

United States Court of Appeals
for the Fifth Circuit

No. 24-30115

United States Court of Appeals
Fifth Circuit

FILED

May 15, 2024

Lyle W. Cayce
Clerk

DOROTHY NAIRNE, *Doctor*; CLEE E. LOWE, REVEREND; ALICE WASHINGTON, *Doctor*; BLACK VOTERS MATTER CAPACITY BUILDING INSTITUTE; LOUISIANA STATE CONFERENCE OF THE NAACP; STEVEN HARRIS, REVEREND,

Plaintiffs—Appellees,

versus

NANCY LANDRY, *in her official capacity as Secretary of State of Louisiana,*

Defendant—Appellant,

STATE OF LOUISIANA, *by and through Attorney General Elizabeth B. Murrill; PHILLIP DEVILLIER, in his official capacity as Speaker of the Louisiana House of Representative; CAMERON HENRY, in his official capacity as President of the Louisiana Senate,*

Intervenors—Appellants,

versus

UNITED STATES OF AMERICA,

Intervenor—Appellee.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:22-CV-178

UNPUBLISHED ORDER

Before SMITH, SOUTHWICK, and WILSON, *Circuit Judges*.

PER CURIAM:

On February 8, 2024, the district court entered an order finding that the operative legislative maps enacted by the Louisiana Legislature violated § 2 of the Voting Rights Act and enjoined further elections under those maps. Plaintiffs-Appellees then moved the district court to order a special election as a remedy to the violation. The Defendants-Appellants also filed a notice of appeal challenging the merits of the district court's February 8 order. With the appeal pending, the district court issued an indicative ruling on May 3, 2024, pursuant to Federal Rule of Civil Procedure 62.1:

The current [Louisiana] legislature was elected under maps that violated § 2 of the VRA and disenfranchised the votes of thousands of Black Louisianians, thus the harm suffered was severe and continuing, warranting a special election well prior to the October 2027 elections [O]n remand the Court would grant the Plaintiffs' motion to order the State to hold a special election before the regular election cycle (October 2027) to timely remedy the VRA-violation.

That same day, Plaintiffs-Appellees filed a notice in this court of the indicative ruling pursuant to Federal Rule of Appellate Procedure 12.1(a).

“When a district court does not have authority to grant a particular motion during the pendency of an appeal, one of the court’s options is to ‘state either that it would grant the motion if the court of appeals remands for that purpose or that the motion raises a substantial issue.’” *La. v. Becerra*, No. 21-30734, 2022 WL 445159, at *2 (5th Cir. Feb. 14, 2022) (unpublished order) (quoting FED. R. CIV. P. 62.1). Under Rules 12.1(a) and (b), we

No. 24-30115

have authority to remand to allow the district court's order to be entered, either while retaining jurisdiction or dismissing the appeal to allow the case to proceed without limitation in district court.

We decline to do so. Construing Plaintiffs-Appellees' notice as a motion for remand, IT IS ORDERED that the motion is DENIED. Plaintiffs-Appellees' notice of the district court's indicative ruling is otherwise CARRIED WITH THE CASE.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

May 15, 2024

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 24-30115 Nairne v. Landry
USDC No. 3:22-CV-178

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: Monica R. Washington, Deputy Clerk
504-310-7705

Mr. John N. Adcock
Mr. Jorge Benjamin Aguinaga
Ms. Nora Ahmed
Mr. Noah Bokat-Lindell
Mr. Brennan Bowen
Mr. E. Mark Braden
Ms. Morgan Brungard
Mr. Colin Burke
Mr. Dayton Campbell-Harris
Mr. Adriel I. Cepeda Derieux
Mr. Ming Cheung
Mr. Robert Stephen Clark
Mr. John Clifton Conine Jr.
Mr. Jared Evans
Ms. Erin Helene Flynn
Ms. Amanda Giglio
Mr. Phillip Michael Gordon
Ms. Cassie Holt
Ms. Megan Christine Keenan
Mr. Patrick T. Lewis
Ms. Katherine McKnight
Mr. Michael Warren Mengis
Ms. Elizabeth Baker Murrill
Mr. Garrett Muscatel
Mr. Stuart Naifeh
Ms. Erika Prouty
Mr. Richard Bryan Raile
Mrs. Alyssa Riggins
Ms. Isabel Sara Rohani
Ms. Kathryn C. Sadasivan

Mr. Phillip Strach
Ms. Tiffany Alora Thomas
Mr. Jason Brett Torchinsky
Mr. Robert J. Tucker
Mr. John Carroll Walsh
Ms. Victoria Wenger