

No. 23-10459

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ANDREW WARREN,
Plaintiff-Appellant,

v.

RON DESANTIS,
Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Florida
No. 4:22-cv-302-RH-MAF

PLAINTIFF-APPELLANT'S MOTION TO EXPEDITE ISSUANCE OF MANDATE

David A. O'Neil
DEBEVOISE & PLIMPTON, LLP
801 Pennsylvania Ave. NW, Suite
500
Washington, D.C. 20004
(202) 383-8000
daoneil@debevoise.com

Samantha B. Singh
Marisa L. Pagán-Figueroa
Jane Tien
DEBEVOISE & PLIMPTON, LLP
66 Hudson Boulevard
New York, NY 10001
(212) 909-6000
sbsingh@debevoise.com
mlpaganfigueroa@debeovise.com
jtien@debevoise.com

Jean-Jacques Cabou
Alexis E. Danneman
PERKINS COIE LLP
2901 N. Central Avenue,
Suite 2000
Phoenix, Arizona 85012
(602) 351-8000
JCabou@perkinscoie.com
ADanneman@perkinscoie.com

David B. Singer
Matthew T. Newton
OLDER LUNDY KOCH &
MARTINO
1000 W. Cass St.
Tampa, FL 33606
(813) 254-8998
dsinger@olderlundylaw.com
mnewton@olderlundylaw.com

Counsel for Plaintiff-Appellant Andrew Warren

CERTIFICATE OF INTERESTED PERSONS

Plaintiff-Appellant certifies that the following is a complete list of interested persons as required by Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1:

1. Aaron, Jeffrey M., *Attorney for Defendant-Appellee*
2. Allen, Norton & Blue, P.A., *Attorneys for Amicus Curiae*
3. Araiza, William, *Amicus Curiae*
4. Bailey, Andrew, *Amicus Curiae*
5. Cabou, Jean-Jacques, *Attorney for Plaintiff-Appellant*
6. Calvert, Clay, *Amicus Curiae*
7. Cameron, Daniel, *Amicus Curiae*
8. Carr, Christopher M., *Amicus Curiae*
9. Casselman, Margo R., *Attorney for Plaintiff-Appellant*
10. Chemerinsky, Erwin, *Amicus Curiae*
11. Christmas, Natalie, *Attorney for Defendant-Appellee*
12. Costello, David M., *Attorney for Defendant-Appellee*
13. Danneman, Alexis, *Attorney for Plaintiff-Appellant*
14. Debevoise & Plimpton, LLP, *Attorneys for Plaintiff-Appellant*
15. DeSantis, Ron, *Defendant-Appellee*
16. DeSousa, Jeffrey P., *Attorney for Defendant-Appellee*

17. Evans, Robert Wayne, *Attorney for Amicus Curiae*
18. Fitch, Lynn, *Amicus Curiae*
19. Florida Office of the Attorney General, *Attorneys for Defendant-Appellee*
20. Florida Police Chiefs Association, *Amicus Curiae*
21. Florida Prosecuting Attorneys Association, *Amicus Curiae*
22. Florida Sheriffs Association, *Amicus Curiae*
23. Flowers, Benjamin M., *Amicus Curiae*
24. Gilles, Susan M., *Amicus Curiae*
25. Gray Robinson, P.A., *Attorneys for Defendant-Appellee*
26. Griffin, Tim, *Amicus Curiae*
27. Grouev, Zachary, *Attorney for Defendant-Appellee*
28. Hilgers, Michael T., *Amicus Curiae*
29. Hinkle, Robert L., *District Court Judge*
30. Hufford, Axel J., *Attorney for Amicus Curiae*
31. Jackley, Marty, *Amicus Curiae*
32. Jacobs, Arthur Ivan, *Attorney for Amicus Curiae*
33. Jenner & Block LLP, *Attorneys for Amicus Curiae*
34. Keller, Zachery P., *Amicus Curiae*
35. Knudsen, Austin, *Amicus Curiae*

