No. 15A999

In the
Supreme Court of the United States

MARC VEASEY, et al.,
Applicants,
V.
GREG ABBOTT, et al.,
Respondents.

REPLY TO RESPONDENTS' OPPOSITION TO APPLICATION TO VACATE FIFTH CIRCUIT STAY OF PERMANENT INJUNCTION

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Introduction

In their Opposition to the Application to Vacate the Fifth Circuit's stay application, Texas twists the District Court and Fifth Circuit record in an attempt to portray that their repeated failure to defend SB 14 somehow translates into the "strongest possible showing of likely success on the merits." Respondents' Opposition to Application to Vacate Fifth Circuit Stay of Permanent Injunction ("Opp.") at 1. In fact, three federal courts and seven federal judges after two federal trials have unanimously held that SB 14 is racially discriminatory and violates the Voting Rights Act.[1]

Texas disingenuously argues that there is a "lack of evidence that SB 14 affected any person's ability to vote," despite a clear finding, based on Texas's own records, that over 600,000 *registered* Texas voters lacked an SB 14 compliant ID. SB 14 certainly *affected* all of those citizens' ability to vote and, as the District Court carefully found, unconstitutionally and discriminatorily burdened that right for innumerable Texas voters. The record is replete with evidence of SB 14's substantial burdens and discriminatory effects on Texas voters. Absent action by this Court, Applicants, other Appellees, and innumerable other Texas voters, will be irreparably injured by their inability to vote on Election Day in the November 2016 elections.

Texas fails to establish *any* irreparable harm that will befall it if this Court

[1] Respondents argue that Applicants' "failure to engage the Fifth Circuit's panel's analysis is a sufficient ground to deny the application." Opp. at 14. The Fifth Circuit's decision to review this case *en banc* rendered the panel decision a nullity. 5th Cir. R. 41.3. Therefore, the decision on review is undeniably the District Court opinion.

vacates the stay. It does not allege that it would be unable to plan its election administration apparatus to remain flexible and capable of implementing SB 14 in the unlikely event that SB 14 is ultimately upheld. Therefore, the only "irreparable" harm asserted by Texas are general, unspecified administrative and financial burdens. Opp. at 30.

Ultimately, Texas's response to this application is clear: Texas intends to use every litigation strategy available to continue enforcing its voter ID law even in the face of repeated federal court findings that the law discriminates against minority voters. Tellingly, Texas does not contest that if relief is postponed until after the en banc proceedings, it will argue that it is too late to implement relief for the upcoming November 2016 presidential election. Nor does it challenge Applicants' contention that the State has taken the position that it must have a decision by June 2016 in time for relief to be afforded for the November 2016 elections. In essence, Texas asks this Court to deny the application to vacate the stay because, in its estimation, the risk that hundreds of thousands of Texas voters will face unconstitutional and discriminatory burdens to their fundamental right to vote in yet another election is outweighed by the risk of some unverified and unexplained financial burden to the State. Texas's response only confirms the urgent need for emergency relief to curtail Texas's attempts to manipulate the litigation timeline to deprive Texas voters of their rights.

I. The District Court's Careful Findings of Fact Demonstrate that Applicants, and Texas Voters, Face Irreparable Injury.

Texas's repeated claims that SB 14 imposes no harm on Applicants—or Texas

voters more broadly—cannot make it true. At the time of the District Court opinion, several individual Plaintiffs had already been rejected from voting as a result of SB 14. *Veasey v. Perry*, 71 F. Supp. 3d 627, 668 (S.D. Tex. 2014) (e.g., Bates, Bingham & Carrier). Applicants and other Plaintiffs are facing yet another Election Day where they will be unable to exercise their constitutional right to vote because of the discriminatory, and unduly burdensome requirements of SB 14. For example:

