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**United States Court of Appeals**  
*for the*  
**Fifth Circuit**

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Case No. 19-60632

ROY HARNESS; KAMAL KARRIEM,

*Plaintiffs-Appellants,*

v.

MICHAEL WATSON, Secretary of State of Mississippi,

*Defendant-Appellee.*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI, JACKSON IN CASE NO. 3:17-CV-791  
HONORABLE DANIEL P. JORDAN, III, CHIEF JUDGE

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**BRIEF FOR *AMICI CURIAE* DENNIS HOPKINS, individually and on  
behalf of a class of all others similarly situated; HERMAN PARKER, JR.,  
individually and on behalf of a class of all others similarly situated;  
WALTER WAYNE KUHN, JR., individually and on behalf of a class of all  
others similarly situated; BRYON DEMOND COLEMAN, individually  
and on behalf of a class of all others similarly situated; JON O NEAL and  
EARNEST WILLHITE, individually and on behalf of a class of all others  
similarly situated, IN SUPPORT OF PLAINTIFFS-APPELLANTS**

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NANCY G. ABUDU  
CAREN E. SHORT  
SOUTHERN POVERTY LAW CENTER  
P.O. Box 1287  
Decatur, Georgia 30031  
(404) 521-6700

JONATHAN K. YOUNGWOOD  
JANET A. GOCHMAN  
ISAAC M. RETHY  
NIHARA K. CHOUDHRI  
TYLER ANGER  
SIMPSON THACHER &

## SUPPLEMENTAL STATEMENT OF INTERESTED PERSONS

In accordance with Federal Rule of Appellate Procedure 29(a) and Fifth Circuit Rule 29.2, the undersigned counsel hereby certifies that, in addition to the persons and entities listed in the Certificate of Interested Persons submitted by Plaintiffs-Appellants in their Opening Brief on Rehearing En Banc, the following persons or entities as described in the fourth sentence of Fifth Circuit Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

### Amici:

Amici are the named plaintiffs in *Hopkins v. Hosemann*, No. 3:18-cv-188-DPJ-FKB (S.D. Miss.):

Dennis Hopkins,  
Herman Parker, Jr.,  
Walter Wayne Kuhn, Jr.,  
Byron Demond Coleman,  
                                , and  
Earnest Willhite,

ny

person who (a) is or becomes disenfranchised under Mississippi state law by reason of a conviction of a disenfranchising offense, and (b) has completed the term of incarceration, supervised release, parole, and/or probation for each such

conviction. <sup>1</sup>

Counsel for Amici:

SOUTHERN POVERTY LAW CENTER

Nancy G. Abudu

Caren E. Short

P.O. Box 1287

Decatur, GA 30031

Tel: (404) 521-6700

Nancy.Abudu@splcenter.org

Caren.Short@splcenter.org

SIMPSON THACHER & BARTLETT LLP

Jonathan K. Youngwood

Janet A. Gochman

Isaac M. Rethy

Nihara K. Choudhri

Tyler Anger

425 Lexington Avenue

New York, NY 10017

Tel: (212) 455-2000

jyoungwood@stblaw.com

jgochman@stblaw.com

nchoudhri@stblaw.com

irethy@stblaw.com

tyler.anger@stblaw.com

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compl

<sup>8</sup> Section 253

<sup>9</sup> Dr. Pratt researched the restoration of voting rights pursuant to Section 253 in the first three decades after the 1890 Constitution was enacted, and determined that the Mississippi Legislature restored voting rights to at least 101 individuals during this time.<sup>10</sup> Dr. Pratt found no evidence that even a single African-American individual regained the right to vote between 1890 and 1920.<sup>11</sup>

The criminal disenfranchisement provision of Section 241 and the legislative re-enfranchisement provision of Section 253 together comprised a cohesive racially discriminatory scheme that remains almost completely intact today. All but

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<sup>7</sup> *Id.* at ¶ 54.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at ¶ 53.

<sup>10</sup> Declaration of Dorothy O. Pratt, Ph.D., Dkt. 77-3, *Harness v. Hosemann*, No. 3:17-cv-00791-DPJ-FKB, then consolidated with *Hopkins v. Hosemann*, No. 3:18-cv-00188-DPJ-FKB (S.D. Miss.), at ¶ 11.

