

IN THE SUPREME COURT OF THE UNITED STATES

No. 21-1086

JOHN H. MERRILL, ALABAMA SECRETARY OF STATE, ET AL., APPELLANTS

v.

EVAN MILLIGAN, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA

No. 21-1087

JOHN H. MERRILL, ALABAMA SECRETARY OF STATE, ET AL., PETITIONERS

v.

MARCUS CASTER, ET AL.

ON WRIT OF CERTIORARI BEFORE JUDGMENT
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

MOTION OF THE UNITED STATES FOR LEAVE TO PARTICIPATE
IN ORAL ARGUMENT AS AMICUS CURIAE, FOR DIVIDED ARGUMENT,
AND FOR ENLARGEMENT OF TIME FOR ARGUMENT

Pursuant to Rules 28.3, 28.4, and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in these cases as an amicus curiae supporting appellees in No. 21-1086 and respondents in No. 21-1087

(collectively plaintiffs); that the time allotted for oral argument be enlarged to 70 minutes; and that the time for argument be allotted as follows: 35 minutes for appellants in No. 21-1086 and petitioners in No. 21-1087 (collectively Alabama), 20 minutes for plaintiffs, and 15 minutes for the United States. Plaintiffs do not oppose this motion. Alabama takes no position on the motion, provided that, if the argument is enlarged to 70 minutes, Alabama is allotted 35 minutes of argument time.*

1. The question presented in these consolidated cases is whether Alabama's 2021 redistricting plan for its seven seats in the United States House of Representatives violated Section 2 of the Voting Rights Act (VRA), 52 U.S.C. 10301. A three-judge district court and a single-judge district court held that it likely did, and both courts entered preliminary injunctions. Alabama appealed. This Court stayed the preliminary injunctions, noted probable jurisdiction in No. 21-1086, and granted certiorari before judgment in No. 21-1087. The United States has filed a brief as amicus curiae supporting plaintiffs, contending principally that the courts below correctly interpreted and applied Section 2 and that such an application of the statute is constitutionally valid.

* Plaintiffs have moved to divide their argument time equally. The United States takes no position on that motion. If both this motion and that motion are granted, the allocation of argument time would be as follows: 35 minutes for Alabama, 10 minutes for appellees in No. 21-1086, 10 minutes for respondents in No. 21-1087, and 15 minutes for the United States.

2. The United States has a substantial interest in the Court's resolution of these cases. The United States has authority to enforce the VRA, 52 U.S.C. 10308(d), and thus has a substantial interest in the proper interpretation of Section 2. The United States also has a substantial interest in defending the validity of Section 2 against Alabama's constitutional challenges.

The United States has frequently filed amicus briefs and presented oral argument in cases involving application of the VRA and related constitutional questions. See, e.g., Cooper v. Harris, 137 S. Ct. 1455 (2017) (No. 15-1262); Bethune-Hill v. Virginia State Bd. of Elections, 137 S. Ct. 788 (2017) (No. 15-680); Alabama Legislative Black Caucus v. Alabama, 575 U.S. 254 (2015) (Nos. 13-895 and 13-1138); cf., e.g., Abbott v. Perez, 138 S. Ct. 2305 (2018) (Nos. 17-586 and 17-626) (arguing as a party).

In light of the substantial federal interest in the question presented and the government's familiarity with the relevant legal issues, the United States' participation at oral argument would materially assist the Court in its consideration of these cases.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

JULY 2022