

Holtzman Vogel

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

October 20, 2023

The Honorable Lyle W. Cayce
Clerk
U.S. Court of Appeals for the
Fifth Circuit
600 S. Maestri Place, Ste 115
New Orleans, LA 70130

**Re: *Robinson v. Ardoin*, No. 22-30333,
Defendants-Appellants Rule 28(j) Letter**

Dear Mr. Cayce,

Pursuant to Rule 28(j), Defendants-Appellants bring to the Court's attention two recent developments relevant to this matter.

The first is the United States Supreme Court's order denying the requests to stay pending appeal this Court's writ of mandamus in *In re: Jeff Landry*, No. 23- 30642 (5th Cir.). *In re: Jeff Landry* vacated a previously scheduled remedial hearing regarding the congressional voting maps at issue in this case. In *Robinson v. Ardoin*, No. 23A281 (U.S.), and *Galmon v. Ardoin*, No. 23A282 (U.S.), the Plaintiffs tried, but were unable, to convince the Supreme Court to disturb this Court's writ.

The second is an order entered in the portion of this case that remains pending before the district court. The order reflects that the district court held a status conference on October 17, 2023, where "[t]he parties discussed potential deadlines for proceedings for the remedy phase of the preliminary injunction." *Robinson v. Ardoin*, No. 3:22-cv-00178-SDD-SDJ, ECF No. 301, at 2 (M.D. La. Oct. 17, 2023). It further ordered the parties to "meet and confer to submit a Joint Scheduling Order by 10/20/2023," and it set a "hearing on the remedy phase of the preliminary injunction . . . for February 5, 2024, to February 9, 2024." *Id.*

“By agreement of the parties, each side shall be limited to the presentation of one proposed remedial map,” and “[d]iscovery cut off shall be 14 days prior to the hearing.” *Id.* No trial date was addressed in this order by the district court.

These developments underscore the reasons this Court should reverse the preliminary-injunction order and remand with instructions to set this case for trial. It should do so promptly before the district court takes further action that may make a timely trial unworkable.

Both orders are attached.

Dated: October 20, 2023

Respectfully Submitted

*/s/ Richard B. Raile**

RICHARD B. RAILE
KATHERINE L. MCKNIGHT
E. MARK BRADEN
RENEE M. KNUDSEN
BAKER & HOSTETLER LLP
Washington Square, Suite
1100
1050 Connecticut Avenue,
N.W.
Washington, DC 20036
(202) 861-1711
rraile@bakerlaw.com

MICHAEL W. MENGIS
BAKER & HOSTETLER LLP
811 Main Street, Suite 1100
Houston, TX 77002

PATRICK T. LEWIS
BAKER & HOSTETLER LLP
127 Public Square, Suite 2000
Cleveland, OH 44114

ERIKA DACKIN PROUTY
BAKER & HOSTETLER LLP
200 Civic Center Dr., Suite
1200
Columbus, OH 43215

*Attorneys for Clay Schexnayder
and Patrick Page Cortez*

*/s/ Jason B. Torchinsky**

JEFF LANDRY
Louisiana Attorney General
ELIZABETH B. MURRILL
Solicitor General
SHAE MCPHEE
Deputy Solicitor General
MORGAN BRUNGARD
Assistant Solicitor General
ANGELIQUE DUHON FREEL
CAREY TOM JONES
JEFFREY M. WALE
Assistant Attorneys General
OFFICE OF THE ATTORNEY GENERAL
LOUISIANA DEPARTMENT OF
JUSTICE
P.O. Box 94005
Baton Rouge, LA 70804
murrille@ag.louisiana.gov

JASON B. TORCHINSKY
PHILLIP M. GORDON
EDWARD M. WENGER
HOLTZMAN VOGEL BARAN
TORCHINSKY & JOSEFIK, PLLC
15405 John Marshall Highway
Haymarket, VA 20169

*Attorneys for the State of
Louisiana*

*/s/ Phillip J. Strach**

PHILLIP J. STRACH
THOMAS A. FARR
ALYSSA M. RIGGINS
NELSON MULLINS RILEY &
SCARBOROUGH LLP
301 Hillsborough Street
Ste. 1400
Raleigh, NC 27603
T 919.329.3810
F 919.329.3799
phil.strach@nelsonmullins.com

**Signed with permission*

JOHN C. WALSH
SHOWS, CALI & WALSH, LLP
P.O. Box 4046
Baton Rouge, LA 70821

Attorneys for the Secretary of State

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing is 293 words, which complies with the limit in Federal Rule of Appellant Procedure 28(j) (counting only “the body of the letter”). It complies with the typeface and type-style requirements of Rule 32(a)(5) and Rule 32(a)(6) because it is printed in 14-point Century Schoolbook font, a proportionally spaced typeface with serifs.

Dated: October 20, 2023

/s/ Jason B. Torchinsky
JASON B. TORCHINSKY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 20th day of October, 2023, a true copy of the foregoing was filed electronically with the Clerk of Court using the Court's CM/ECF system, which will send by email a notice of docketing activity to the registered Attorney Filer on the attached electronic service list.

