ORIGINAL

23-7118

Civil Court Case No. 1:23-cv-02522-UNA

In the Supreme Court of the United States

U.S.C.A. Case No. 23-5245

Danilo Augusto Feliciano
Petitioner-Appellant

v

MERRICK B. GARLAND *in his official capacity as United States Attorney General*
Defendant-Appellee

PETITION FOR WRIT OF CERTIORARI

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In propria persona

QUESTION(S) PRESENTED

1. Can an agency's decision not to act despite notification of a clear, ongoing, and persistent violation of the law, that has been publicly admitted to, be deemed as "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law" as described in 5 U.S.C. § 706 (2)(A)?

2. Is an agency decision not to enforce a law, in light of a clear, ongoing, and persitent violation, reviewable in the absence of a "clear and convincing" congressional intent to the contrary?

3. Is there still a right for relief under the Declaratory Judgement Act, 28 U.S.C. § 2201 when there has been a harm to the right of a citizen's vote to be "counted" by an agency's refusal to act?

PARTIES TO THE PROCEEDING AND RELATED PROCEEDINGS

A. PARTIES

The parties in the district court include the Petitioner-Appellant Danilo A. Feliciano and the Defendant-Appellee, the Attorney General for the United States. The parties before this Court include the Attorney General for the United States and Petitioner-Appellant Danilo A. Feliciano.

Disclosure Statement: No Disclosure Statement under Federal Rule of Appellate Procedure 26.1 or under Circuit Rule 26.1 is necessary, as Petitioner-Appellant is not a corporation or similar entity.

B. RULINGS UNDER REVIEW

The parties are before this Court is the Order issued from United States Court of Appeals for the District of Columbia by Judge Katas, Rao, and Garcia on 2 February 2024 regarding the October 17, 2023 Memorandum Opinion and Order of the district court issued by Hon. Jia M. Cobb in *Feliciano v. Garland*, No. 1:23-cv-02522-UNA

C. RELATED CASES

This matter is currently in the United States Court of Appeals for the District of Columbia Circuit, U.S.C.A. Case No. 23-5245. There are four additional related cases, two of which are sealed. The sealed cases include 1:23-cv-03238-UNA, which has been closed. The second sealed case is 1:23-cv-03467 and a motion to unseal the case is forthcoming. The unsealed cases are *Faust v. Louisiana* 23-010010-ELG which was dismissed with prejudice and an ensuing appeal, *Faust v. Louisiana* Case No. 1:23-cv-02567-DLF, which has been dismissed without prejudice.

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TO THE HONORABLE JUSTICES OF THE SUPREME COURT

INTRODUCTION

Pursuant to 28 U.S.C. § 1253, Applicant, Danilo Augusto Feliciano, respectfully applies for a petition for certiorari to reverse an *Order* dated 2 February 2024 consisting of two sentences that was issued by the United States Court of Appeals for the District of Columbia Circuit, along with an *Order Dismissing Pro Se Case with Prejudice* issued 17 October 2023 by the United States District Court for the District of Columbia, which was placed before the United States Court of Appeals for the District of Columbia on 3 December 2023. The issue is of utmost importance as it is related to an ongoing violation of the federal election code by the state of Louisiana, which has been seemingly consented to by the former Attorney General for Louisiana, now the current Governor. The ruling is a harm to the people.

Louisiana has for too long ignored the deficiencies of the election systems used for federal and state elections. Multiple notifications have been made to the Secretary of State without resolution of the deficiencies. The State of Louisiana recently changed their entire primary system and congressional map for the 2024 federal election, yet specifically ignored the deficiencies of the election systems. Multiple parties have been notified of this issue for over 5 years and no resolution, or even acknowledgment of the problem, has occurred. Why this issue is so important is succinctly expressed by Sir William Blackstone:

> "NEXT, with regard to the elections of knights, citizens, and burgesses; we may observe, that herein consists the exercise of the democratical part of our constitution: for in a democracy there can be no exercise of sovereignty but by suffrage, which is the declaration of the people's will. In all democracies therefore, it is of the utmost importance to regulate by whom, and in what manner, the suffrages are to be given."

