

No. 22-0008

---

**In The Supreme Court of Texas**

---

**GREG ABBOTT, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE STATE OF TEXAS; JOHN SCHOTT, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE OF TEXAS; THE STATE OF TEXAS,**

*Appellants,*

v.

**MEXICAN AMERICAN LEGISLATIVE CAUCUS, TEXAS HOUSE OF REPRESENTATIVES; ROLAND GUTIERREZ; SARAH ECKHARDT; RUBEN CORTEZ, JR.; TEJANO DEMOCRATS,**

*Appellees.*

---

On Direct Appeal  
From the Special Three-Judge District Court  
For the 126th and 250th Judicial District Courts, Travis County

---

**RESPONSE TO STATEMENT OF JURISDICTION**

---

Sean J. McCaffity  
State Bar No. 24013122  
Smccaffity@textrial.com  
George 'Tex' Quesada  
SOMMERMAN, MCCAFFITY, QUESADA  
& GEISLER, LLP  
3811 Turtle Creek Blvd., Suite 1400  
Dallas, Texas 75219-4461

Wallace B. Jefferson  
State Bar No. 00000019  
wjjefferson@adjtlaw.com  
Amy Warr  
Nicholas B. Bacarisse  
ALEXANDER DUBOSE & JEFFERSON LLP  
515 Congress Avenue, Suite 2350  
Austin, Texas 78701-3562  
Telephone: (512) 482-9300  
Facsimile: (512) 482-9303

Joaquin Gonzalez  
TEXAS CIVIL RIGHTS PROJECT  
1055 Sutton Drive  
San Antonio, Texas 78228

**ATTORNEYS FOR MEXICAN  
AMERICAN LEGISLATIVE CAUCUS,  
TEXAS HOUSE OF REPRESENTATIVES**

Martin Golando  
THE LAW OFFICE OF MARTIN GOLANDO,  
PPLC  
2326 W. Magnolia  
San Antonio, TX 78201

**ATTORNEYS FOR ROLAND GUTIERREZ,  
SARAH ECKHARDT, RUBEN CORTEZ,  
JR., AND TEJANO DEMOCRATS**

**Oral Argument Requested**

## TABLE OF CONTENTS

Table of Contents .....	1
Index of Authorities .....	2
Statement of Jurisdiction.....	3
I. The Court must accept jurisdiction of this appeal.....	3
II. The Court should immediately set this appeal for oral argument and impose an appropriate briefing schedule.....	3
Prayer .....	5
Certificate of Conference .....	7
Certificate of Compliance .....	7
Certificate of Service .....	7

## INDEX OF AUTHORITIES

	<b>Page(s)</b>
<b>Cases</b>	
<i>In re Khanoyan</i> , ___ S.W.3d ___, No. 21-1111, 2022 WL 58537 (Tex. Jan. 6, 2022) .....	4
<i>Sabre Travel Int’l, Ltd. v. Deutsche Lufthansa AG</i> , 567 S.W.3d 725 (Tex. 2019) .....	3
<b>Statutes and Rules</b>	
TEX. CIV. PRAC. & REM. CODE §51.014(a)(8) .....	3, 4
TEX. GOV’T CODE §22A.006(a) .....	3
TEX. R. APP. P. 28.1(a) .....	3
TEX. R. APP. P. 38.6 .....	4
TEX. R. APP. P. 57.5 .....	3

## STATEMENT OF JURISDICTION

### **I. The Court must accept jurisdiction of this appeal.**

This Court ordinarily has discretion whether to exercise its appellate jurisdiction, including over a direct appeal. In these challenges to the state apportionment statutes, however, this Court’s review is mandatory.

