

No. 25-13007

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

□

ALABAMA STATE CONFERENCE OF THE NAACP, *et al.*,
Plaintiffs-Appellees,

v.

SECRETARY OF STATE FOR THE STATE OF ALABAMA,
Defendant-Appellant.

□

On Appeal from the United States District Court
for the Northern District of Alabama
Case No. 2:21-cv-01531-AMM

PLAINTIFFS' MOTION FOR VOLUNTARY VACATUR

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**CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rules 26.1–1 through 26.1–5, the undersigned counsel certifies that the following listed persons and parties may have an interest in the outcome of this case:

1. ACLU of Alabama
2. Aden, Leah C.
3. Alabama Attorney General's Office
4. Alabama State Conference of the NAACP
5. Allen, Amanda N.
6. Allen, Hon. Wes
7. American Civil Liberties Union Foundation
8. Ashton, Anthony
9. Balch & Bingham LLP
10. Barnes, Anna-Kathryn
11. Bowdre, A. Barrett
12. Burke, Colin
13. Burrell, Ashley
14. Campbell-Harris, Dayton

15. Carter, Brittany
16. Chandler, Laquisha
17. Davis, James W.
18. Douglas, Scott
19. Duggan, Matthew R.
20. Dunn, David
21. Ebenstein, Julie A.
22. Ellsworth, Jessica L.
23. Ettinger, James W.
24. Faulks, LaTisha Gotell
25. Gbe, Harmony R.
26. Geiger, Soren A.
27. Genberg, Jack
28. Greater Birmingham Ministries
29. Harris, A. Reid
30. Hattix, Laurel Ann
31. Heard, Bradley E.
32. Hogan Lovells US LLP
33. Jackson, Sidney

34. LaCour Jr., Hon. Edmund G.
35. Lakin, Sophia Lin
36. Lancaster, Riley Kate
37. Lawsen, Nicki
38. Lee, Theresa J.
39. Livingston, Sen. Steve
40. Manasco, Hon. Anna M.
41. Marshall, Hon. Steve
42. Mauldin, Dylan L.
43. Maze, Hon. Corey L.
44. McClendon, (former) Sen. Jim
45. McKay, Charles A.
46. Merrill, Hon. John H.
47. Messick, Misty S. Fairbanks
48. Milligan, Evan
49. Mink, Richard D.
50. Mollman, Alison
51. NAACP Legal Defense and Educational Fund, Inc.

52. Naifeh, Stuart
53. National Association for the Advancement of Colored People
54. Newsom, Hon. Kevin C.
55. Olofin, Victor
56. Overing, Robert M.
57. Pringle, Rep. Chris
58. Rand, Paul
59. Rosborough, Davin
60. Ross, Deuel
61. Sadasivan, Kathryn
62. Sagar, Jo-Ann
63. Seiss, Benjamin M.
64. Shapiro, Avner
65. Short, Caren E.
66. Simelton, Benard
67. Smith, Brenton M.
68. Southern Poverty Law Center
69. Stewart, Shelita M.
70. Stone, Khadidah

71. Taunton, Michael P.
72. Thomas, James
73. Thompson, Blayne R.
74. Turrill, Michael
75. Unger, Jess
76. van Leer, Jacob
77. Walker, J. Dorman
78. Wallace, Janette McCarthy
79. Weisberg, Liza
80. Welborn, Kaitlin
81. Wiggins, Childs, Pantazis, Fisher & Goldfarb, LLC
82. Wilson, Thomas A.
83. Woodard, J. Scott

No publicly traded company or corporation has an interest in the outcome of the case or appeal.

Respectfully submitted this 2nd day of June 2026.

/s/ Davin Rosborough
Counsel for Plaintiffs-Appellees

INTRODUCTION

In light of this Court’s decision to stay the district court’s injunction and subsequent events, Plaintiffs respectfully request that this Court vacate the injunction and remand to the district court forthwith for further proceedings.¹ The Secretary opposes this motion.

BACKGROUND

After the Supreme Court’s decision in *Louisiana v. Callais*, 146 S. Ct. 1131 (2026), the Secretary asked this Court to either “(1) vacate the injunctions and immediately issue its mandate or (2) stay the injunctions.” 11thCirDoc.65 at 2.² This Court denied that motion, and sought to “relinquish jurisdiction to the district court so that it can address the Secretary’s expected forthcoming motion for vacatur and/or for a stay,” while attempting to retain jurisdiction over the “[t]he current appeal.” 11thCirDoc.72-2 at 5. As to the motion for a stay, this Court explained that “[t]he district court, which did not have the benefit of [the *Callais*] decision when it issued the injunctions, and which is much more familiar with the record than we are, should be given the first opportunity to address the impact of *Callais*.” *Id.* at 4; *see id.*

¹ Plaintiffs also request immediate issuance of the mandate, in order to return jurisdiction to the district court. *See* 11th Cir. R. 41-2.

