

United States Courts
Southern District of Texas
FILED

September 25, 2024

Nathan Ochsner, Clerk of Court

**United States Court of Appeals
for the Fifth Circuit**

United States Court of Appeals
Fifth Circuit

FILED

August 1, 2024

Lyle W. Cayce
Clerk

No. 23-40582

HONORABLE TERRY PETTEWAY; HONORABLE DERRECK ROSE;
HONORABLE PENNY POPE,

Plaintiffs—Appellees,

versus

GALVESTON COUNTY, TEXAS; MARK HENRY, *in his official capacity
as Galveston County Judge*; DWIGHT D. SULLIVAN, *in his official capacity
as Galveston County Clerk,*

Defendants—Appellants,

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

GALVESTON COUNTY, TEXAS; GALVESTON COUNTY
COMMISSIONERS COURT; MARK HENRY, *in his official capacity as
Galveston County Judge,*

Defendants—Appellants,

No. 23-40582

DICKINSON BAY AREA BRANCH NAACP; GALVESTON BRANCH
NAACP; MAINLAND BRANCH NAACP; GALVESTON LULAC
COUNCIL 151; EDNA COURVILLE; JOE A. COMPIAN,

Plaintiffs—Appellees,

versus

GALVESTON COUNTY, TEXAS; MARK HENRY, *in his official capacity
as Galveston County Judge*; DWIGHT D. SULLIVAN, *in his official capacity
as Galveston County Clerk,*

Defendants—Appellants.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 3:22-CV-57
USDC No. 3:22-CV-93
USDC No. 3:22-CV-117

Before RICHMAN, *Chief Judge*, JONES, SMITH, BARKSDALE,
STEWART, ELROD, SOUTHWICK, HAYNES, GRAVES, HIGGINSON,
WILLET, HO, DUNCAN, ENGELHARDT, OLDHAM, WILSON,
DOUGLAS, and RAMIREZ, *Circuit Judges.*

JUDGMENT ON REHEARING EN BANC

This cause was considered on the record on appeal and was argued by
counsel.

IT IS ORDERED and ADJUDGED that the judgment of the
District Court is REVERSED as to the Section 2 claim and we
REMAND for the district court to consider the intentional

No. 23-40582

discrimination and racial gerrymandering claims brought by the Petteway Plaintiffs and the NAACP Plaintiffs.

IT IS FURTHER ORDERED that Appellees pay to Appellants the costs on appeal to be taxed by the Clerk of this Court.

The judgment or mandate of this court shall issue 7 days after the time to file a petition for rehearing expires, or 7 days after entry of an order denying a timely petition for panel rehearing, petition for rehearing en banc, or motion for stay of mandate, whichever is later. See Fed. R. App. P. 41(b). The court may shorten or extend the time by order. See 5th Cir. R. 41 I.O.P.

James C. Ho, *Circuit Judge*, concurring in part and concurring in the Judgment.

Haynes, *Circuit Judge*, dissenting.

Douglas, *Circuit Judge*, joined by Stewart, Graves, Higginson, and Ramirez, *Circuit Judges*, dissenting.



Certified as a true copy and issued
as the mandate on Sep 25, 2024

Attest: *Jude W. Cayce*
Clerk, U.S. Court of Appeals, Fifth Circuit

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

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

September 25, 2024

Mr. Nathan Ochsner
Southern District of Texas, Galveston
United States District Court
601 Rosenberg Street
Room 411
Galveston, TX 77550-0000

No. 23-40582 · Petteway v. Galveston County
USDC No. 3:22-CV-57
USDC No. 3:22-CV-93
USDC No. 3:22-CV-117

Dear Mr. Ochsner,

Enclosed is a copy of the judgment issued as the mandate and a copy of the court's opinion.

Sincerely,

LYLE W. CAYCE, Clerk

Christy Combel

By: _____
Christy M. Combel, Deputy Clerk
504-310-7651