

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-60133

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 DENNIS, CLEMENT, and COSTA, Circuit Judges.

PER CURIAM:

In this case brought under Section 2 of the Voting Rights Act, the district court found that the boundaries of Mississippi State Senate District 22 diluted the voting strength of African-Americans. The court first gave the legislature an opportunity to remedy the violation, but then entered a final judgment with a judicial remedy once the legislature indicated it would not consider acting

until this court issued a ruling on a motion for a stay pending appeal. The final judgment exchanges some precincts between District 22 and its bordering District 23. It also extends the candidate filing deadline for the election to today, March 15.

We have thoroughly considered the motion of the Governor and Secretary of State seeking a stay of the final judgment, the briefing from all parties on that motion, and the ruling and record from the district court. The motion for stay is GRANTED IN PART and DENIED IN PART.

A majority of the panel concludes that Defendants have satisfied the stay factors only based on the need to give the legislature and Governor an opportunity to remedy the Section 2 violation. Now that a majority of the panel has concluded that there is not a strong likelihood that Defendants will succeed in overturning the liability finding on appeal, the legislature should be afforded a chance to fix the vote dilution found by the district court. A stay is entered for that purpose until April 3, 2019. The candidate filing deadline for any districts whose lines are redrawn (whether by the legislature, or if it does not act, per the district court's remedy) is extended to April 12, 2019. The district court has jurisdiction to consider any challenges to the adequacy of a legislative remedy.

Judge Clement dissents in part and would grant the stay request in full. Opinions explaining the court's reasoning will issue next week.