

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

LOUISIANA STATE CONFERENCE OF
THE NATIONAL ASSOCIATION FOR
THE ADVANCEMENT OF COLORED
PEOPLE, *et al.*,

Plaintiffs,

v.

STATE OF LOUISIANA, *et al.*,

Defendants.

Case No. 3:19-cv-00479-JWD-SDJ

ANSWER ON BEHALF OF THE STATE OF LOUISIANA

NOW INTO COURT, through undersigned counsel, comes Jeff Landry in his official capacity as Attorney General of the State of Louisiana, on behalf of the State of Louisiana, who denies each and every allegation of the Complaint except as expressly admitted in this Original Answer on behalf of the State of Louisiana, and who responds as follows:

PRELIMINARY STATEMENT

A. The section headers in Plaintiffs' Complaint are not factual or legal statements to which any response is required. To the extent a response is required, they are denied. Furthermore, the headers in this Answer are neither an admission nor a denial and are intended to mimic the style of Plaintiffs' Complaint for organization and ease of reading.

1. The allegations in Paragraph 1 are admitted that the Louisiana Supreme Court is the highest court in the State.

2. The State denies that African Americans have been prevented from equal participation in the recent election of Supreme Court justices. The State is without sufficient knowledge to admit or deny the remaining allegations; to the extent a response is required, the allegations in Paragraph 2 are denied as written.

3. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 3 are denied as written.

4. The allegations in Paragraph 4 are denied.

5. The allegations in Paragraph 5 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

JURISDICTION AND VENUE

6. The allegations in Paragraph 6 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied. The State specifically denies subject matter jurisdiction as every Supreme Court district is currently governed by a consent decree in the United States District Court for the Eastern District of Louisiana.

7. The allegations in Paragraph 7 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied. The State specifically denies subject matter jurisdiction as every Supreme Court district is currently governed by a consent decree in the United States District Court for the Eastern District of Louisiana.

8. The allegations in Paragraph 8 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

9. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations are denied. Furthermore, venue is proper in the Eastern District of Louisiana pursuant to 28 U.S.C. 1404(a).

THE PARTIES

A. The Plaintiffs

10. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 10 are denied.

11. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 11 are denied.

12. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 12 are denied.

13. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 13 are denied.

B. The Defendants

14. The allegation in Paragraph 14 is admitted that the State of Louisiana is one of the fifty states comprising the United States of America.

15. The allegation in Paragraph 15 is admitted that Kyle Ardoin is the Louisiana Secretary of State. The remaining allegations are legal conclusions. The statutes referenced speak for themselves and are the best evidence of their contents; to the extent a response is required, the remaining allegations in Paragraph 15 are denied.

FACTS AND BACKGROUND

16. The content of 52 U.S.C. § 10301(a) speaks for itself and therefore no response is required. The remaining allegations in Paragraph 16 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

A. Louisiana Demographics

17. It is admitted that the population of Louisiana was 4,533,372 as of the 2010 census. The census and underlying demographic information are the best evidence of their contents; to the extent a response is required, the remaining allegations in Paragraph 17 are denied as written.

18. The State is without sufficient knowledge to admit or deny the allegations in “Table 1” and “Table 2”; to the extent a response is required, the allegations are denied. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 18 are denied. Further, the census and underlying demographic information are the best evidence of their contents; to the extent a response is required, the allegations are denied as written.

B. Louisiana Supreme Court Overview and Structure

19. The allegations in Paragraph 19 are admitted.

***i.* Structure**

20. The content of the Louisiana Constitution speaks for itself and therefore no response is required. The allegations in Paragraph 20 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

21. The allegations in Paragraph 21 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

22. The contents of Louisiana's election laws speak for themselves and therefore no response is required. The allegations in Paragraph 21 are also legal conclusions to which no response is required; to the extent a response is required, the allegations are denied as written.

ii. The Chisom Litigation and African-American Representation

23. The allegations in Paragraph 23 are denied as written.

24. The allegations in Paragraph 24 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied as written.

25. The contents of the *Chisom* Consent Decree and 1992 La. Acts No. 512 speak for themselves and therefore no response is required; to the extent a response is required, the allegations in Paragraph 25 are denied.

26. The allegations in Paragraph 26 are admitted.

27. The allegations in Paragraph 27 are admitted.

28. The allegations in Paragraph 28 are admitted.

29. The allegations in Paragraph 29 are admitted.

30. The allegations in Paragraph 30 are admitted.

31. The allegations in Paragraph 31 are admitted.

32. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations are denied.

C. Section 2 Vote Dilution

i. Thornburg v. Gingles Analysis

33. The allegations in Paragraph 33 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied as written.

34. The allegations in Paragraph 34 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

35. The allegations in Paragraph 35 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

36. The allegations in Paragraph 36 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

ii. Totality of the Circumstances Analysis

37. The allegations in Paragraph 37 are denied.

A. History of Voting Discrimination

38. The content of the cases referenced speaks for themselves and therefore no response is required. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 38 are denied as written.

39. The content of the *Chisom* litigation speaks for itself and therefore no response is required. The remaining allegations in Paragraph 39 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

40. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 40 are denied.

