

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 19-60133

United States Court of Appeals
Fifth Circuit

FILED

August 1, 2019

Lyle W. Cayce
Clerk

JOSEPH THOMAS; VERNON AYERS; MELVIN LAWSON,

Plaintiffs–Appellees

v.

PHIL BRYANT, Governor of the State of Mississippi, all in the official capacities of their own offices and in their official capacities as members of the State Board of Election Commissioners; DELBERT HOSEMANN, Secretary of State of the State of Mississippi, all in the official capacities of their own offices and in their official capacities as members of the State Board of Election Commissioners,

Defendants–Appellants.

Appeal from the United States District Court
for the Southern District of Mississippi

Before DAVIS, HIGGINSON, and WILLETT, Circuit Judges.

PER CURIAM:

In this case, a majority of the merits panel affirms the district court’s judgment declaring that the redistricting plan, adopted by the Mississippi Legislature in 2012, violates Section 2 of the Voting Rights Act in that the boundary lines of Senate District 22 dilute African-American voting strength.

After the appeal was filed, the Mississippi Legislature adopted a resolution redrawing the boundaries of District 22 to cure the violation found

by the district court. The plaintiffs agreed that District 22, as now reconfigured, did remedy the violation. We therefore recognize that District 22, as reconfigured by the Legislature, is the operative district for the upcoming primary and general elections.

One member of the panel dissents and would reverse the district court's judgment.

Detailed opinions will follow.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

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NEW ORLEANS, LA 70130

August 01, 2019

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing
or Rehearing En Banc

No. 19-60133 Joseph Thomas, et al v. Phil Bryant, et al
USDC No. 3:18-CV-441

Enclosed is a copy of the court's decision. The court has entered judgment under FED. R. APP. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

FED. R. APP. P. 39 through 41, and 5TH CIR. R.s 35, 39, and 41 govern costs, rehearings, and mandates. **5TH CIR. R.s 35 and 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following FED. R. APP. P. 40 and 5TH CIR. R. 35 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. 5TH CIR. R. 41 provides that a motion for a stay of mandate under FED. R. APP. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under FED. R. APP. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you MUST confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

The judgment entered provides that defendants-appellants pay to plaintiffs-appellees the costs on appeal. A bill of cost form is available on the court's website www.ca5.uscourts.gov.

Sincerely,

LYLE W. CAYCE, Clerk

A handwritten signature in cursive script, appearing to read "Nancy F. Dolly", written in black ink.

By: _____
Nancy F. Dolly, Deputy Clerk

Enclosure(s)

Mr. Brian Parker Berry
Mr. Tommie S. Cardin
Mr. Charles Edward Cowan
Mr. Arusha Gordon
Mr. Jon Marshall Greenbaum
Mr. Robert Bruce McDuff
Mrs. Beth Levine Orlansky
Mr. Joseph Henry Ros
Mr. Ezra D. Rosenberg
Ms. Caitlyn E. Silhan
Mr. Ellis Turnage
Mr. Michael Brunson Wallace