

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA**

**VOICE of the EXPERIENCED, on behalf of
itself and its members; POWER COALITION
for EQUITY and JUSTICE, on behalf of itself
and its members; and LEAGUE of WOMEN
VOTERS of LOUISIANA, on behalf of itself
and its members**

Case: 3:23-cv-00331-JWD-SDJ

v.

**R. KYLE ARDOIN, in his official capacity as
Secretary of State of Louisiana**

RESPONSE TO PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

NOW INTO COURT, through undersigned counsel, comes Defendant, Nancy Landry in her official capacity as Secretary of State of Louisiana, who respectfully submits the following response to Plaintiffs' Notice of Supplemental Authority (R. Doc. 153).

By their Notice of Supplemental Authority, Plaintiffs alert the Court to two recently issued opinions from district courts in other circuits: (1) *Tennessee Conf. of the Nat'l Ass'n for the Advancement of Colored People v. Lee*, No. 3:20-cv-01039, 2024 WL 1685554 (M.D. Tenn. April 18, 2024); and (2) *Mi Familia Vota v. Fontes*, No. CV-22-00509-PHX-SRB, 2024 WL 862406 (D. Ariz. February 29, 2024). These district court opinions are not persuasive authority for this Court's consideration of Plaintiffs' Motion for Preliminary Injunction.

First, in *Tennessee NAACP*, the district court held that the plaintiff had organizational standing based on Sixth Circuit jurisprudence, citing *Online Merchants Guild v. Cameron*, 995 F.3d 540 (6th Cir. 2021).¹ Unlike the Sixth Circuit, however, in the Fifth Circuit, "within-mission organizational expenditures" are not sufficient to establish organizational standing. *See Louisiana*

¹ The district court also cited *Havens Realty v. Coleman*, 455 U.S. 363, 379 (1982), which held that a "perceptible impair[ment]" to the organization's ability to effectuate its mission constitutes the "concrete and demonstrable injury" for organizational standing, not a mere "drain on the organization's resources."

Fair Hous. Action Ctr., Inc. v. Azalea Garden Properties, L.L.C., 82 F.4th 345, 355 (5th Cir.2023) (“We simply hold that ‘diverting’ resources from one core mission activity to another, i.e., prioritizing which ‘on-mission’ projects, out of many potential activities, an entity chooses to pursue, does not suffice”); *see also N.A.A.C.P. v. City of Kyle, Tex.*, 626 F.3d 233, 238 (5th Cir.2010); *Tenth St. Residential Ass'n v. City of Dallas, Texas*, 968 F.3d 492, 500 (5th Cir.2020). Furthermore, the Fifth Circuit expressly requires a significant diversion of resources. *N.A.A.C.P. v. City of Kyle, Tex.*, at 238. *See* R. Doc. 132, Proposed Conclusions of Law, ¶¶ 4-22; R. Doc. 134, ¶¶ 67-75.

Second, the facts of *Tennessee NAACP* are inapposite to the present case.² Significantly, here, Defendant disputes that the parish registrars have the information needed to assess whether a suspended voter satisfies the requirements to have his voter registration reinstated. *See* R. Doc. 132, Proposed Findings of Fact, ¶¶ 110-122; Proposed Conclusions of Law, ¶ 75.

Finally, the present case concerns reinstatement of voter registration following suspension for conviction of a felony. In the area of felon disenfranchisement and re-enfranchisement, the NVRA defers to and is preempted by state law. *See e.g.*, 52 U.S.C. §20507(a)(3)(B). *Mi Familia Vota* concerned newly-implemented citizenship and residency verification procedures for voter registration in Arizona, not felon disenfranchisement or re-enfranchisement. Thus, *Mi Familia Vota* is not applicable. *See* R. Doc. 132, Proposed Conclusions of Law, ¶¶ 56-66; R. Doc. 134, ¶¶ 76-84.

Respectfully submitted:

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² In the interest of brevity, Defendant does not brief all of the factual differences here but reserves the right to do so, should the Court request further briefing.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of May, 2024, a copy of the foregoing has on this date been served upon all counsel of record via CM/ECF system and has been filed electronically with the Clerk of Court using the CM/ECF system.

/s/ Caroline M. Tomeny
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