- Gordon Benjamin, who is African-American, testified that he surrendered his Texas license to Arizona upon moving there, but voted in Texas after returning and prior to the implementation of SB 14. Trial Tr. 289:6-290:1 (Sep. 3, 2014). He travelled to DPS on three occasions to obtain valid identification, but was unable to obtain a driver's license or Texas ID card because he lacked a birth certificate. *Id.* at 290: 13-15, 292:17-294:10. Although Mr. Benjamin is now 65, and therefore able to vote by mail, he prefers to vote in person as he has historically done. *Id.* at 291:25-292:16 ("I don't really trust voting by mail because mail ballots have a tendency to disappear.").
- Kenneth Gandy, who is Anglo, has lived in Texas for over 40 years, been registered to vote in Texas for the same amount of time, and serves on the Ballot Board for Nueces County. Trial Tr. 210:14-211:21 (Sep. 5, 2014). His license expired in 1990 and he now relies on the bus for transportation. *Id.* at 207:23-208:4, 208:15-17. He has tried to obtain an EIC from DPS, but was unable to do so since he does not have a valid form of his New Jersey birth certificate, which would cost more money than he is able to spend as someone living on a fixed income. *Id.* at 208:23-209:3, 211:22-213:1.
- Floyd Carrier is an African-American veteran who is wheel-chair bound due to a stroke from many years ago. Trial Tr. 10:18, 13:10, 42-5-10 (Sep. 2, 2014). In his trial testimony, he detailed how his license expired in 2006 and he has been unable to obtain a Texas ID card, since he was unable to obtain a valid birth certificate. *Id.* at 42:11-13, 53:14-21. He was delivered by a midwife in a rural area bordering three counties and his prior attempts to obtain a valid birth certificate from the state have yielded birth certificates with numerous errors (including the misspelling of his name and wrongful date of birth) that prevented him from obtaining an SB 14 complaint ID. *Id.* at 14:17-20, 54:11-14, 59:4-21. He relies on his son and neighbors to drive him places and votes when he can get to the polls, but testified that he was unable to vote in person, due to the Texas photo ID law. *Id.* 13:25-14:2, 24:2-

3, 70:12-16, 25:14-27:8. Voting by mail is not a realistic option for him because mail service in his rural area is spotty. Trial Tr. 29:17-25.

- Imani Clark, who is African-American, is a student at Prairie View A&M University who registered to vote in Texas in 2010 and used her Prairie View A&M University student ID card to vote in the 2010 municipal and 2012 presidential elections. Trial Tr. 183:25-184:7, 184:7-9, 184:14-16, 186:19-25, 188:4-12 (Sep. 9, 2014) (Clark Testimony). She possesses a valid student ID, Social Security card, birth certificate, and California license. *Id.* at 191:16-23. However, she lacks SB 14-required ID and is therefore unable to vote in Texas, the only place she has ever registered to vote. *Id.* at 187:6-24, 188:1-3.

Because of SB 14, none of these eligible Texas voters have been able to cast a ballot on Election Day for the past two years. Unless this Court acts, that may be true once again in November 2016 and not just for these voters but for many more.

Indeed, contrary to Texas' filing in this Court, several other minority voters testified to voting provisionally during the November 2013 election, and having their provisional ballot rejected, because they lacked SB 14 ID.[2] The record further indicates that voters without SB 14 IDs were sometimes turned away from the polls in 2013 without even being given an opportunity to vote a provisional ballot.[3] Many other voters similarly lost their vote in the November 2013 election when they had to vote by provisional ballot because of SB 14. These voters likely represent only a small fraction of the total number of voters SB 14 disenfranchised during that election.

Texas repeats its failed argument that SB 14 does not create a substantial barrier to voting because it offers a subset of affected voters (and named plaintiffs)

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[2] *See* Bates Dep. 12:19-13:6, 14:2-8; PL1090 (Bates Video Excerpts); Benjamin Dep. 28:1-30:3; Eagleton Dep. 32:5-33:11, 42:9-43:8; PL1095 (Eagleton Video Excerpts); Holmes Dep. 17:10-20:11, 20:21-23:1, 23:15-24:2; PL1094 (Holmes Video Excerpts); Washington Dep. 22:1-25:25; PL1093 (Washington Video Excerpts).

[3] Trial Tr. 368:1-3 (Guzman) (Day 3); Bingham Dep. 33:4-33:7, 33:22-34:11; PL1091 (Bingham Video Excerpts) (Day 2); Carrier, F. Dep. 95:3- 97:25.

the subpar option of voting by mail. Opp. at 5, 11, 12, 28, 30. But voting by mail is an insufficient alternative. The record demonstrates that absentee ballots are subject to a much higher risk of fraud than in-person voting and thus are understandably not trusted by voters. *Veasey*, 71 F. Supp. 3d at 676. The District Court correctly noted the irony that while Texas proclaims an interest in eliminating voter fraud and increasing public confidence, they defend SB 14 by arguing that affected Texas voters, mostly minorities, should be forced to "vote by a method that has an increased incidence of fraud and a lower level of public confidence." *Veasey*, 71 F. Supp. 3d at 677. All eligible Texas voters deserve an equal opportunity to have their vote counted and Applicants should not be relegated to an unequal forum. *Bush v. Gore*, 531 U.S. 98, 104-05 (2000) ("Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another.").[4]

In addition to the named voter Plaintiffs, Congressman Marc Veasey and other elected officials validly assert the serious hardships created by SB 14 on their constituents, and the consequent adverse effects on their campaigns. *Veasey*, 71 F. Supp. 3d at 677-78. The District Court opinion painstakingly describes the

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[4] Moreover, in-person voting, in addition to being more effective and trustworthy, is a political act that carries with it important expressive values protected by the First Amendment. As the District Court correctly explained: "For some African–Americans, it is a strong tradition—a celebration—related to overcoming obstacles to the right to vote. Reverend Johnson considers appearing at the polls part of his freedom of expression, freedom of association, and freedom of speech." *Veasey*, 71 F. Supp. 3d at 676-77. Therefore, once again, relegating affected minority voters to casting absentee ballots is an unacceptable remedy for SB 14's burdensome and discriminatory effects. *See, e.g., John Doe No. 1 v. Reed*, 561 U.S. 186,194-95 (2010) (quoting *Republican Party of Minn. v. White*, 536 U.S. 765, 788 (2002)) ("An individual expresses a view on a political matter when he signs a petition under Washington's referendum procedure . . . . [T]he expression of a political view implicates a First Amendment right. The State, having 'cho[sen] to tap the energy and the legitimizing power of the democratic process, . . . must accord the participants in that process the First Amendment rights that attach to their roles.'").

substantial burdens created by SB 14 for the over 600,000 registered voters who lack SB 14 ID. Id. at 659, 667- 676; *see also Veasey v. Perry*, 135 S. Ct. 9, 11 (2014) (Ginsburg, J., dissenting) (noting that "more than 400,000 eligible voters face round-trip travel times of three hours or more to the nearest DPS office" to obtain a qualifying ID). That was true in 2014 and remains true today. Therefore, the Applicants have certainly shown irreparable injury to both the political and personal rights to the individual plaintiffs.

Despite the foregoing, Texas repeatedly, and incorrectly, argues that no individual voter has been unequivocally denied the right to vote. Although this assertion is false, *see supra*, it is also not the correct constitutional question. This Court has held that unreasonable burdens, short of outright disenfranchisement, cannot be placed on voters' access to the ballot. *See, e.g., Crawford v. Marion County Election Bd.*, 553 U.S. 181, 190 (2008). Indeed, just yesterday, the Seventh Circuit Court of Appeals issued a decision authored by Judge Easterbrook in the Wisconsin voter ID challenge recognizing that plaintiffs may seek relief on behalf of persons who just can't get acceptable photo ID with reasonable effort. *Frank v. Walker*, No. 15-3582 (April 12, 2016), slip op. at 5 ("The right to vote is personal and is not defeated by the fact that 99% of other people can secure the necessary credentials easily.").Such burdens will inevitably lead to realistic disenfranchisement, as SB 14 has in Texas. In asserting that there is no harm to Texas voters, the state ignores hundreds of ID-related provisional ballots cast (but not counted) by voters who lack SB 14 ID. These provisional ballots confirm that voters have been denied the right

to vote as a result of SB 14. If the State sees no disenfranchisement, it is because it is not looking: the state's own Director of Elections testified that he had no need for information concerning the number of ID-related provisional ballots cast to date. Trial Tr. 391:19-21 (Sept. 10, 2014) (Ingram). In addition to ID-related provisional ballots, Texas ignores the inevitable group of voters who have not tried to vote because they lack an SB 14 compliant ID. Since over a half million registered voters lack SB 14 ID, that number is unquestionably considerable. Those voters, acting entirely rationally in light of SB 14's continued enforcement, are entitled to be equally protected.[5]

II. Texas Fails to Establish Any Likelihood of Success On the Merits.

Texas leans heavily upon the Fifth Circuit panel opinion, but the Fifth Circuit panel opinion does Texas no favors. The panel opinion *affirmed* the District Court's holding that SB 14 results in unlawful discrimination in violation of the Voting Rights Act and relied on constitutional avoidance with respect to the unconstitutional burden on the right to vote claim. *Veasey v. Abbott*, 796 F.3d 487, 493 (5th Cir. 2015). Therefore, both the Fifth Circuit panel and the District Court (as well as the three-judge court in the District Court of the District of Columbia) have agreed that SB 14 violates federal law, discriminates against minority voters, and should no longer be enforced. What is more, the panel opinion suggested the contours of injunctive relief that, had the stay not prevented it from taking effect,

[5] Although some of the 600,000 registered voters who lacked an SB 14 ID as of the trial have undoubtedly obtained one since then, their ranks are constantly replenished by registration of new voters who lack the necessary ID. Moreover, there are undoubtedly eligible voters who are deterred from registering because they lack the necessary ID to vote even if they register.

would have restored the rights of Texans for recent primary elections.