41. The allegations in Paragraph 41 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

42. The content of the *Chisom* litigation speaks for itself and therefore no response is required; to the extent a response is required, the allegations in Paragraph 42 are denied.

43. The allegations in Paragraph 43 are denied.

44. The allegations in Paragraph 44 are denied. *See Fusilier v. Landry*, 2020 U.S. App. LEXIS 20414, *37 (5th Cir. June 29, 2020) (holding that “the district court clearly erred in its finding of minority vote dilution in the election of judges for Terrebonne Parish’s 32nd JDC.”).

B. Racially Polarized Voting

45. The allegations in Paragraph 45 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

C. Use of Enhancing Practices

46. Admitted that there is a majority-vote requirement for the election of Supreme Court justices. The remaining allegations in Paragraph 46 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

47. Admitted that Justice Jefferson Hughes defeated Mr. John Guidry in a runoff election 52.8% to 47.2%. The remaining allegations in Paragraph 47 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

48. The allegations in Paragraph 48 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied as written. Furthermore, the underlying population and demographic data of Supreme Court District 5 speaks for itself and therefore no response is required; to the extent a response is required, the allegations are denied as written.

D. Socio-Economic Disparities

49. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 49 are denied as written.

50. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 50 are denied as written.

51. The State is without sufficient knowledge to admit or deny the allegations in allegations in Paragraph 51; to the extent a response is required, the allegations in Paragraph 51 are denied as written.

52. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 52 are denied as written.

53. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 53 are denied as written.

54. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 54 are denied as written.

E. *Racial Appeals in Campaigns*

55. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 55 are denied.

56. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 56 are denied.

F. *History of African-American Elected Officials*

57. The allegation in Paragraph 57 is a legal conclusion to which no response is required; to the extent a response is required, the allegation is denied.

58. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 58 are denied as written.

59. The allegation in Paragraph 59 is admitted.

60. The allegation in Paragraph 60 is admitted.

61. The allegation in Paragraph 61 is denied.

62. The allegation in Paragraph 62 is denied.

63. The allegation in Paragraph 63 is admitted.

64. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 64 are denied.

65. The allegations in Paragraph 65 are denied. Furthermore, the content of *Terrebonne Parish Branch NAACP* speaks for itself (and was reversed on appeal), therefore no response is required; to the extent a response is required, the allegations are denied.

CLAIM FOR RELIEF

VIOLATION OF SECTION 2 OF THE VOTING RIGHTS ACT OF 1965

66. The State of Louisiana hereby incorporates Paragraphs 1-65 as if copied *in extenso*.

67. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 67 are denied. Furthermore, the allegations in Paragraph 67 are legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

68. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations in Paragraph 68 are denied. Furthermore, the allegations in Paragraph 68 are legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

69. The State is without sufficient knowledge to admit or deny the allegations; to the extent a response is requires, the allegations in Paragraph 69 are denied. Furthermore, the

allegations in Paragraph 68 are legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

70. The allegations in Paragraph 70 are denied.

PRAYER FOR RELIEF

71. The allegations in the Prayer for Relief require no answer. To the extent a response is required, the State of Louisiana denies that Plaintiffs are entitled to any of the relief they seek.

Affirmative Defenses

72. The Court lacks subject matter jurisdiction over Plaintiffs' claims due to the continuing consent decree in the United States District Court in the Eastern District of Louisiana.

73. The Court lacks subject matter jurisdiction because Plaintiffs have not shown an injury-in-fact sufficient to invoke federal court jurisdiction.

74. Plaintiffs lack standing because they have not demonstrated that they would reside in a newly drawn, compact district where minority voters would constitute a majority of the population.

75. Venue is proper in the Eastern District of Louisiana.

76. Plaintiffs have failed to state a claim upon which relief can be granted.

77. Plaintiffs' claims are barred by laches.

78. Plaintiffs' claims are speculative and not sufficiently concrete given the impending release of the 2020 U.S. census data.

79. Plaintiffs' claims and relief are barred by the Equal Protection Clause of the 14th Amendment.

80. The Voting Rights Act does not apply to the election of judges.

81. Plaintiffs are estopped from seeking relief in the Middle District of Louisiana.

82. Plaintiffs' claims fail on the merits.

83. Additional defenses may not be alleged herein due to the unavailability of all the facts, after reasonable inquiry, necessary to determine what additional defenses may be available, and therefore the State reserves the right to amend its Answer to allege additional defenses, if subsequent investigation so warrants.

84. The State specifically denies those allegations in the Complaint which are not specifically admitted herein.

WHEREFORE, the State of Louisiana states as follows:

- 1) That this Answer be deemed good and sufficient;
- 2) That, after all proceedings are had, there be judgment rendered in the State's favor, dismissing Plaintiffs' claims with prejudice and at their cost;
- 3) For all general and equitable relief that justice requires, including but not limited to an award of Defendants' attorneys' fees and reasonable costs.

RESPECTFULLY SUBMITTED,

JEFF LANDRY
ATTORNEY GENERAL

/s/ Angelique Freel

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CERTIFICATE OF SERVICE

I CERTIFY that I the foregoing was filed electronically and served on counsel for the parties by CM/ECF electronic notification on July 10, 2020.

/s/ Jason Torchinsky
Jason Torchinsky