

United States Court of Appeals  
For the  
Fifth Circuit

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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 others similarly situated;  
WALTER WAYNE KUHN, JR., individually and on behalf of a class of others similarly  
situated; BYRON DEMOND COLEMAN, individually and on behalf of a class of others  
similarly situated; JON O'NEAL, individually and on behalf of a class of others similarly  
situated; EARNEST WILLHITE, individually and on behalf of a class of others similarly  
situated,

*Plaintiffs-Appellees,*

-v-

SECRETARY OF STATE DELBERT HOSEMANN, in his official capacity,

*Defendant-Appellant.*

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*(For Continuation of Caption See Next Page)*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTH DISTRICT OF MISSISSIPPI

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Consolidated with 19-60678

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*Plaintiffs-Appellees Cross-Appellants,*

– v. –

SECRETARY OF STATE DELBERT HOSEMANN, in his official capacity,

*Defendant-Appellant Cross-Appellee.*

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**SUPPLEMENTAL CERTIFICATE OF INTERESTED PERSONS**

No. 19-60662, *Dennis Hopkins, et al. v. Secretary of State Delbert Hosemann*,  
*in his official capacity*, the undersigned counsel of record certifies that the  
following listed persons and 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:***

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**PLAINTIFFS-APPELLEES CROSS-APPELLANTS:**

The Appellants are Dennis Hopkins, Herman Parker, Jr., Walter Wayne Kuhn Jr., Byron Demond Coleman, Jon O'Neal, and Earnest Willhite.

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**DEFENDANT-APPELLANT CROSS-APPELLEE:**

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consequences of lifetime disenfranchisement constitute a severe “affirmative disability,” *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 168 (1963), rendering Section 241’s disenfranchisement sanction penal in character and effect for purposes of the Eighth Amendment’s prohibition against cruel and unusual punishment.

Plaintiffs-Appellees Cross-Appellants have consented to the filing of the attached *amicus* brief. Defendant-Appellant Cross-Appellee Delbert Hosemann, Secretary of State of Mississippi, however, declined to consent to the filing of this brief. In accordance with Fifth Circuit Rule 29.1, this motion to file and accompanying brief are timely because they are being submitted “within 7 days after the filing of the principal brief of the party whose position the *amicus* brief will support.”

For the foregoing reasons, Movants ask the Court to grant leave to file the attached *amicus* brief in support of Plaintiffs-Appellees Cross-Appellants.

November 6, 2019

Respectfully submitted,

/s/Carroll Rhodes

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## **CERTIFICATE OF COMPLIANCE**

The undersigned certifies that

1, This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) and 5th Cir. R. 27.4 because this motion contains 352 words.

2, This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and 5th Cir. R. 32.1 and the type style requirements of Fed. R. App. P. 32(a)(6) because this motion has been prepared in a proportionally spaced typeface using Microsoft Office Word and is set in Times New Roman font in a size







**PLAINTIFFS-APPELLEES CROSS-A**

**DEFENDANT-APPELLANT CROSS-APPELLEE:**

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**STATEMENT REGARDING ORAL ARGUMENT**

In light of the importance of this case to the citizens of Mississippi, amici

appeal.



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century. Throughout its history, the Mississippi State Conference NAACP has actively fought for voting rights. The Mississippi State Conference NAACP has invested significant resources in efforts to expand American democracy and increase participation in the electoral process. The Mississippi State Conference NAACP has also fought to eliminate efforts by white officials in the State of Mississippi to intentionally disenfranchise African Americans and other protected minorities.

Accordingly, *amici* respectfully submit this amicus curiae brief in support of Plaintiffs-Appellees Cross-Appellants, urging this Court to reverse.

## INTRODUCTION

*Amici* file this brief in support of Plaintiffs-Appellees Cross-contention that the lifetime disenfranchisement of felons in Mississippi pursuant to Section 241 of the Mississippi Cons prohibition on cruel and unusual punishment. The lower court improperly adopted a bright line rule that Section 2 of the Fourteenth Amendment categorically exempts all felony disenfranchisement laws regardless of severity or effect ruling, the lower court pointedly did not engage in any analysis of established





many have fewer than 10,000 residents, with the smallest having a population of less than 1500.

contracting for any house-to-house disposal services. Miss. Code Ann. § 17-17-5. The elected board has the power to establish county health departments, Miss. Code Ann. § 41-3-43, operate a public ambulance service, Miss. Code Ann. § 41-55-1, and establish emergency medical service districts. Miss Code Ann. § 41-59-51. It is the Board of Supervisors that imposes tax levies and contracts with collection agents to collect any delinquent taxes or fines. Miss. Code Ann. § 19-3-

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23. Even an application for a disabled parking placard must be signed by an elected tax collector or their deputy. Miss. Code Ann. §§ 27-1-13, 27-19-56.

The foregoing examples are just a sampling of the myriad ways the daily lives of disenfranchised Mississippians intersect with elected officials whom they have no power to select and policies they have no power to influence. The effects of lifetime disenfranchisement for Mississippi felons constitute a severe

*Mendoza-Martinez*, 372 U.S. at 168-69; *Smith v. Doe*, 538 U.S. 84, 99-100 (2003)

law is penal for purposes of the Eighth Amendment.

## CONCLUSION

For the foregoing reasons, the Court should find that Section 241 imposes a

Accordingly, the

November 6, 2019

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing brief of *amici curiae* was filed electronically with the Court on 11/06/2019 at 12:02 PM. The filing was made by the undersigned, who is a member of the Court's e-filing system.

## **CERTIFICATE OF COMPLIANCE**

The undersigned certifies that

1, This brief complies with the type-