Moreover, the Fifth Circuit *did not* hold that SB 14 was not motivated by racially discriminatory intent, but rather directed the District Court to conduct a reweighing of the evidence in light of its instructions. *Id.* at 503-04. In any event, as discussed *infra*, the panel's discriminatory intent analysis was fundamentally flawed and the District Court's discriminatory intent finding should be upheld.

The District Court opinion, issued after a two-week trial, rested on established precedent and well-supported findings of fact, all of which are bypassed by Texas's response. Texas simply attempts to replace the record-based reasoned judgment of the district court with its own skewed version of the facts. Applicants are likely to succeed on the merits as they did in three prior federal adjudications. Texas certainly has not established its likelihood of success, especially given its failure to convince any federal judge that SB 14 is not discriminatory.

A. Discriminatory Results Violative of Section 2 of the Voting Rights Act.

The District Court found that (1) over 600,000 registered Texas voters did not have SB 14 compliant ID, (2) minority voters comprise a disproportionate number of those potentially disenfranchised voters, (3) minority voters without SB 14 ID face disproportionate burdens in accessing the SB 14 ID *necessary* to vote and (4) minority voters face those disproportionate burdens as a result of discrimination. *Veasey*, 71 F. Supp. 3d at 659, 664-68. Nonetheless, Texas argues that the District Court's discriminatory effect was not supported by "any evidence that SB 14 denied or abridged the right to vote." Opp. at 19. In essence, Texas argues that the District

Court was barred from making the reasonable inference that significant (and foreseeable) disparate access to the ID necessary to vote translates into any disparate impact on the right to vote.[6] Thus, Texas seeks to impose a new evidentiary rule that the only way to show a discriminatory result under Section 2 in voter ID cases is to prove a drop in voter turnout or registration. But, registration is unrelated to the issue at hand, access to the polls, and voter turnout is affected by a myriad of factors in any given election, not just lack of ID. Texas has not provided any evidence to counter the District Court's reasonable fact-based determination that the discriminatory effect on voters' access to SB 14 ID translates into a discriminatory effect on voters' access to the polls. Therefore, the District Court's finding of discriminatory results is far from clearly erroneous. *See Thornburg v. Gingles*, 478 U.S. 30, 79 (1986) (holding that Section 2 discriminatory effect findings are reviewed for clear error).

B. Unconstitutional Burden on the Right to Vote[7]

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[6] The District Court found that this disparate impact was not just a foreseeable, but a foreseen result of the interaction of SB 14's specific requirements—including the picking and choosing of qualifying IDs that are held disproportionately held by Anglo voters and excluding forms of ID disproportionately held by minority voters, *Veasey*, 71 F. Supp. 3d at 658—and the persistent effects of the past discrimination. *Id.* at 696-98. In doing so, the District Court carefully evaluated each of the Senate factors. *Id.* Therefore, the disparate impact is not a coincidence of a necessary state policy but rather a foreseeable and avoidable result of the legislature's choices in light of the state's history of official discrimination and its lingering effects. *Id.* Thus, the District Court's holding is far more limited than Texas suggests. Rather, it is a straightforward application of this Court's precedent and does not threaten the parade of horribles listed in Texas's opposition. Opp. at 22-24. In light of the foregoing, Texas's argument that the District Court's evidentiary inference that discriminatory access to SB 14 ID directly leads to discriminatory access to voting somehow extends Section 2 beyond its constitutional bounds is simply without merit or support.

[7] The District Court also held that SB 14 imposed an unconstitutional poll tax. *Veasey*, 71 F. Supp. 3d at 703-06. The Fifth Circuit panel erroneously held that charging a fee for the required underlying documentation to obtain a photo ID did not operate as a poll tax. This is yet another example of where the Fifth Circuit panel erred. Even though the legislature repealed this unconstitutional poll tax on appeal, the repeal did not remedy the harm to Applicants who were forced to pay the fee to access an SB 14 ID prior to the repeal.

