

June 12, 2023

BY ELECTRONIC FILING

Clerk of the Court
Supreme Court of the United States
One First Street, N.E.
Washington, D.C. 20543

Re: *Ardoin v. Robinson*, No. 21A814

To the Clerk of the Court:

In response to Petitioners' June 8, 2023, correspondence to the Court regarding the above-captioned matter, I write on behalf of the *Galmon* Respondents.

When Petitioners filed their emergency application for stay pending appeal and petition for writ of certiorari before judgment with this Court, they argued that it merited the Court's attention because it was functionally identical to *Allen v. Milligan*, No. 21-1086, and *Allen v. Caster*, No. 21-1087 (collectively, "*Allen*").¹ In Petitioners' view, *Allen* and *Ardoin* did not present merely similar or overlapping questions; they presented the *same question*: "Because this case presents the same question as [*Allen*]," Petitioners argued at the time, "the Court should grant certiorari in advance of judgment, consolidate the cases, and issue a briefing schedule for this case under which arguments could be heard the same day as [*Allen*], or simply hold the case in abeyance pending the opinion in [*Allen*]." App. 4; *see also id.* (drawing three analogies between *Allen* and *Ardoin*); *id.* at 39 ("This Court [in *Allen*] will address an identical issue to the one here—*i.e.*, when does Section 2 of the Voting Rights Act command the creation of additional majority-minority districts."); Reply in Supp. of App. 1 (arguing that *Allen v. Caster* "present[s] the same legal question at issue in this case"). Indeed, when Respondents suggested that the Court should allow this case to proceed while *Allen* remained pending, Petitioners accused Respondents of "try[ing] to contrive daylight between this case and [*Allen*] where none exists," *id.* at 3 (emphasis added). The Court granted Petitioners' request, ordering this case held in abeyance pending the decision in *Allen*.

The Court issued its decision in *Allen* on June 8, 2023, prompting an immediate about-face from Petitioners. Petitioners now turn and run from any association with the *Allen* litigation, insisting that this action turns on a medley of fact-specific issues that "suitably distinguish the Court's [*Allen*] decision." Pet'rs' Letter 2; *but see* Reply in Supp. of App. 17 ("Plaintiffs' suggestion that '[*Allen*] is . . . readily distinguishable' . . . is flat wrong." (first ellipsis in original)).

¹ Wesley Allen succeeded John Merrill as Secretary of State of Alabama—and thus, as named Petitioner in that litigation—on January 16, 2023. For consistency, this letter has updated in brackets quoted references to the prior *Merrill v. Milligan* and *Merrill v. Caster* captions.

The Court should reject this transparent bait-and-switch. Petitioners' request for certiorari was premised on avoiding "the colossal waste of judicial resources" that would result if litigation proceeded in this matter, only to require reversal following *Allen*'s resolution of identical threshold legal questions. App. 11. By affirming the analogous district court decisions in *Allen*, the Court has eliminated that risk. This Court should summarily affirm the district court decision below, which applied the same *Gingles* framework that this Court reviewed and reaffirmed in *Allen*. In the alternative, the stay in this case should be dissolved, as anticipated by Petitioners at the application stage, and any efforts by Petitioners to distinguish the *Allen* decision should be heard in the first instance by the lower courts in the regular course of litigation.

Sincerely,



Abha Khanna

Counsel of Record for the Galmon Respondents

cc: Counsel of Record

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CERTIFICATE OF SERVICE

I, Abha Khanna, hereby certify that I emailed the foregoing Letter Brief for *Galmon* Respondents in No. 21A814, *Kyle Ardoin, Secretary of State of Louisiana, et al., v. Press Robinson, et al.*, this 12th day of June, 2023, to:

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