36. Kobil, Daniel T., *Amicus Curiae*
37. Lagos, Benjamin M., *Attorney for Amicus Curiae*
38. Lakier, Genevieve, *Amicus Curiae*
39. Landry, Jeff, *Amicus Curiae*
40. Levesque, George T., *Attorney for Defendant-Appellee*
41. Li, Yao, *Attorney for Amicus Curiae*
42. Lopez, Susan, *Interested party*
43. Marsey, John David, *Attorney for Amicus Curiae*
44. Marshall, Steve, *Amicus Curiae*
45. Massaro, Toni M., *Amicus Curiae*
46. Moody, Ashley, *Attorney for Defendant-Appellee*
47. Morrissey, Patrick, *Amicus Curiae*
48. Newton, Matthew T., *Attorney for Plaintiff-Appellant*
49. Niehoff, Leonard M., *Amicus Curiae*
50. Older, Lundy, Koch & Martino, *Attorneys for Plaintiff-Appellant*
51. O’Neil, David A., *Attorney for Plaintiff-Appellant*
52. Pagan-Figueroa, Marisa L., *Attorney for Plaintiff-Appellant*
53. Paxton, Ken, *Amicus Curiae*
54. Percival, James H., *Attorney for Defendant-Appellee*
55. Perkins Coie LLP, *Attorneys for Plaintiff-Appellant*

56. Public Rights Project, *Amicus Curiae*
57. Reyes, Sean D., *Amicus Curiae*
58. Rosenthal, Joshua, *Attorney for Amicus Curiae*
59. Rumberger Kirk & Caldwell, P.A., *Attorney for Amicus Curiae*
60. Schenck, Robert S., *Attorney for Defendant-Appellee*
61. Singer, David B., *Attorney for Plaintiff-Appellant*
62. Singh, Samantha B., *Attorney for Plaintiff-Appellant*
63. Tien, Jane, *Attorney for Plaintiff-Appellant*
64. Torres-Spelliscy, Ciara, *Amicus Curiae*
65. Turret, Erica S., *Attorney for Amicus Curiae*
66. Unikowsky, Adam G., *Attorney for Amicus Curiae*
67. Warren, Andrew, *Plaintiff-Appellant*
68. Whitaker, Henry C., *Attorney for Defendant-Appellee*
69. Wilson, Alan, *Amicus Curiae*
70. Wynbrandt, Kathryn L., *Attorney for Amici*
71. Yost, Dave, *Amicus Curiae*

No publicly traded company or corporation has an interest in the outcome of this case or appeal.

Dated: January 10, 2024

DEBEVOISE & PLIMPTON LLP

/s/ David A. O'Neil

David A. O'Neil
801 Pennsylvania Ave. NW, Suite 500
Washington, D.C. 20004
(202) 383-8000
daoneil@debevoise.com

*Counsel for Plaintiff-Appellant
Andrew Warren*

TABLE OF CONTENTS

MOTION TO EXPEDITE ISSUANCE OF MANDATE1

ARGUMENT1

CONCLUSION3

TABLE OF AUTHORITIES

Cases

Brown v. Sec'y of State, 668 F.3d 1271 (11th Cir. 2012)2, 3
Duke v. Cleland, 954 F.2d 1526 (11th Cir. 1992)3
Hand v. Scott, 888 F.3d 1206 (11th Cir. 2018).....2
Jones v. DeSantis, No. 19-14551-GG (11th Cir. Dec. 5, 2019)2

Other Authorities

11th Cir. R. 41-2 1
Fed. R. App. P. 40 1
Fed. R. App. P. 41 1

MOTION TO EXPEDITE ISSUANCE OF MANDATE

For the reasons set for in this Motion, Plaintiff-Appellant, Andrew H. Warren, moves pursuant to Federal Rules of Appellate Procedure 40 and 41, and 11th Cir. R. 41-2, for the expedited issuance of mandate to the U.S. District Court for the Northern District of Florida to implement this Court's Opinion, dated January 10, 2024, vacating the District Court's January 20, 2023 order and remanding for further consideration. *See* Dkt. 81.

ARGUMENT

According to Federal Rule of Appellate Procedure 41(a)(1), “[t]he court’s mandate must issue 7 days after the time to file a petition for rehearing expires, or 7 days after entry of an order denying a timely petition for panel rehearing, petition for rehearing *en banc*, or motion for stay of mandate, whichever is later.” A petition for rehearing or rehearing *en banc* generally must be filed within 14 days. *See* Fed. R. of App. P. 40(a)(1).

The Court may, in its discretion, shorten the time for seeking rehearing and for the issuance of the mandate to the District Court. *See* Fed. R. App. P. 40(a)(1); 41(b)(1); *see also* 11th Cir. R. 41-2. This case presents extraordinarily compelling reasons for such relief.

Time is of the essence in resolving this dispute. As a result of Governor DeSantis’s illegal suspension of Mr. Warren, the voters of Hillsborough County

have been deprived of the official whom they selected as State Attorney. An election involving millions of Floridians has been nullified. Mr. Warren, meanwhile, has been unable to serve in his post. One year remains in Mr. Warren's term, and it should not be consumed by unnecessary delays in legal proceedings.

The urgency is all the greater now because resolution of this case will also impact the next election for State Attorney later this year. Mr. Warren's decision about whether to run for reelection as State Attorney depends in significant part on the outcome of this litigation. He announced mere days ago that he would not seek reelection because of the possibility that, until his suspension is invalidated, Governor DeSantis would simply suspend him again on the same grounds.

This Court has previously acted expeditiously to uphold election integrity and to protect the democratic process. *See, e.g., Jones v. DeSantis*, No. 19-14551-GG (11th Cir. Dec. 5, 2019), Dkt. 44, 51 (granting expedited appeal where the state legislature overturned the will of the voters by imposing conditions on restoring felons' right to vote subsequent to the passing of a ballot referendum restoring the right); *see also, Hand v. Scott*, 888 F.3d 1206, 1215 (11th Cir. 2018) (ordering accelerated briefing schedule and oral argument so that the matter of convicted felons' voting rights could be "resolved quickly" by the Court); *Brown v. Sec'y of State*, 668 F.3d 1271, 1274 (11th Cir. 2012) (expediting oral argument and

review of a challenge to a ballot initiative proposing standards to be used in the congressional redistricting process); *Duke v. Cleland*, 954 F.2d 1526, 1528 (11th Cir. 1992) (expediting appeal where appellant alleged a First Amendment violation when his name was excluded from the Georgia republican presidential primary ballot).

CONCLUSION

Mr. Warren has acted with all deliberate speed in these proceedings, moving successfully to expedite both the trial in the District Court and this appeal. This case should return to the District Court as quickly as possible so that the parties can conclusively resolve this dispute. Mr. Warren therefore respectfully requests that the Court expedite issuance of the mandate by shortening both the window for filing a petition for rehearing, or rehearing *en banc*, and the time for the issuance of the mandate following the expiration of that window.

Dated: January 10, 2024

Respectfully submitted,

DEBEVOISE & PLIMPTON LLP

/s/ David A. O'Neil

David A. O'Neil
801 Pennsylvania Ave. NW, Suite 500
Washington, D.C. 20004
(202) 383-8000
daoneil@debevoise.com

*Counsel for Plaintiff-Appellant
Andrew Warren*

CERTIFICATE OF COMPLIANCE

I hereby certify that:

1. This brief complies with the type-volume limitation of Rule 27(d)(2)(a) of the Federal Rules of Appellate Procedure because it contains approximately 606 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f).

2. This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using 14-point Times New Roman font.

Date: January 10, 2024

DEBEVOISE & PLIMPTON LLP

/s/ David A. O'Neil

David A. O'Neil

801 Pennsylvania Ave. NW,
Suite 500
Washington, D.C. 20004
(202) 383-8000
daoneil@debevoise.com

*Counsel for Plaintiff-Appellant
Andrew Warren*

CERTIFICATE OF SERVICE

I hereby certify that on January 10, 2024, the foregoing document was filed with the Clerk of the United States Court of Appeals for the Eleventh Circuit via the Court's electronic filing system and served on all counsel of record via CM/ECF.

Date: January 10, 2024

DEBEVOISE & PLIMPTON LLP

/s/ David A. O'Neil

David A. O'Neil

801 Pennsylvania Ave. NW,
Suite 500
Washington, D.C. 20004
(202) 383-8000
daoneil@debevoise.com

*Counsel for Plaintiff-Appellant
Andrew Warren*