As discussed in Applicants' initial filing, the District Court engaged in a careful, fact-based review of SB 14 under the appropriate balancing test under *Anderson v. Celebrezze*, 460 U.S. 780 (1983), *Burdick v. Takushi*, 504 U.S. 428 (1992), and *Crawford v. Marion County*, 553 U.S. 181 (2007). Texas's comparisons to *Crawford* are unavailing. The *Anderson/Burdick* balancing test is necessarily a fact-intensive inquiry and the facts of *Crawford* are inapplicable to the facts in Texas. In *Crawford*, the District Court held that the plaintiffs had "not introduced evidence of a single, individual Indiana resident who [would] be unable to vote as a result of SEA 483 or who [would] have his or her right to vote unduly burdened by its requirements" and that the expert estimates of those without compliant ID were unreliable and not credible. 553 U.S. at 187. In this case, the plaintiffs demonstrated the impact of SB 14 on numerous plaintiffs' ability to vote, *see supra*, and the statistical evidence regarding the number of voters without SB 14 ID (over 600,000) was well-supported and credited by both the District Court and the Fifth Circuit panel. *Veasey*, 71 F. Supp. 3d at 659; *Veasey*, 796 F.3d at 505-06.

These are critical differences. *Crawford* did not hold that analysis of the particular burdens on the subset of affected voters is impermissible or inappropriate, Opp. at 28, but rather that the evidence in *Crawford* did not allow the Court "to quantify either the magnitude of the burden on this narrow class of voters or the portion of the burden imposed on them that is fully justified." 553 U.S. at 200. Unlike *Crawford*, the record in this case is replete with evidence regarding the magnitude of the burden on voters without SB 14 ID, *Veasey*, 71 F. Supp. 3d at

664-77, the large class of voters affected, *id.* at 659, and the lack of justification for these burdens, *id.* at 653-59, 691-93. Therefore, Texas's facile comparison to *Crawford* cannot save SB 14 from the District Court's specific and well-supported findings.

C. Discriminatory Purpose

The District Court carefully outlined the *Arlington Heights* factors to be considered in evaluating circumstantial evidence of discriminatory purpose, and weighed those factors before concluding that they added up to discriminatory purpose. *Veasey*, 71 F. Supp. 3d at 698-703. Specifically, the District Court examined, *inter alia*, the sequence of proposed voter ID bills that were increasingly harsh on minority voters, the extraordinary departures from normal practice to pass SB 14, the legislature's rejection of "a litany of ameliorative amendments that would have redressed some of the bill's discriminatory effects on African–Americans and Hispanic voters," the racially charged environment of the 2011 legislative session, and the clear disparate impact of SB 14 on minority voters. Only after assessing all of this evidence as a whole did the District Court conclude that the evidence satisfied the *Arlington Heights* standard and held that the law was motivated by an unlawful discriminatory intent. *Id.* at 702-03.

The Fifth Circuit panel, by contrast, overstepped its proper role, which was solely to consider whether the District Court erred in its application of the *Arlington Heights* standards and/or whether the District Court's finding of the fact of purposeful discrimination was plainly erroneous. *Veasey*, 796 F.3d at 498 ("We

review this determination [of discriminatory purpose] for clear error."). The panel found neither legal error with respect to the *Arlington Heights* framework nor with the District Court's findings of fact and therefore should have affirmed the District Court's intent finding.

Instead, the panel embarked on a wholesale re-weighing of the evidence, which this Court has said time and again is beyond the province of a Court of Appeals. *See, e.g., Anderson v. City of Bessemer City*, 470 U.S. 564, 573-74 (1985) ("If the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently. Where there are two permissible views of the evidence, the factfinder's choice between them cannot be clearly erroneous.").

While the Fifth Circuit panel listed the factors that the District Court properly relied upon, 796 F3d at 499, it then repeatedly invaded the District Court's fact-finding arena to re-weigh the evidence on its own. It began with Texas's history of discrimination; it assessed the weight and importance of the recent and past history for itself and concluded that "the district court's heavy reliance on long-ago history was error." 796 F3d at 500. The panel assessed the testimony of SB 14's legislative opponents. It weighed the testimony itself, compared its analysis to it own interpretation of the District Court's analysis, concluded (incorrectly) that the District Court relied heavily on this testimony, and again determined that it would have weighed the evidence differently. It thus improperly held that "the district

court's heavy reliance on such post-enactment speculation by opponents of SB 134 was also misplaced." 796 F3d at 501. The panel similarly passed judgment on the District Court's weighing of post-enactment testimony, *id.* at 502, the procedural departures in the passage of SB 14, *id.* at 503, and the importance of the lack of any "smoking gun" in the legislators' private materials, *id.* Based entirely on its own reweighing of evidence, the Fifth Circuit wrongfully vacated the District Court's intent finding and asked it to try again. *Id.* at 503-04.

