

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION**

Texas Alliance for Retired Americans, Sylvia
Bruni, DSCC, and DCCC,

Plaintiffs,

v.

JOHN SCOTT, in his official capacity as the Texas
Secretary of State,

Defendant.

Civil Action No. 5:20-cv-128

PLAINTIFFS' NOTICE OF VOLUNTARY DISMISSAL

In this suit, Plaintiffs assert five causes of action challenging HB 25, which eliminates the straight-ticket voting option from ballots in Texas. See ECF No. 1. Four of Plaintiffs' causes of action arise from the First, Fourteenth, and/or Fifteenth Amendments to the U.S. Constitution; the remaining claim arises from the Voting Rights Act ("VRA"). *Id.* at 37-45.

On September 25, 2020, this Court issued a preliminary injunction against HB 25's enforcement on the ground that it likely violated the First and Fourteenth Amendments. ECF No. 43. A few days later, the U.S. Court of Appeals for the Fifth Circuit stayed that preliminary injunction. *Tex. All. for Ret. Ams. v. Hughs*, 976 F.3d 564 (5th Cir. 2020). On March 16, 2022, a merits panel of the Fifth Circuit issued an opinion reversing the preliminary injunction because "Plaintiffs' constitutional claims are barred by sovereign immunity." *Tex. All. for Ret. Ams. v. Scott*, 28 F.4th 669, 670 (5th Cir. 2022). Earlier today, the Fifth Circuit issued its mandate resulting from that decision. As a result of the Fifth Circuit's decision, Plaintiffs' constitutional claims in this case are due to be "dismissed without prejudice." *United States v. \$4,480,466.16 in Funds Seized from Bank of Am. Account Ending in 2653*, 942 F.3d 655, 666 (5th Cir. 2019).

As the Fifth Circuit's majority opinion recognized, however, "sovereign immunity would not pertain to Plaintiffs' Voting Rights Act claim[]" because the VRA abrogated Texas's sovereign immunity. *Tex. All. for Ret. Ams.*, 28 F.4th at 671 n.4 (citing *Mi Familia Vota v. Abbott*, 977 F.3d 461, 469 (5th Cir. 2020), and *OCA-Greater Hous. v. Texas*, 867 F.3d 604, 614 (5th Cir. 2017)). That fact did not affect the outcome of the Fifth Circuit's March 16 decision because the preliminary injunction on appeal "was based on Plaintiffs' constitutional claims only." *Id.* As a result, the only claim in this suit that survives the Fifth Circuit's March 16 decision is Plaintiffs' VRA claim.

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), Plaintiffs hereby notify the Court that they voluntarily dismiss their VRA claim, the sole remaining claim in this suit. This dismissal takes effect without court action because Defendant has not served "an answer or a motion for summary judgment." Fed. R. Civ. P. 41(a)(1)(A)(i). And because no plaintiff has "previously dismissed any federal- or state-court action based on or including the same claim," Plaintiffs' voluntary dismissal "is without prejudice." Fed. R. Civ. P. 41(a)(1)(B).

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May 9, 2022

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which automatically serves notification of the filing on counsel for all parties.

/s/ Skyler M. Howton _____

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