No. 14A393

In the

Supreme Court of the United States

MARC VEASEY, et al.,
Applicants,

v.

RICK PERRY, et al.,
Respondents.

REPLY IN SUPPORT OF EMERGENCY APPLICATION TO VACATE FIFTH CIRCUIT STAY OF PERMANENT INJUNCTION

**Directed to the Honorable Antonin Scalia,
Associate Justice of the United States Supreme Court
and Circuit Justice for the Fifth Circuit**

CHAD W. DUNN
Counsel of Record
K. SCOTT BRAZIL
BRAZIL & DUNN
4201 Cypress Creek Pkwy.
Houston, Texas 77068
(281) 580-6310

NEIL G. BARON
LAW OFFICE OF NEIL G. BARON
914 FM 517 W, Suite 242
Dickinson, Texas 77539
(281) 534-2748

DAVID RICHARDS
RICHARDS, RODRIGUEZ & SKEITH, LLP
816 Congress Avenue, Suite 1200
Austin, Texas 78701
(512) 476-0005

J. GERALD HEBERT
JOSHUA JAMES BONE
CAMPAIGN LEGAL CENTER
215 E Street NE
Washington, DC 20002
(202) 736-2200

ARMAND G. DERFNER
DERFNER, ALTMAN & WILBORN, LLC
P.O. Box 600
Charleston, S.C. 29402
(843) 723-9804

LUIS ROBERTO VERA, JR.
LULAC NATIONAL GENERAL COUNSEL
THE LAW OFFICES OF LUIS VERA JR., AND ASSOCIATES
1325 Riverview Towers, 111 Soledad
San Antonio, Texas 78205-2260
(210) 225-3300

Counsel for the Veasey-LULAC Plaintiffs-Applicants

ARGUMENT

The District Court's reasoned opinion and the three Applications fully address the vast majority of the State's arguments. The State's Response warrants only these two points:

First, the State attaches an affidavit from Director of Elections Keith Ingram making various conclusory, unsubstantiated claims about confusion, including that "some" unnamed counties would "fail completely" at implementing the District Court's injunction.[1] But even if true, these supposed "facts" about confusion—most of which, such as phone calls from election officials, sound like a day at the office for an Elections Administrator—hardly outweigh the District Court's careful factual findings about likely confusion, based on the extensive record developed at trial. Moreover, the county election official Declarations that plaintiffs filed with the Fifth Circuit and this Court show that those implementing this election on the ground would find it less confusing to work under the District Court's injunction. *See also* Veasey-LULAC Plaintiffs-Applicants' Emergency Application at 8–9 (quoting Ingram's trial testimony).[2]

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[1] Texas also leans heavily on the fact that several other plaintiff groups, along with the State, initially sought to delay trial until after this election. But the Veasey-LULAC plaintiffs always supported holding trial prior to this election in order to prevent SB 14 from going into effect for this election. Therefore, at least in evaluating the Veasey-LULAC Application, this Court should disregard Texas's trial strategy arguments. In any event, long-abandoned trial strategy concerning the parties' ability to complete important discovery, which was completed, should have no bearing on this Court's review, given that the trial went ahead prior to the election, resulting in a 147-page District Court opinion that clearly and convincingly demonstrates why the balance of the equities disfavors a stay and why Texas has little chance of prevailing on appeal.

[2] Unlike Texas's entirely new submission, the county election official Declarations were filed at the Fifth Circuit. Moreover, at least Dallas County's elections director is not a partisan appointee, contrary to the State's assertion. These county elections officials have no reason to mislead this

Second, although the State spends pages criticizing the District Court's finding that over 600,000 registered Texas voters would be disenfranchised if SB 14 is allowed to go into effect for this election, the District Court made this finding based on a painstaking review of expert testimony with virtually no contradiction from the State. Moreover, this Court should disregard the State's patently false assertion that the plaintiffs have found no voter who has been or would be disenfranchised by this law. *See, e.g.*, Dist. Ct. Op. at 68 (e.g., Bates, Bingham & Carrier).

* * *

This is precisely the type of case that this Court had in mind when it pointed out in *Shelby County, Ala. v. Holder,* 133 S.Ct. 2612 (2013), that other remedies, such as injunctive remedies, remain available to protect the rights of voters. *See id.* at 2631 ("Our decision in no way affects the permanent, nationwide ban on racial discrimination in voting found in § 2."). If voters cannot be protected after findings—including a finding of intentional racial discrimination—and a permanent injunction in a case where there was a year of discovery, nine days of trial, and an exhaustive, comprehensive District Court opinion, then when will they be?

Court. Most importantly, the county election official Declarations are entirely consistent with the trial record and the District Court's findings.

October 16, 2014.

Respectfully submitted,

/s/ Chad W. Dunn

Chad W. Dunn
K. Scott Brazil
BRAZIL & DUNN
4201 Cypress Creek Parkway, Suite 530
Houston, Texas 77068
(281) 580-6310

J. Gerald Hebert
Joshua James Bone
CAMPAIGN LEGAL CENTER
215 E Street, NE
Washington, DC 20002
(202) 736-2200

Armand G. Derfner
DERFNER, ALTMAN & WILBORN, LLC
P.O. Box 600
Charleston, S.C. 29402
(843) 723-9804

Neil G. Baron
LAW OFFICE OF NEIL G. BARON
914 FM 517 W, Suite 242
Dickinson, Texas 77539
(281) 534-2748

David Richards
RICHARDS, RODRIGUEZ & SKEITH, LLP
816 Congress Avenue, Suite 1200
Austin, Texas 78701
(512) 476-0005

Attorneys for Veasey-LULAC Applicants

LUIS ROBERTO VERA, JR.
LULAC National General Counsel
1325 Riverview Towers, 111 Soledad
San Antonio, Texas 78205-2260
(210) 225-3300

Attorney for LULAC