

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 22-50662

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

STATE OF TEXAS, *et al.*,

Defendants

JOAN HUFFMAN, TEXAS SENATE MEMBER, *et al.*,

Movants-Appellants

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

JOINT STATUS REPORT

The parties submit the following joint status report stating their respective positions regarding whether the briefing schedule in this case should continue to be held in abeyance.

1. This appeal concerns legal issues materially similar to those at issue in *LULAC Texas v. Hughes*, No. 22-50435.

2. Plaintiffs-appellees in *Hughes*, without opposition from the third-party appellants, moved to expedite briefing in that case and requested a resolution of the case no later than October 3, 2022, in order to avoid interference with the district court's trial schedule in that case.

3. A panel of this Court heard oral argument in *Hughes* on August 2, 2022, but it has not yet issued an opinion in that case.

4. On December 5, 2022, the district court from which this appeal arises indicated that it is considering holding trial in two phases and entered an order requiring the parties to state their availability during the first half of 2023 for trial on claims against Texas's 2021 Congressional and State Board of Education redistricting plans.

5. On February 10, 2023, the district court issued an order concerning scheduling of a trial date, which stated the following:

While the Court would prefer to conduct a trial as soon as possible, it cannot determine when that trial will be until the Fifth Circuit resolves various pending appeals. Moreover, the parties expressed reluctance to conduct a trial during the legislative session. The trial setting, as well as any remaining discovery, may therefore depend on any redistricting that occurs in the 2023 regular session.

Order at 1, *LULAC v. Abbott*, No. 3:21-cv-259 (W.D. Tex. Feb. 10, 2023), ECF No. 696. The district court's reference to pending Fifth Circuit appeals presumably refers to appeals concerning legislative privilege issues, including this appeal and *Hughes*. The district court's reference to "redistricting that occurs in

the 2023 regular session” refers to the fact that the legislative session is ongoing and redistricting legislation is under consideration for statehouse districts.

6. In light of the above, the parties do not object at this time to this Court continuing to hold in abeyance the briefing schedule in this case. The parties will file another joint status report stating their respective positions regarding whether the briefing schedule in this case should continue to be held in abeyance either (1) within seven days of the issuance of a decision in *LULAC Texas v. Hughes*, No. 22-50435, or (2) by June 5, 2023, whichever occurs sooner.

Respectfully submitted,

RETRIEVED FROM DEMOCRACYDOCKET.COM

- 4 -

ELISE C. BODDIE
Principal Deputy Assistant
Attorney General

s/ Jonathan L. Backer
BONNIE I. ROBIN-VERGEER
JONATHAN L. BACKER
Attorneys
Department of Justice
Civil Rights Division
Appellate Section
Ben Franklin Station
P.O. Box 14403
Washington, D.C. 20044-4403
(202) 532-3528

*Counsel for the United States
Plaintiff-Appellee*

Ken Paxton
Attorney General of Texas

Judd E. Stone II
Solicitor General

Brent Webster
First Assistant Attorney General

/s/ Ryan S. Baasch
Ryan S. Baasch
Assistant Solicitor General
Ryan.Baasch@oag.texas.gov

Office of the Attorney General
P.O. Box 12548 (MC 059)
Austin, Texas 78711-2548
Tel.: (512) 936-1700
Fax: (512) 474-2697

*Counsel for Appellants, Texas House
and Senate Members and Staff*

Adam K. Mortara
LAWFAIR LLC
125 South Wacker, Ste. 300
Chicago, IL 60606
Tel.: (773) 750-7154

Taylor A.R. Meehan
Frank H. Chang
CONSOVOY MCCARTHY PLLC
1600 Wilson Blvd., Ste. 700
Arlington VA 22209
Tel.: (703) 243-9423

*Counsel for Appellants,
Texas House Members and Staff*

CERTIFICATE OF SERVICE

I certify that on May 5, 2023, I electronically filed the foregoing JOINT STATUS REPORT with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the appellate CM/ECF system.

I certify that all participants in this case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ Jonathan L. Backer
JONATHAN L. BACKER
Attorney

RETRIEVED FROM DEMOCRACYDOCKET.COM