Dated: October 20, 2023

/s/ Jason B. Torchinsky
JASON B. TORCHINSKY

Cite as: 601 U. S. ____ (2023)

1

JACKSON, J., concurring

SUPREME COURT OF THE UNITED STATES

No. 23A281

PRESS ROBINSON, ET AL. *v.* KYLE ARDOIN,
LOUISIANA SECRETARY OF STATE, ET AL.

ON APPLICATION FOR STAY

No. 23A282

EDWARD GALMON, ET AL. *v.* KYLE ARDOIN,
LOUISIANA SECRETARY OF STATE, ET AL.

ON APPLICATION FOR STAY

[October 19, 2023]

The applications for stay presented to JUSTICE ALITO and by him referred to the Court are denied.

JUSTICE JACKSON, concurring in denial of applications for stay.

I concur in the denial of emergency relief. I write separately to emphasize two points.

First, nothing in our decision not to summarily reverse the Fifth Circuit should be taken to endorse the practice of issuing an extraordinary writ of mandamus in these or similar circumstances.

Second, as we have previously emphasized, this litigation should be resolved “in advance of the 2024 congressional elections in Louisiana.” *Ardoin v. Robinson*, 599 U. S. ____, ____ (2023). To that end, I read the Fifth Circuit’s mandamus ruling to require the District Court to delay its remedial hearing only until the Louisiana Legislature has had sufficient time to consider alternative maps that comply with the Voting Rights Act. See *In re Landry*, ____ F. 4th

JACKSON, J., concurring

_____, 2023 WL 6302186, *4 (CA5, Sept. 28, 2023). The State has now represented, in its filings before this Court, that the legislature will not consider such maps while litigation over the enacted map is pending. See Response to Emergency Application for Stay of Writ of Mandamus in Nos. 23A281, 23A282, p. 16. Therefore, the District Court will presumably resume the remedial process while the Fifth Circuit considers the State's appeal of the preliminary injunction.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

MINUTE ENTRY:
OCTOBER 17, 2023
CHIEF DISTRICT JUDGE SHELLY D. DICK

PRESS ROBINSON, ET AL

CIVIL ACTION

VERSUS

NO. 22-211-SDD-SDJ

KYLE ARDOIN, ET AL

CONSOLIDATED WITH

EDWARD GALMON, SR., ET AL

CIVIL ACTION

VERSUS

NO. 22-214-SDD-SDJ

KYLE ARDOIN, ET AL

This matter came on this day for a *Status Conference*.

PRESENT: **Amitav Chakraborty, Esq.**
John Nelson Adcock, Esq.
Counsel for Robinson Plaintiffs

Jacob D. Shelly, Esq.
Counsel for Galmon Plaintiffs

Philip J. Strach, Esq.
Counsel for Kyle Ardoin

Katherine L. McKnight, Esq.
Counsel for Clay Schexnayder and Patrick Page Cortez

Jason Brett Torchinsky, Esq.
Angelique Duhon Freel, Esq.
Counsel for State of Louisiana – Attorney General Landry

Stephen M. Irving, Esq.
Arthur Ray Thomas, Esq.
Counsel for Louisiana Legislative Black Caucus

The parties discussed potential deadlines for proceedings for the remedy phase of the preliminary injunction.

The parties shall meet and confer to submit a joint scheduling order by October 20, 2023.

The hearing on the remedy phase of the preliminary injunction is set for February 5, 2024, to February 9, 2024, at 9:00 a.m. in Courtroom Three. By agreement of the parties, each side shall be limited to the presentation of one proposed remedial map. Discovery cut off shall be 14 days prior to the hearing.

* * * * *

S. Thompson/Reporter
C: CV 36; T: 65 mins

CV 22-211-SDD-RLB
 Press Robinson, et al v. Kyle Ardoin, et al.
 c/w CV 22-214
 Edward Galmon, Sr. v. Kyle Ardoin, et al
 Status Conference
 TUESDAY, October 17, 2023

Sign-In Sheet:

Please sign and print your name and the name of the party you represent.

| Signature | Name (Please Print Legibly) | Party Represented |
|-----------|--------------------------------|---|
| | Jacob Shelly | Galmon Plaintiffs |
| | Arthur L. Thomas | Plaintiff |
| | Amitav Chhabra | Robinson Plaintiffs |
| | John Adcock | Robinson Plaintiffs |
| | Steve Irving | Black Caucus |
| | Angelique Freel | State of LA through AG |
| | Jason Torchinsky | State of LA through AG |
| | Phil Strach | Secretary of Staff |
| | Kate McKnight | President Cortez + Speaker Schexnayder |
| | JOHN C. WALSH | Sec. of STATE |
| | CAREY T. JONES | State |
| | Jeffrey Wake | State through AG |
| | Brennan Bowen | State through AG |
| | John C. Corine, Jr. | SOS, Defendants |