III. If the Fifth Circuit Sets Aside the District Court's Well-Reasoned Findings, this Court Will Likely Grant Review.

This case will clearly merit review by this Court if the en banc Fifth Circuit (1) sets aside the District Court's finding of purposeful racial discrimination in the enactment of SB 14 or (2) builds in more litigation delay by remanding the case to the trial court for yet more evidence. In light of the District Court's painstaking observance of this Court's *Arlington Heights* rules for determining purposeful discrimination, *supra,* a Court of Appeals ruling that set aside the District Court's finding would be one which has "so far departed from the accepted and usual course of judicial proceedings . . . as to call for an exercise of this Court's supervisory power" under this Court's Rule 10(a)("Considerations Governing Review on certiorari").

This Court has recognized the crucial consequences of a finding that a law is infected with a racial discriminatory purpose. Such a law "has no credentials whatsoever." *City of Richmond v. United States,* 422 U.S. 358, 378 (1975). In *Arlington Heights* itself, this Court made plain that discriminatory purposes are the

antithesis of proper governmental function. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265-66 (1977) ("But racial discrimination is not just another competing consideration. When there is a proof that a discriminatory purpose has been a motivating factor in the decision, this judicial deference is no longer justified.").

For this reason, courts take such findings, which are rare, seriously. When there has been such a finding that follows the proper standard, as laid out in *Arlington Heights*, reversal is almost unheard-of. Any such reversal would carry an extraordinarily high likelihood of review by this Court in order to safeguard the integrity of the governmental process.

Likewise, this case will merit review if the Fifth Circuit overturns the District Court's holdings that SB 14 imposes an unconstitutional burden on the right to vote and results in unlawful discrimination in violation of Section 2 of the Voting Rights Act. SB 14 is the most stringent voter ID law in the country. *Veasey*, 71 F. Supp.3d at 643 ("This table demonstrates that there are at least 16 forms of ID that some of the other strict states permit, but that Texas does not, and there are three classes of persons, including the elderly and indigent, who are excused in whole or in part from the photo ID requirement in many states, but not in Texas."). The District Court properly applied this Court's precedent in its *Crawford* and Section 2 analysis. Equal and nondiscriminatory full access to the franchise is obviously a matter of extraordinary public importance. If the Fifth Circuit upsets these holdings, and allows SB 14 to stand despite its demonstrable unlawful effects

on a large swath of voters, this Court will likely step in to reinforce its standards and ensure that Texas voters are not deprived of their fundamental right to vote.

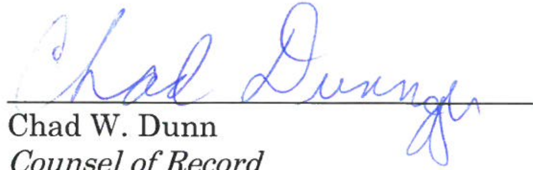
IV. Texas Cannot Establish Any Harm if this Court Vacates the Stay.

Finally, Texas fails to assert any irreparable harm if the stay is vacated. Texas does not allege that it would be unable to plan its election administration apparatus to remain flexible and capable of implementing SB 14 in the unlikely event that SB 14 is ultimately upheld. Therefore, the only "irreparable" harm asserted by Texas are general, unspecified administrative and financial burdens. Opp. at 30. This "harm," whatever it may be, simply cannot outweigh the risk of violating Texas voters' fundamental right to vote in this upcoming election.

Conclusion

The Texas photo ID law was enacted five years ago and has been subject to litigation ever since, including two federal trials. It has remained in the Fifth Circuit for the past year and a half. Despite repeated findings that the law discriminates against minority voters, it has been enforced in elections over the last two years. Applicants respectfully suggest that Texas voters have waited long enough for vindication of their voting rights. Applicants urge the Court to vacate the stay in its entirety or as necessary to allow appropriate District Court relief.

Respectfully submitted on April 13, 2016,



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