Unlike a direct appeal under Texas Government Code §22.001(c), a party appealing a judgment or order by a special three-judge district court *cannot* perfect an appeal to the court of appeals: “An appeal from an appealable interlocutory order or final judgment of a special three-judge district court is to the supreme court.” TEX. GOV’T CODE §22A.006(a). Appellants are governmental entities and officials who have “an appeal as of right” of the denial of their plea to the jurisdiction. *Sabre Travel Int’l, Ltd. v. Deutsche Lufthansa AG*, 567 S.W.3d 725, 735 (Tex. 2019); *see* TEX. CIV. PRAC. & REM. CODE §51.014(a)(8); *see also* Stmt. Jur. at 1. Accordingly, this Court must exercise jurisdiction.

### **II. The Court should immediately set this appeal for oral argument and impose an appropriate briefing schedule.**

The Court should immediately set oral argument for April 2022 and impose a briefing schedule. *See* TEX. R. APP. P. 57.5(a), (b) (authorizing supreme court to request full briefing and set case for submission). This appeal is accelerated. *See* TEX. R. APP. P. 28.1(a). In addition, swift resolution of this appeal—by the end of the Court’s current term—is necessary because of its subject matter.

The underlying claims challenge the constitutionality of the Legislature’s apportionment of both the Texas House and Senate under Article III, §28 of the Texas Constitution, and of the Texas House under Article II, §26—the “whole county line” rule. Even so, no one asks this Court to disturb the current election cycle at this point in the litigation and in light of the Court’s opinion in *In re Khanoyan*, \_\_ S.W.3d \_\_, No. 21-1111, 2022 WL 58537 (Tex. Jan. 6, 2022). The purpose of expedited resolution is, rather, to allow sufficient time for the parties to litigate the merits before the 2023 legislative session.

Expedited resolution is imperative to achieve that goal. *See* TEX. CIV. PRAC. & REM. CODE §51.014(a)(8). If this Court affirms, the parties need sufficient time to return to the special three-judge district court, obtain a final judgment, and complete any appeal from that judgment. All parties agree that the Legislature has a duty under Article III, §28 of the Texas Constitution to apportion the Texas House and Senate in the first *regular* session after the decennial census is published, which is the 2023 Regular Session. If the 2021 statewide maps for the Texas House and Senate are constitutionally infirm, the Legislature must be informed of that fact at the earliest practicable time before then.

Briefing could be complete by the middle of March under the customary deadlines for an accelerated appeal. *See* TEX. R. APP. P. 38.6. Oral argument will aid the Court and is warranted in this case, which has enormous stakes for Texas voters

and candidates for public office. An argument setting in April would allow adequate time for the parties and the Court to prepare. And a decision as soon as practicable—no later than the end of the Court’s term in late June—would allow the parties time to litigate the constitutionality of the 2021 maps in time for the 2023 regular legislative session.

**PRAYER**

Appellees respectfully request that the Court accept mandatory jurisdiction, set oral argument for April 2022, and impose an appropriate briefing schedule.

Respectfully submitted,

/s/ Sean J. McCaffity

Sean J. McCaffity  
State Bar No. 24013122  
Smccaffity@textrial.com  
George 'Tex' Quesada  
State Bar No. 16427750  
quesada@textrial.com  
SOMMERMAN, MCCAFFITY, QUESADA  
& GEISLER, LLP  
3811 Turtle Creek Blvd., Suite 1400  
Dallas, Texas 75219-4461

Joaquin Gonzalez  
State Bar No. 24109935  
jgonzalez@malc.org  
TEXAS CIVIL RIGHTS PROJECT  
1055 Sutton Drive  
San Antonio, Texas 78228

**ATTORNEYS FOR MEXICAN  
AMERICAN LEGISLATIVE CAUCUS,  
TEXAS HOUSE OF REPRESENTATIVES**

/s/ Wallace B. Jefferson

Wallace B. Jefferson  
State Bar No. 00000019  
wjjefferson@adjtlaw.com  
Amy Warr  
State Bar No. 00795708  
awarr@adjtlaw.com  
Nicholas B. Bacarisse  
State Bar No. 24073872  
nbacarisse@adjtlaw.com  
ALEXANDER DUBOSE & JEFFERSON LLP  
515 Congress Avenue, Suite 2350  
Austin, Texas 78701-3562  
Telephone: (512) 482-9300  
Facsimile: (512) 482-9303