<sup>11</sup> *Id.* at ¶¶ 11-16.





argument in *Hopkins* was held before a panel of this Court on December 3, 2019 nearly seven months before a different panel of this Court heard oral arguments in *Harness*.<sup>18</sup> The *Hopkins* panel has yet to issue its decision.

## **ARGUMENT**

### **I. THE QUESTIONS RAISED BY THE *HOPKINS* PLAINTIFFS ARE NOT BEFORE THE EN BANC COURT AND WILL NOT BE**

plaintiffs, the legal questions raised by the *Hopkins* Plaintiffs are not before the en banc Court and, respectfully, should not be addressed in the en banc opinion.

Moreover, even if this Court rules in favor of the *Harness* Plaintiffs, decision will not dispose of the *Hopkins*

**II. MISSISSIPPI'S CRIMINAL DISENFRANCHISEMENT SCHEME  
RETAINS ITS ORIGINAL DISCRIMINATORY TAIN**

As the Secretary of State has acknowledged,  
be invalidated if its challengers prove that racially discriminatory intent motivated  
the enactment of the law and the

19

*Chen v. City of Houston*, 206 F.3d 502, 518

(5th Cir. 2000) 22-34(ad)4(d)(d)-3e)-3(y)4(s)etis(o)-3(t) 0 61gm3(e)mcr5-12 79t callrp0000 4m

Court recently made this commonsense principle clear in *Ramos v. Louisiana*, which struck down a racially motivated Louisiana law permitting nonunanimous verdicts for the convictions of serious crimes.<sup>20</sup> Louisiana originally adopted the

. There

was no dispu

*Id.*

untainted by racism. *Id.* at 1401 n.44; *see also id.* at 1426 (Alito, J., dissenting)

narrower [non-unanimous jury] rule, and its stated purpose was judicial







court incorrectly looked to

mend Section

, and

incorrect

<sup>23</sup> The district court also erroneously considered

the 1980s



Dated: July 29, 2021

By: /s/ Jonathan K. Youngwood

SOUTHERN POVERTY LAW  
CENTER

Nancy G. Abudu  
Caren E. Short  
P.O. Box 1287  
Decatur, GA 30031  
Tel: (404) 521-6700  
Nancy.Abudu@splcenter.org  
Caren.Short@splcenter.org

SIMPSON THACHER & BARTLETT  
LLP

Jonathan K. Youngwood  
Janet A. Gochman  
Isaac M. Rethy  
Nihara K. Choudhri  
Tyler Anger  
425 Lexington Avenue  
New York, NY 10017  
Tel: (212) 455-2000  
jyoungwood@stblaw.com  
jgochman@stblaw.com  
nchoudhri@stblaw.com  
irethy@stblaw.com  
tyler.anger@stblaw.com

*Counsel for Amici Curiae*

## **CERTIFICATE OF SERVICE**

I hereby certify that, on July 29, 2021, an electronic copy of the foregoing brief was filed with the Clerk of Court for the United States Court of Appeals for the Fifth Circuit and served on all counsel using the appellate CM/ECF system.

Dated: July 29, 2021

/s/ Jonathan K. Youngwood  
Jonathan K. Youngwood  
SIMPSON THACHER & BARTLETT LLP  
425 Lexington Avenue  
New York, NY 10017  
Phone: (212) 455-3539  
Fax: (212) 455-2502  
jyoungwood@stblaw.com

## CERTIFICATE OF COMPLIANCE

Undersigned counsel certifies that this brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 29(a)(5) and Fifth Circuit Rule 29 because this brief contains 3,031 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f) and Fifth Circuit Rule 32.2.

Undersigned counsel certifies that this brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and Fifth Circuit Rule 32.1 and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Office Word and is set in Times New Roman font in a size equivalent to 14 points or larger.

Dated: July 29, 2021

/s/ Jonathan K. Youngwood  
Jonathan K. Youngwood  
SIMPSON THACHER & BARTLETT LLP  
425 Lexington Avenue  
New York, NY 10017  
Tel: (212) 455-3539  
jyoungwood@stblaw.com