

(ORDER LIST: 597 U.S.)

FRIDAY, AUGUST 19, 2022

ORDER IN PENDING CASE

22A136 ROSE, RICHARD, ET AL. V. RAFFENSPERGER, SEC. OF STATE OF GA

The application to vacate stay presented to Justice Thomas and by him referred to the Court is granted. The August 12, 2022 order of the United States Court of Appeals for the Eleventh Circuit staying the district court's injunction is vacated. Respondent's emergency motion for a stay pending appeal relied on the traditional stay factors and a likelihood of success on the merits, see *Nken v. Holder*, 556 U. S. 418 (2009), yet the Eleventh Circuit failed to analyze the motion under that framework. Instead, it applied a version of the *Purcell* principle, see *Purcell v. Gonzalez*, 549 U. S. 1 (2006) (*per curiam*), that respondent could not fairly have advanced himself in light of his previous representations to the district court that the schedule on which the district court proceeded was sufficient to enable effectual relief as to the November elections should applicants win at trial. The Eleventh Circuit may reconsider whether a stay pending appeal is appropriate, subject to sound equitable discretion.