Martin Golando  
State Bar No. 24059153  
Martin.Golando@gmail.com  
THE LAW OFFICE OF MARTIN GOLANDO,  
PLLC  
2326 W. Magnolia  
San Antonio, Texas 78201

**ATTORNEYS FOR ROLAND GUTIERREZ,  
SARAH ECKHARDT, RUBEN CORTEZ,  
JR., AND TEJANO DEMOCRATS**



### **CERTIFICATE OF CONFERENCE**

I certify that on January 18, 2022, I conferred with Judd Stone, counsel for Appellants. They are still considering their position on the expedited treatment Appellees seek. Appellees will update the Court as soon as they receive notice of Appellants' position.

/s/ Amy Warr  
Amy Warr

### **CERTIFICATE OF COMPLIANCE**

Based on a word count run in Microsoft Word 2016, this brief contains 581 words, excluding the portions of the brief exempt from the word count under Texas Rule of Appellate Procedure 9.4(i)(1).

/s/ Wallace B. Jefferson  
Wallace B. Jefferson

### **CERTIFICATE OF SERVICE**

I hereby certify that on January 18, 2022, a true and correct copy of this Response to Statement of Jurisdiction, including any and all attachments, is served via electronic service through eFile.TXCourts.gov on all parties through counsel of record, listed below:

Judd E. Stone II (lead counsel)  
Solicitor General  
Judd.Stone@oag.texas.gov

Lanora C. Pettit  
Principal Deputy Solicitor General  
lanora.pettit@oag.texas.gov

Eric J. Hamilton  
Assistant Solicitor General  
eric.hamilton@oag.texas.gov

Christopher Dalan 'Chris' Hilton  
Assistant Attorney General  
christopher.hilton@oag.texas.gov

Eric Alan Hudson  
Assistant Attorney General  
Eric.Hudson@oa.texas.gov

Patrick K. Sweeten  
Deputy Attorney General for Special Litigation  
Patrick.Sweeten@oag.texas.gov

William T. Thompson  
Deputy Chief, Special Litigation Unit  
will.thompson@oag.texas.gov

Office of the Attorney General  
P.O. Box 12548 (MC 059)  
Austin, Texas 78711-2548

/s/ Wallace B. Jefferson  
Wallace B. Jefferson

### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below:

Stacey Jett on behalf of Wallace Jefferson  
Bar No. 19  
sjett@adjtlaw.com  
Envelope ID: 60924925  
Status as of 1/19/2022 7:52 AM CST

Associated Case Party: Ruben Cortez

Name	BarNumber	Email	TimestampSubmitted	Status
Martin Golando	24059153	martin.golando@gmail.com	1/18/2022 7:22:15 PM	SENT
Amy Warr	795708	awarr@adjtlaw.com	1/18/2022 7:22:15 PM	SENT
Wallace Jefferson	19	wjefferson@adjtlaw.com	1/18/2022 7:22:15 PM	SENT

Associated Case Party: The Tejano Democrats

Name	BarNumber	Email	TimestampSubmitted	Status
Martin Golando	24059153	martin.golando@gmail.com	1/18/2022 7:22:15 PM	SENT
Amy Warr	795708	awarr@adjtlaw.com	1/18/2022 7:22:15 PM	SENT
Wallace Jefferson	19	wjefferson@adjtlaw.com	1/18/2022 7:22:15 PM	SENT

Associated Case Party: Sarah Eckhardt

Name	BarNumber	Email	TimestampSubmitted	Status
Martin Golando	24059153	martin.golando@gmail.com	1/18/2022 7:22:15 PM	SENT
Wallace Jefferson	19	wjefferson@adjtlaw.com	1/18/2022 7:22:15 PM	SENT
Amy Warr	795708	awarr@adjtlaw.com	1/18/2022 7:22:15 PM	SENT

Associated Case Party: Roland Gutierrez

Name	BarNumber	Email	TimestampSubmitted	Status
Martin Golando	24059153	martin.golando@gmail.com	1/18/2022 7:22:15 PM	SENT
Amy Warr	795708	awarr@adjtlaw.com	1/18/2022 7:22:15 PM	SENT
Wallace Jefferson	19	wjefferson@adjtlaw.com	1/18/2022 7:22:15 PM	SENT
Stacey Jett		sjett@adjtlaw.com	1/18/2022 7:22:15 PM	SENT

Associated Case Party: Mexican American Legislative Caucus, Texas House of Representatives

### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below:

Stacey Jett on behalf of Wallace Jefferson  
Bar No. 19  
sjett@adjtlaw.com  
Envelope ID: 60924925  
Status as of 1/19/2022 7:52 AM CST

Associated Case Party: Mexican American Legislative Caucus, Texas House of Representatives

Name	BarNumber	Email	TimestampSubmitted	Status
Sean Joseph McCaffity	24013122	smccaffity@textrial.com	1/18/2022 7:22:15 PM	SENT
George Quesada	16427750	quesada@textrial.com	1/18/2022 7:22:15 PM	SENT

Associated Case Party: The State of Texas

Name	BarNumber	Email	TimestampSubmitted	Status
William Thompson	24088531	will.thompson@oag.texas.gov	1/18/2022 7:22:15 PM	SENT
Patrick Sweeten	798537	Patrick.Sweeten@oag.texas.gov	1/18/2022 7:22:15 PM	SENT
Lanora Pettit	24115221	lanora.pettit@oag.texas.gov	1/18/2022 7:22:15 PM	SENT
Eric Hamilton	24127287	Eric.hamilton@oag.Texas.gov	1/18/2022 7:22:15 PM	SENT
Judd Stone	24076720	judd.stone@oag.texas.gov	1/18/2022 7:22:15 PM	SENT
Jack DiSorbo		jack.disorbo@oag.texas.gov	1/18/2022 7:22:15 PM	SENT

Associated Case Party: Greg Abbott

Name	BarNumber	Email	TimestampSubmitted	Status
Judd Stone	24076720	judd.stone@oag.texas.gov	1/18/2022 7:22:15 PM	SENT
Eric Hamilton	24127287	Eric.hamilton@oag.Texas.gov	1/18/2022 7:22:15 PM	SENT
Lanora Pettit	24115221	lanora.pettit@oag.texas.gov	1/18/2022 7:22:15 PM	SENT
Patrick Sweeten	798537	Patrick.Sweeten@oag.texas.gov	1/18/2022 7:22:15 PM	SENT
William Thompson	24088531	will.thompson@oag.texas.gov	1/18/2022 7:22:15 PM	SENT
Jack DiSorbo		jack.disorbo@oag.texas.gov	1/18/2022 7:22:15 PM	SENT

Associated Case Party: John Scott

Name
------

### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below:

Stacey Jett on behalf of Wallace Jefferson  
Bar No. 19  
sjett@adjtlaw.com  
Envelope ID: 60924925  
Status as of 1/19/2022 7:52 AM CST

Associated Case Party: John Scott

William Thompson	24088531	will.thompson@oag.texas.gov	1/18/2022 7:22:15 PM	SENT
Patrick Sweeten	798537	Patrick.Sweeten@oag.texas.gov	1/18/2022 7:22:15 PM	SENT
Lanora Pettit	24115221	lanora.pettit@oag.texas.gov	1/18/2022 7:22:15 PM	SENT
Eric Hamilton	24127287	Eric.hamilton@oag.Texas.gov	1/18/2022 7:22:15 PM	SENT
Judd Stone	24076720	judd.stone@oag.texas.gov	1/18/2022 7:22:15 PM	SENT
Jack DiSorbo		jack.disorbo@oag.texas.gov	1/18/2022 7:22:15 PM	SENT