² Citations to “11thCirDoc.” refer to this Court’s docket in Case No. 25-13007.

(noting that the “added complexity” of the ongoing 2026 elections “makes it all the more important that the district court have the first opportunity to consider the parties’ positions”). As to the rest of the appeal, the Court set this case for expedited merits briefing. *Id.* at 5.

While the parties began briefing the merits, the Secretary moved for a stay or vacatur in the district court, 11thCirDoc.75-2, resulting in further briefing from the parties on these issues. The district court denied his motion, but it did so without reaching the merits based on its conclusion that it had “no authority to vacate or stay its injunction” because the appeal of its permanent injunction remained “pending in the Eleventh Circuit.” 11thCirDoc.75-5 at 5.

The Secretary then renewed his stay request to this Court. *See* 11thCirDoc.75. On May 28, 2026, this Court granted the stay, *inter alia*, based on its conclusion that “the secretary will succeed in vacating the injunctions” “[w]hen briefing is done.” 11thCirDoc.81 at 4–5.

Upon this Court’s grant of the stay, Governor Kay Ivey purported to void the May 19, 2026 primary results in Senate Districts 25 and 26, and called for a Special Primary Election to be held under the 2021 map on August 11, 2026.³

³ *See* Senate District 25 and 26 Special Primary Election Proclamation, Office of Ala. Gov. (May 29, 2026),

The Secretary’s vacatur request remains pending in this Court. *See* 11thCirDoc.72-2 at 5. The Plaintiffs now join in his request, mooted the need for further briefing or delay.

ARGUMENT

After this Court and this district court initially denied Defendant’s emergency motions to stay or vacate, Plaintiffs believed it was likely that this Court would hear the appeal on the merits while the injunction remained in effect. Now that the injunction has been stayed and this Court has indicated that it will “do as the Supreme Court has done” in other cases and “vacate [the] district court injunctions and remand[] for consideration in light of *Callais*,” 11thCirDoc.82 at 3–4, Plaintiffs believe there is no further need for delay.

Waiting for the conclusion of briefing and for this Court to write and issue its forthcoming decision granting the Secretary’s request for vacatur will unnecessarily waste judicial and party resources. Moreover, it would only further delay achieving this Court’s prior stated goal of giving the district court “the first opportunity to address the impact of *Callais*.” 11thCirDoc.72-2 at 4 at 4; *see also* 11thCirDoc.82 at 4–5 (explaining that this Court’s forthcoming decision will determine that “the

<https://governor.alabama.gov/newsroom/2026/05/senate-districts-25-and-26-special-primary-election-proclamation/>.

secretary will succeed in vacating the injunctions” but will not “look back at the merits of the underlying lawsuit”); *cf. Lawrence v. Chater*, 516 U.S. 163, 167 (1996) (among the “virtues” of the Supreme Court’s authority to grant, vacate, and remand is that it “assists the court below by flagging a particular issue that it does not appear to have fully considered, [and] assists [the Supreme] Court by procuring the benefit of the lower court’s insight before [the Supreme Court] rule[s] on the merits”).

Accordingly, Plaintiffs now join in the Secretary’s request and respectfully ask this Court to vacate the injunctions and issue its mandate without delay, and to remand to the district court with instructions to proceed to reconsider its decisions in light of *Callais* in the manner that it sees fit.

DATED this 2nd day of June 2026.

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CERTIFICATE OF COMPLIANCE

This document complies with the word limit of Fed. R. App. P.27(d), because this document contains 770 words including all headings, footnotes, and quotations, and excluding the parts of the brief exempted under Fed. R. App. P. 32(f). This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word for Office 365 in 14-point Times New Roman font.

Dated: June 2, 2026

Respectfully submitted,

/s/ Davin M. Rosborough
Counsel for Plaintiffs-Appellees

CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2026, I filed the foregoing Opposition using the Court's CM/ECF system, which will serve counsel for all parties.

/s/ Davin M. Rosborough
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Counsel for Plaintiffs-Appellees