

No. 15-0320

In the Supreme Court of Texas

KING STREET PATRIOTS, CATHERINE ENGELBRECHT, BRYAN
ENGELBRECHT, AND DIANE JOSEPHS,
Petitioners,

v.

TEXAS DEMOCRATIC PARTY; GILBERTO HINOJOSA, SUCCESSOR
TO BOYD RICHIE, IN HIS CAPACITY AS CHAIRMAN OF THE TEXAS
DEMOCRATIC PARTY; JOHN WARREN, IN HIS CAPACITY AS
DEMOCRATIC NOMINEE FOR DALLAS COUNTY CLERK; AND ANN
BENNETT, IN HER CAPACITY AS THE DEMOCRATIC NOMINEE FOR
HARRIS COUNTY CLERK,
Respondents.

On Petition for Review
from the Third Court of Appeals, Austin

**UNOPPOSED MOTION OF THE STATE OF TEXAS
SEEKING ARGUMENT TIME**

TO THE HONORABLE SUPREME COURT OF TEXAS:

Pursuant to Texas Rules of Appellate Procedure 2, 59.4, 59.6, and 59.6, the State of Texas respectfully requests the Court to suspend the rules and expand the allotted time for oral argument in this case, scheduled on February 7, 2017, to allow the Solicitor General to argue the State's position as amicus curiae for five minutes.

In response to the Court's request, the Office of the Solicitor General has filed an amicus brief setting out the State's position. The State's brief does not completely embrace either party's position in this case. The State defends the facial

constitutionality of the Election Code provisions at issue and argues that, properly construed, the Election Code does not apply to King Street Patriots. That argument depends on a plain-text analysis of the Election Code, with which the parties have not yet engaged, and upon this Court's relevant precedents. Oral argument will be helpful to resolve any questions the Court may have as to the scope and implications of the State's position.

Accordingly, the State moves to participate in oral argument time without sharing either party's time. The rules of appellate procedure do not formally recognize a process by which this can be accomplished. The Court has power to suspend the rules, TEX. R. APP. P. 2, and may do so in furtherance of its power to manage oral argument, TEX. R. APP. P. 59.4, 59.5, 59.6. The Court has previously suspended the rules, expanded the total argument time to 25 minutes, and allowed the Solicitor General five minutes of argument time to argue as amicus curiae in, for example, *City of El Paso v. Heinrich*, No. 06-0778; *Tooke v. City of Mexia*, No. 03-0878; and *City of San Antonio v. Pollock*, No. 04-1118. And the Court has allowed the State argument time in situations where the State was fully aligned with neither the parties nor the other amici in *Flores v. Millenium Interests, Ltd.*, No. 04-1003, and *Brown v. de la Cruz*, No. 03-0703.

* * *

The State respectfully requests that the Court suspend the rules, expand the total argument time to 25 minutes, and allow the Solicitor General to present oral argument for five minutes on behalf of the State.

Respectfully submitted.

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CERTIFICATE OF CONFERENCE

Between January 6 and January 10, counsel for the State of Texas conferred with lead counsel for the parties via electronic mail. Petitioners do not oppose this motion, so long as it does not result in a diminishment of their allocated time for argument. Respondents do not oppose the motion.

/s/ Scott A. Keller
SCOTT A. KELLER

CERTIFICATE OF SERVICE

On January 10, 2017, this document was served electronically via File and Serve

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