

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ALPHA PHI ALPHA FRATERNITY
INC., et al.,

Plaintiffs,

vs.

BRAD RAFFENSPERGER, in his
official capacity as Secretary of State
of Georgia.

Defendant.

CASE NO. 1:21-CV-5337-SCJ

**PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY IN
OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT**

Plaintiffs file this Notice to alert the Court to an order issued by the United States Supreme Court yesterday that addresses matters raised in the pending motion in this case. The order is attached at Exhibit A (June 26, 2023 Order List, excerpt).

Yesterday, the Supreme Court dismissed as improvidently granted the writ of certiorari before judgment in *Ardoin v. Robinson*, No. 22-30333, a case involving a challenge to Louisiana's congressional map. The district court had previously concluded that Louisiana's redistricting plan likely violated Section 2 of the Voting Rights Act, and issued a preliminary injunction ordering the Louisiana

Legislature to add a second majority-Black congressional district. After the Court granted certiorari in *Merrill v. Milligan* (No. 21-1086 and 21-1087), Petitioners, the State of Louisiana, by and through its Attorney General Jeff Landry and Louisiana Secretary of State Kyle Ardoin, filed an application for a stay of the district court's order and a petition for a writ of certiorari before judgment, which the Court granted, holding the case in abeyance pending a decision in *Milligan*.

After the decision in *Milligan* was issued, Petitioners requested that the Court set *Ardoin v. Robinson* for briefing on the merits and oral argument. Letter of Petitioners (June 8, 2023). Petitioners argued that a number of issues presented by their case were not adequately addressed by the *Milligan* decision. *Id.*

Respondents asked instead that the Court dismiss the petition for certiorari as improvidently granted, or in the alternative, that the district court's decision be summarily affirmed. Letter of *Robinson* Respondents (June 12, 2023).

Respondents noted that “[i]n *Milligan*, the Court reaffirmed the standards it first adopted in *Thornburg v. Gingles*,” and the district court in their case had applied that same standard in finding that Louisiana's redistricting plan likely violated Section 2 of the VRA. *Id.* at 1. Because “*Milligan* ha[d] been affirmed without changing the law, there [was] no basis for hearing this case before the Fifth Circuit [had] an opportunity to address the merits.” *Id.* at 3.

Yesterday, as Respondents requested, the Court dismissed as improvidently granted the writ of certiorari. The Court also vacated the stay it had previously granted to “allow the matter to proceed before the Court of Appeals for the Fifth Circuit for review in the ordinary course and in advance of the 2024 congressional elections in Louisiana.” No dissents were noted.

The Supreme Court’s order thus further supports Plaintiffs’ position, as stated in our supplemental response (Dkt. 262), that *Milligan* reaffirmed long-standing existing precedent in applying Section 2 of the VRA, under which Plaintiffs’ extensive record evidence establishes, at a minimum, triable issues of fact. Defendant’s Motion for Summary Judgment should be denied.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1

The undersigned hereby certifies that the foregoing document has been prepared in accordance with the font type and margin requirements of Local Rule 5.1 of the Northern District of Georgia, using a font type of Times New Roman and a point size of 14.

/s/ Rahul Garabadu _____

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served the foregoing Plaintiffs' Notice of Supplemental Authority in Opposition to Defendant's Motion for Summary Judgment with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to all counsel or parties of record on the service list.

This 27th day of June, 2023.

/s/ Rahul Garabadu

EXHIBIT A

(ORDER LIST: 599 U.S.)

MONDAY, JUNE 26, 2023

CERTIORARI -- SUMMARY DISPOSITIONS

21-1596 ARDOIN, LA SEC. OF STATE, ET AL. V. ROBINSON, PRESS, ET AL.
(21A814)

The writ of certiorari before judgment is dismissed as improvidently granted. The stay heretofore entered by the Court on June 28, 2022, is vacated. This will allow the matter to proceed before the Court of Appeals for the Fifth Circuit for review in the ordinary course and in advance of the 2024 congressional elections in Louisiana. See this Court's Rule 11.

22-425 CARNAHAN, ADM'R, GSA V. MALONEY, CAROLYN, ET AL.

The judgment is vacated, and the case is remanded to the United States Court of Appeals for the District of Columbia Circuit with instructions to dismiss the case. Justice Jackson dissents from the vacatur of the order of the United States Court of Appeals for the District of Columbia Circuit and would instead dismiss the writ of certiorari as improvidently granted.

22-683 GUILLEN-PEREZ, MELINA D. V. GARLAND, ATT'Y GEN.

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Fifth Circuit for further consideration in light of *Santos-Zacaria v. Garland*, 598 U. S. ____ (2023).

22-856 GARCIA MARIN, RAUL V. GARLAND, ATT'Y GEN.

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