

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF TEXAS and JOHN SCOTT, in
his official capacity as Texas Secretary of
State,

Defendants.

§
§
§
§
§
§
§
§
§
§

Case No. 3:21-cv-299

REQUEST FOR THREE JUDGES

Defendants hereby request that a district court of three judges be convened to hear this case under 28 U.S.C. § 2284.

“A district court of three judges shall be convened . . . when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body.” 28 U.S.C. § 2284(a). This duty is mandatory, as Section “2284(a) admits of no exception.” *Shapiro v. McManus*, 577 U.S. 39, 43 (2015). In this case, Plaintiff challenges the apportionment of Texas’s congressional districts and the Texas House of Representatives. *See, e.g.*, ECF 1 ¶¶ 164-167. That challenge falls within the scope of Section 2284. *See Thomas v. Reeves*, 961 F.3d 800, 810–27 (5th Cir. 2020) (Willet, J., concurring); *Voto Latino v. Scott*, No. 1:21-cv-00965, ECF 21 (W.D. Tex. Nov. 17, 2021). A three-judge court is therefore required.

By filing this request, Defendants do not waive any of their defenses. Nor do they concede that Plaintiff’s action has any merit. Because Plaintiff’s action implicates Section 2284, Defendants hereby request that the Court “immediately notify the chief judge of the circuit” and that she

“designate two other judges, at least one of whom shall be a circuit judge,” “to serve as members of the court to hear and determine the action or proceeding.” 28 U.S.C. § 2284(b)(1).

Date: December 8, 2021

Respectfully submitted.

KEN PAXTON
Attorney General of Texas

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN
Deputy Attorney General for Special Litigation
Tex. State Bar No. 00798537

BRENT WEBSTER
First Assistant Attorney General

WILLIAM T. THOMPSON
Deputy Chief, Special Litigation Unit
Tex. State Bar No. 24088531

OFFICE OF THE ATTORNEY GENERAL
P.O. Box 12548 (MC-009)
Austin, Texas 78711-2548
Tel.: (512) 463-2100
Fax: (512) 457-4410
patrick.sweeten@oag.texas.gov
will.thompson@oag.texas.gov

COUNSEL FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on December 8, 2021, and that all counsel of record were served by CM/ECF.

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN