

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

August 29, 2023

Lyle W. Cayce  
Clerk

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No. 21-60312

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JACKSON MUNICIPAL AIRPORT AUTHORITY; BOARD OF COMMISSIONERS OF THE JACKSON MUNICIPAL AIRPORT AUTHORITY, *each in his or her official capacity as a Commissioner on the Board of Commissioners of the Jackson Municipal Airport Authority*; DOCTOR ROSIE L. T. PRIDGEN, *in her official capacity as a Commissioner on the Board of Commissioners of the Jackson Municipal Airport Authority*; REVEREND JAMES L. HENLEY, JR., *in his official capacity as a Commissioner on the Board of Commissioners of the Jackson Municipal Airport Authority*; LAWANDA D. HARRIS, *in her official capacity as a Commissioner on the Board of Commissioners of the Jackson Municipal Airport Authority*; VERNON W. HARTLEY, SR., *in his official capacity as a Commissioner on the Board of Commissioners of the Jackson Municipal Airport Authority*; EVELYN O. REED, *in her official capacity as a Commissioner on the Board of Commissioners of the Jackson Municipal Airport Authority*; DOCTOR ROSIE L. T. PRIDGEN, *individually as citizens of the City of Jackson, Mississippi, on behalf of themselves and all others similarly situated*; LAWANDA D. HARRIS, *individually as citizens of the City of Jackson, Mississippi, on behalf of themselves and all others similarly situated*; VERNON W. HARTLEY, SR., *individually as citizens of the City of Jackson, Mississippi, on behalf of themselves and all others similarly situated*; EVELYN O. REED, *individually as citizens of the City of Jackson, Mississippi, on behalf of themselves and all others similarly situated*; JAMES L. HENLEY, JR., *individually as citizens of the City of Jackson, Mississippi, on behalf of themselves and all others similarly situated*,

*Intervenors—Appellees,*

*versus*

JOSH HARKINS; DEAN KIRBY; PHILLIP MORAN; CHRIS

CAUGHMAN; NICKEY BROWNING; JOHN A. POLK; MARK BAKER;  
ALEX MONSOUR,

*Respondents—Appellants.*

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Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 3:16-CV-246

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ON PETITION FOR REHEARING EN BANC

(Opinion May 10, 2023, 5 Cir., 2023, 67 F.4<sup>th</sup> 678, Withdrawn)  
(Opinion August 25, 2023, 5 Cir., 2023, WL 5522213)

Before RICHMAN, *Chief Judge*, and JONES, SMITH, STEWART,  
ELROD, HAYNES, HIGGINSON, WILLET, HO, DUNCAN,  
ENGELHARDT, OLDHAM, and DOUGLAS, *Circuit Judges*.\*

PER CURIAM:

A member of the court having requested a poll on the petition for rehearing en banc, and a majority of the circuit judges in regular active service and not disqualified having voted in favor,

IT IS ORDERED that this cause shall be reheard by the court en banc with oral argument on a date hereafter to be fixed. The Clerk will specify a briefing schedule for the filing of supplemental briefs. Pursuant to 5<sup>th</sup> Circuit Rule 41.3, the panel opinion in this case dated August 25, 2023, is VACATED.

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\* JUDGES LESLIE H. SOUTHWICK, JAMES E. GRAVES, JR., AND CORY T. WILSON did not participate in the consideration of the rehearing en banc.