (judgment). The State promptly filed a notice of appeal, and the Court has indicated that it will treat the petition for writ of mandamus filed last night as an emergency motion for stay pending appeal.

When the State filed its request for emergency relief last night, it did not have the benefit of the district court’s judgment. Now that the judgment has issued, the State offers these additional observations.

First, the district court’s judgment defies *Purcell v. Gonzales* by refusing to postpone its injunctive relief until after the November 2014 elections. The State has repeatedly explained to the district court—and reiterated in its mandamus petition—that the binding precedent of the Supreme Court forbids remedies that may cause “voter confusion and consequent incentive to remain away from the polls.” 549 U.S. 1, 4-5 (2006) (per curiam). Enjoining a voter-identification law nine days before the start of early voting is the paradigmatic example of this forbidden remedy—and the remedy is impermissible *even if* one were to agree with the district court’s views on the merits of the plaintiffs’ claims. The district court’s 143-page opinion refuses to acknowledge the constraints imposed by *Purcell*. And its judgment—by refusing to delay its injunction until after the November 2014 elections—reflects a similar disregard for the Supreme Court’s binding instructions.

Second, there is no justification whatsoever for the district court to enjoin § 20 of SB 14, which authorizes the State to issue election identification certificates free of charge. The State cannot possibly violate any provision of federal law by *offering*

an election identification certificate that may very well be needed if this Court or the Supreme Court stays the district court's judgment before Monday, October 20, 2014. The district court's injunction against § 20 does not remedy any violation of federal law, and serves only to thwart Texas from conducting an orderly election under SB 14 in the event that an appellate court disagrees with the district court's reasoning.

Finally, the district court's judgment makes no mention of the "preclearance" requirement that the district court purports to impose on page 143 of its opinion. It is not clear whether this is an intentional omission or an oversight. In either event, it is not acceptable for state officials—who are bound *only* by the district court's judgment—to wonder whether they will be held in contempt for violating an explicit instruction in the non-binding "opinion."

CONCLUSION

For these reasons, and for the reasons in our mandamus petition, the Court should stay the district court's judgment pending appeal.

Respectfully submitted.

GREG ABBOTT
Attorney General of Texas

DANIEL T. HODGE
First Assistant Attorney General

JAMES D. BLACKLOCK
Deputy Attorney General for Legal Counsel

J. REED CLAY, JR.
Senior Counsel to the Attorney General

/s/ Jonathan F. Mitchell
JONATHAN F. MITCHELL
Solicitor General

ADAM W. ASTON
Deputy Solicitor General

ARTHUR C. D'ANDREA
Assistant Solicitor General

OFFICE OF THE ATTORNEY GENERAL
P.O. Box 12548 (MC 059)
Austin, Texas 78711-2548
(512) 936-1700

Counsel for Appellants

CERTIFICATE OF SERVICE

I certify that this document has been filed with the clerk of the court and served by ECF or e-mail on October 11, 2014, upon counsel of record in this case.

/s/ Jonathan F. Mitchell
JONATHAN F. MITCHELL
Counsel for Appellants

CERTIFICATE OF ELECTRONIC COMPLIANCE

Counsel also certifies that on October 11, 2014, this brief was transmitted to Mr. Lyle W. Cayce, Clerk of the United States Court of Appeals for the Fifth Circuit, via the court's CM/ECF document filing system, <https://ecf.ca5.uscourts.gov/>.

Counsel further certifies that: (1) required privacy redactions have been made, 5TH CIR. R. 25.2.13; (2) the electronic submission is an exact copy of the paper document, 5TH CIR. R. 25.2.1; and (3) the document has been scanned with the most recent version of Symantec Endpoint Protection and is free of viruses.

/s/ Jonathan F. Mitchell
JONATHAN F. MITCHELL
Counsel for Appellants

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

MARC VEASEY, *et al*,

Plaintiffs,

VS.

RICK PERRY, *et al*,

Defendants.

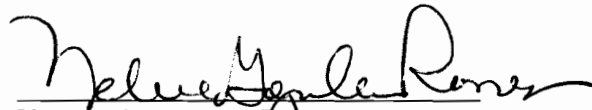
§
§
§
§
§
§
§

CIVIL ACTION NO. 13-CV-00193

FINAL JUDGMENT

Following a bench trial, the Court issued an Opinion in this case. (D.E. 628.) The Court hereby enters a permanent and final injunction, enjoining the Defendants from enforcing the voter identification provisions, Sections 1 through 15 and 17 through 22, of SB 14. The State of Texas is ORDERED to return to enforcing the voter identification requirements for in-person voting in effect immediately prior to the enactment and implementation of SB 14.

ORDERED this 11th day of October, 2014.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE