
United States Court of Appeals
for the
Fifth Circuit

Case No. 19-60632

ROY HARNESS; KAMAL KARRIEM,

Plaintiffs-Appellants,

v.

MICHAEL WATSON, Secretary of State of Mississippi,

Defendant-Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI, JACKSON IN CASE NO. 3:17-CV-791
HONORABLE DANIEL P. JORDAN, III, CHIEF JUDGE

**BRIEF FOR *AMICI CURIAE* DENNIS HOPKINS, individually and on
behalf of a class of all others similarly situated; HERMAN PARKER, JR.,
individually and on behalf of a class of all others similarly situated;
WALTER WAYNE KUHN, JR., individually and on behalf of a class of all
others similarly situated; BRYON DEMOND COLEMAN, individually
and on behalf of a class of all others similarly situated; JON O NEAL and
EARNEST WILLHITE, individually and on behalf of a class of all others
similarly situated, IN SUPPORT OF PLAINTIFFS-APPELLANTS**

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compl

⁸ Section 253

⁹ Dr. Pratt researched the restoration of voting rights pursuant to Section 253 in the first three decades after the 1890 Constitution was enacted, and determined that the Mississippi Legislature restored voting rights to at least 101 individuals during this time.¹⁰ Dr. Pratt found no evidence that even a single African-American individual regained the right to vote between 1890 and 1920.¹¹

The criminal disenfranchisement provision of Section 241 and the legislative re-enfranchisement provision of Section 253 together comprised a cohesive racially discriminatory scheme that remains almost completely intact today. All but

⁷ *Id.* at ¶ 54.

⁸ *Id.*

⁹ *Id.* at ¶ 53.

¹⁰ Declaration of Dorothy O. Pratt, Ph.D., Dkt. 77-3, *Harness v. Hosemann*, No. 3:17-cv-00791-DPJ-FKB, then consolidated with *Hopkins v. Hosemann*, No. 3:18-cv-00188-DPJ-FKB (S.D. Miss.), at ¶ 11.

¹¹ *Id.* at ¶¶ 11-16.



argument in *Hopkins* was held before a panel of this Court on December 3, 2019 nearly seven months before a different panel of this Court heard oral arguments in *Harness*.¹⁸ The *Hopkins* panel has yet to issue its decision.

ARGUMENT

I. THE QUESTIONS RAISED BY THE *HOPKINS* PLAINTIFFS ARE NOT BEFORE THE EN BANC COURT AND WILL NOT BE

plaintiffs, the legal questions raised by the *Hopkins* Plaintiffs are not before the en banc Court and, respectfully, should not be addressed in the en banc opinion.

Moreover, even if this Court rules in favor of the *Harness* Plaintiffs, decision will not dispose of the *Hopkins*

II. MISSISSIPPI'S CRIMINAL DISENFRANCHISEMENT SCHEME RETAINS ITS ORIGINAL DISCRIMINATORY TAIN

As the Secretary of State has acknowledged, be invalidated if its challengers prove that racially discriminatory intent motivated the enactment of the law and the

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Chen v. City of Houston, 206 F.3d 502, 518

(5th Cir. 2000) 22-34(ad)4(d)(d)-3e)-3(y)4(s)etis(o)-3(t) 0 61gm3(e)mcr5-12 79t callrp0000 4m

Court recently made this commonsense principle clear in *Ramos v. Louisiana*, which struck down a racially motivated Louisiana law permitting nonunanimous verdicts for the convictions of serious crimes.²⁰ Louisiana originally adopted the

. There

was no dispu

Id.

untainted by racism. *Id.* at 1401 n.44; *see also id.* at 1426 (Alito, J., dissenting)

narrower [non-unanimous jury] rule, and its stated purpose was judicial

court incorrectly looked to

mend Section

, and

incorrect

²³ The district court also erroneously considered

the 1980s

Dated: July 29, 2021

By: /s/ Jonathan K. Youngwood

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CERTIFICATE OF SERVICE

I hereby certify that, on July 29, 2021, an electronic copy of the foregoing brief was filed with the Clerk of Court for the United States Court of Appeals for the Fifth Circuit and served on all counsel using the appellate CM/ECF system.

Dated: July 29, 2021

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CERTIFICATE OF COMPLIANCE

Undersigned counsel certifies that this brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 29(a)(5) and Fifth Circuit Rule 29 because this brief contains 3,031 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f) and Fifth Circuit Rule 32.2.

Undersigned counsel certifies that this brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and Fifth Circuit Rule 32.1 and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Office Word and is set in Times New Roman font in a size equivalent to 14 points or larger.

Dated: July 29, 2021

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