

Supreme Court of Florida

THURSDAY, JUNE 2, 2022

CASE NO.: SC22-685

Lower Tribunal No(s).:

1D22-1470; 372022CA000666XXXXXX

BLACK VOTERS MATTER
CAPACITY BUILDING
INSTITUTE, INC., ET AL.

vs.

CORD BYRD, ETC., ET AL.

Petitioner(s)

Respondent(s)

Petitioners’ request for a constitutional writ is denied. “[T]he doctrine of all writs is not an independent basis for this Court’s jurisdiction,” but instead “is restricted to preserving jurisdiction that has already been invoked or protecting jurisdiction that likely will be invoked in the future.” *Roberts v. Brown*, 43 So. 3d 673, 677 (Fla. 2010). Here Petitioners ask this Court to intervene in the First District Court of Appeal’s ongoing consideration of an appeal of an order imposing a temporary injunction. At this time, this Court does not have jurisdiction over that matter. And it is speculative whether the First District’s eventual decision will provide an appropriate basis for this Court’s exercise of discretionary review—meaning that we cannot say that it is likely that there is any jurisdiction to protect. Assuming without deciding that this Court would have the authority in these circumstances to issue a constitutional writ, we decline to exercise such authority. All pending motions are denied and no motion for rehearing will be entertained.

POLSTON, MUÑIZ, COURIEL, and GROSSHANS, JJ., concur.
LABARGA, J., dissents with an opinion.
CANADY, C.J., and LAWSON, J., recused.

LABARGA, J., dissenting.

I dissent to the denial of the petitioners' request for a constitutional writ. As observed in the majority's order, the all writs doctrine " 'is restricted to preserving jurisdiction that has already been invoked or *protecting jurisdiction that likely will be invoked in the future.*' *Roberts v. Brown*, 43 So. 3d 673, 677 (Fla. 2010)." (Emphasis added.)

Currently pending in the First District Court of Appeal is the State's appeal of the temporary injunction granted by the circuit court. Ultimately, the district court will issue a ruling on the merits of the temporary injunction. Once that decision is rendered, as stated on page six of their all writs petition, the petitioners intend to invoke this Court's discretionary jurisdiction.

At that juncture, this Court will determine whether to exercise its discretion to review the district court's merits decision, and the all writs petition identifies three possible bases under article V, section (3)(b)(3) of the Florida Constitution for this Court to do so.

Given this Court’s history of considering congressional redistricting cases, I cannot forecast that we will lack jurisdiction to review the district court’s merits decision. At stake here is the mandate of 62.9% of Florida voters who voted in 2010 for one of what are commonly known as the Fair Districts Amendments to the Florida Constitution—by any measure of comparison, 62.9% of the vote is an overwhelming margin.¹ See *November 2, 2010 General Election*, Fla. Dep’t of State, <https://results.elections.myflorida.com/Index.asp?ElectionDate=11/2/2010&DATAMODE=> (last visited May 31, 2022).

As we have previously done, see *League of Women Voters of Florida v. Data Targeting, Inc.*, 140 So. 3d 510 (Fla. 2014), this Court should utilize its all writs authority here.

1. The Fair Districts Amendment relating to congressional redistricting was Amendment 6 on the 2010 general election ballot and was titled “Standards for Legislature to Follow in Congressional Redistricting.” Amendment 5 on the same ballot related to state legislative redistricting was passed by 62.6% of voters. See *November 2, 2010 General Election*, Fla. Dep’t of State, <https://results.elections.myflorida.com/Index.asp?ElectionDate=11/2/2010&DATAMODE=> (last visited May 31, 2022).

CASE NO.: SC22-685

Page Four

Consequently, I dissent.

A True Copy

Test:



John A. Tomasino
Clerk, Supreme Court



so

Served:

MICHAEL R. BEATO
THOMAS A. ZEHNDER
DANIEL W. BELL
HARLEEN K. GAMBHIR
FREDERICK S. WERMUTH
GRAHAM W. WHITE
DANIEL E. NORDBY
JOHN M. DEVANEY
JONATHAN P. HAWLEY
JOSEPH N. POSIMATO
HON. KRISTINA SAMUELS, CLERK
HON. GWEN MARSHALL, CLERK

CARLOS ALBERTO REY
ANDY BARDOS
CHRISTINA A. FORD
HENRY C. WHITAKER
BRADLEY R. MCVAY
MOHAMMAD O. JAZIL
JEFFREY PAUL DESOUSA
DAVID M. COSTELLO
ASHLEY E. DAVIS
ABHA KHANNA