No. 25-60506

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

DYAMONE WHITE; DERRICK SIMMONS; TY PINKINS; CONSTANCE OLIVIA SLAUGHTER HARVEY-BURWELL,
Plaintiffs-Appellees,

v.

STATE BOARD OF ELECTION COMMISSIONERS; TATE REEVES, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF MISSISSIPPI; LYNN FITCH, IN HER OFFICIAL CAPACITY AS ATTORNEY GENERAL OF MISSISSIPPI; MICHAEL WATSON, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE OF MISSISSIPPI,
Defendants-Appellants.

Appeal from the United States District Court
for the Northern District of Mississippi
No. 4:22-cv-00062-SA-JMV

STATUS REPORT

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STATUS REPORT

Defendants-appellants respectfully submit this status report pursuant to this Court's September 29, 2025 order. Dkt. 27-2. That order stayed further proceedings in this redistricting appeal pending resolution of certain redistricting cases now before the U.S. Supreme Court and this Court. *Id.* at 1.

1. This appeal arises from a challenge brought by private plaintiffs under section 2 of the Voting Rights Act, 52 U.S.C. § 10301, to the election districts for Mississippi's nine Supreme Court Justices. D. Ct. Dkt. 264. As defendants-appellants' stay motion explained, the appeal presents outcome-determinative issues that overlap with legal issues presented in three sets of pending redistricting cases that will materially affect the issues in this appeal and further proceedings in this case—and may fully resolve this case. Dkt. 11 at 7-11. Those cases remain pending and are likely to be resolved in the coming months.

2. In one group of cases, the U.S. Supreme Court has before it several cases presenting the question whether private parties may sue to enforce section 2 of the Voting Rights Act. *See State Board of Election Commissioners v. Mississippi State Conference NAACP*, S. Ct. No. 25-234; *Turtle Mountain Band of Chippewa Indians v. Howe*, S. Ct. No. 25-253; *Allen v. Caster*, S. Ct. No. 25-243; *Allen v. Singleton*, S. Ct. No. 25-273; and *Allen v. Milligan*, S. Ct. No. 25-274. Jurisdiction-stage briefing is complete on the direct appeals in *SBEC v. Mississippi NAACP*, *Allen*

v. Singleton, and *Allen v. Milligan*. Petition-stage briefing is complete on the petitions for certiorari in *Turtle Mountain* and *Allen v. Caster*. The Supreme Court considered those 5 cases at its conference on November 21, 2025. The Court took no action on the cases at that conference and has not yet re-distributed the cases.

3. In another group of cases, the U.S. Supreme Court will likely decide in its current Term whether courts may constitutionally apply section 2 to compel States to consider race in creating electoral districts. *See Louisiana v. Callais*, S. Ct. No. 24-109, consolidated with *Robinson v. Callais*, S. Ct. No. 24-110. In March, the Supreme Court heard argument in the *Callais* cases but later set the cases for supplemental briefing and reargument. *Louisiana v. Callais*, 145 S. Ct. 2608, 2609 (2025); Supplemental Briefing Order, *Louisiana v. Callais*, S. Ct. No. 24-109 (Aug. 1, 2025). That supplemental briefing was completed in early October, and the cases were reargued and submitted on October 15. The pending *Allen* cases raise similar legal issues that question section 2's constitutionality. *See* Jurisdictional Statement i, *Allen v. Singleton*, S. Ct. No. 25-273 (Aug. 26, 2025); *see* Jurisdictional Statement i, *Allen v. Milligan*, S. Ct. No. 25-274 (Aug. 26, 2025); Petition for Certiorari Before Judgment i, *Allen v. Caster*, S. Ct. No. 25-243 (Aug. 26, 2025).

4. Finally, another section 2 redistricting challenge is pending on a petition for en banc review in this Court and raises materially the same private-enforcement and constitutionality defenses at issue in the

SBEC, *Turtle Mountain*, *Allen*, and *Callais* litigation. *See Nairne v. Landry*, CA5 No. 24-30115. In August, a panel of this Court ruled that those defenses are foreclosed by circuit precedent. *Nairne v. Landry*, 151 F.4th 666, 706 & n.26 (5th Cir. 2025). This Court immediately withheld the mandate and later granted the State an extension to petition for rehearing en banc. *See Nairne v. Landry*, CA5 No. 24-30115, Dkt. 313 (mandate hold), Dkt. 328-2 at 2 (extension order). The State timely sought rehearing and its petition has been fully briefed. *See Nairne v. Landry*, Dkt. 335, CA5 No. 24-30115 Dkt. 335 (petition for rehearing), Dkt. 350 (response to petition). On November 26, 2025, the Court stayed further proceedings pending a decision by the U.S. Supreme Court in *Callais*, and confirmed that the mandate hold remains in effect and the State's petition for rehearing en banc remains pending. *Nairne v. Landry*, CA5 No. 24-30115, Dkt. 355-1. If this Court grants rehearing, the en banc Court would be free to reconsider its section 2 precedents on issues implicated in this appeal.

Respectfully submitted,

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December 24, 2025

CERTIFICATE OF SERVICE

I, Justin L. Matheny, hereby certify that this status report has been filed with the Clerk of Court using the Court's electronic filing system, which sent notification of such filing to all counsel of record.

Dated: December 24, 2025

s/ Justin L. Matheny
Justin L. Matheny
Counsel for Defendants-Appellants