

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNIÓN DEL PUEBLO ENTERO, *et al.*,

Plaintiffs,

v.

GREGORY W. ABBOTT, *et al.*,

Defendants.

No. 5:21-cv-00844-XR
(Consolidated Cases)

**RESPONSE TO STATE DEFENDANTS’ AND INTERVENOR-DEFENDANTS’
OPPOSED MOTION FOR STAY PENDING APPEAL OR, IN THE ALTERNATIVE,
FOR ADMINISTRATIVE STAY PENDING APPEAL AND REQUEST FOR
EXPEDITED CONSIDERATION**

Plaintiffs La Unión del Pueblo Entero, *et al.*¹ (“LUPE Plaintiffs”) respectfully respond in opposition to State Defendants’ and Intervenor-Defendants’ (collectively, “Defendants”) Opposed Motion for Stay Pending Appeal or, in the Alternative, for Administrative Stay Pending Appeal and Request for Expedited Consideration, filed October 15, 2024 (ECF No. 1175).

Following trial in this case, on September 28, 2024, the Court entered its Findings of Fact and Conclusions of Law on Plaintiffs’ overbreadth, vagueness, and Free Speech Clause challenges to S.B. 1 § 7.04 and permanently enjoined that provision. ECF No. 1157 (the “First Order”). Following the Court’s denial of State Defendants’ motion to stay the First Order (ECF No. 1161), State Defendants filed an emergency motion in the Fifth Circuit to stay the First Order pending appeal. Dkt. 6, Defendants’ Emergency Motion to Stay District Court Order and Permanent

¹ The LUPE Plaintiffs are: La Unión del Pueblo Entero, Friendship-West Baptist Church, Southwest Voter Registration Education Project, Texas Impact, Mexican American Bar Association of Texas, Texas Hispanics Organized for Political Education, Jolt Action, William C. Velasquez Institute, FIEL Houston Inc., and James Lewin.

Injunction Pending Appeal and for Temporary Administrative Stay, *LUPE v. Abbott*, No. 24-50783 (5th Cir. Oct. 3, 2024).

On October 11, 2024, this Court entered its opinion and order permanently enjoining §§ 6.03–6.07 and 7.04 of S.B. 1. ECF No. 1173 (Findings of Fact and Conclusions of Law (Claims Under Section 208 of the Voting Rights Act)) (the “Second Order”). This Court, however, stayed certain portions of the injunction until after the November 5, 2024 General Election.

On October 15, 2024, the Fifth Circuit granted State Defendants’ emergency motion to stay the First Order in a published opinion. Dkt. 112-1, *LUPE v. Abbott*, No. 24-50783 (5th Cir. Oct. 15, 2024). Later that day, Defendants filed an Opposed Motion for Stay Pending Appeal or, in the Alternative, for Administrative Stay Pending Appeal and Request for Expedited Consideration with respect to the Second Order. ECF No. 1175.

Plaintiffs acknowledge the Fifth Circuit’s recent stay regarding the First Order and its potential relevance to the pending motion for stay. Plaintiffs nevertheless disagree with the Fifth Circuit’s conclusion that under *Purcell v. Gonzalez*, 549 U.S. 1 (2006), a stay is appropriate under these circumstances. For the reasons set out in this Court’s denial of State Defendants’ motion to stay the First Order, ECF No. 1161, Plaintiffs maintain that the Court should deny the State Defendants’ motion to stay the Second Order. Moreover, in the event that the Court grants the stay, Plaintiffs respectfully request that the stay be granted only through the November 2024 general election consistent with the Court’s rulings with respect to forms, instructions, and election officials’ conduct in the Second Order.

Date: October 17, 2024

Respectfully submitted,

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