This issue is too vital to the future of the American experiment at self-governance to ignore. The facts are self-evident. The solution is self-evident. The government, as well as the courts' refusal to heed this issue clashes with the rulings that this Court has issued time and again, "We regard it as equally unquestionable that the right to have one's vote counted is as open to protection by Congress as the right to put a ballot in a box." *United States v. Mosley*, 238 U.S. 383, 386 (1915).

Without a proper review, the 2024 election cycle will be at jeopardy in the state of Louisiana. Without a proper ruling, more questions will emerge regarding the security of elections in the United States of America and more Court cases will be ignored. It will either be "freedom for everybody or freedom for nobody."[1] The Advocate continues to notify the new Secretary of State for Louisiana about this election cycle and the deficiencies of the election systems, however the Secretary of State has denied any form of administrative relief. Therefore, it is from this Court that judgment must sit and it is from this Court that justice must roll "down like waters and righteousness like a mighty stream."[2] [3] The public deserves to know the truth and "the great enemy of the truth is very often not the lie, deliberate, contrived and dishonest, but the myth, persistent, persuasive and unrealistic."[4]

OPINIONS BELOW

Petitioner seeks an order reversing the *Order* of the United States Court of Appeals for the District of Columbia Circuit issued on 2 February 2024 comprising of two sentences and an *Order Dismissing Pro Se Case with Prejudice* issued by the

[1] Malcolm X, The Ballot or the Bullet, https://americanradioworks.publicradio.org/features/blackspeech/mx.html, April 12, 1964, accessed 22 February 2024.
[2] Martin Luther King, "I Have a Dream", https://avalon.law.yale.edu/20th_century/mlk01.asp, 28 August 1963, accessed 22 February 2024.
[3] Amos 5:24, King James Bible
[4] John F. Kennedy, Yale University Commencement Address, 11 June 1962, https://www.americanrhetoric.com/speeches/jfkyalecommencement.htm

United States District Court for the District of Columbia on 17 October 2023. Petitioner filed a timely *Notice of Appeal to DC Circuit Court* on 20 October 2023.

JURISDICTION

This Court has jurisdiction and the authority to grant certiorari before judgment under 28 U.S.C. Section 1253 as it is a direct appeal from a decision of a three-judge court issued by the United States Court of Appeals for the District of Columbia.

QUESTIONS PRESENTED

1. Can an agency's decision not to act despite notification of a clear, ongoing, and persistent violation of the law, that has been publicly admitted to, be deemed as "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law" as described in 5 U.S.C. § 706 (2)(A)?
2. Is an agency decision to not enforce a law, in light of a clear, ongoing, and persistent violation, reviewable in the absence of a "clear and convincing" congressional intent to the contrary?
3. Is there still a right for relief under the Declaratory Judgment Act, 28 U.S.C. § 2201 when there has been a harm to the right of a citizen's vote to be "counted" by an agency's refusal to act?

STATEMENT OF THE CASE

On 28 October 2016, Danilo Augusto Feliciano, formerly known as Danil Ezekiel Faust, (hereinafter, the "Advocate") learned that there were private voting booths being utilized by "VIP's" in Jefferson Parish, Louisiana. **[ECF No. 1, Exhibits 18, 19]** The Advocate then began to familiarize himself with the

intricacies of the elections process in the state of Louisiana and those of the United States of America.

Central to this case is that all states that receive federal assistance through the Help America Vote Act (hereinafter, "HAVA") are required to produce a permanent paper record by Title III of HAVA, Section 301 (a)(2)(B)(i) (codified as 52 U.S.C. § 21081 (a)(2)(B)(i)) and that this record shall be available for use in all recounts in which the elections system is used according to Title III, Section 301 (a)(2)(B)(iii) (codified as 52 U.S.C. § 21081 (a)(2)(B)(iii)). Furthermore, this permanent paper record must be kept for twenty-two months in accordance with the 1960 Civil Rights Act, Title III Section 301 (codified as 52 U.S.C. § 20701, hereinafter, "1960 CRA"). The Louisiana Department of State is familiar with this requirement and was notified by the Department of Justice in a memorandum dated 10 May 2005.[5] **[ECF No. 1, Exhibit 15]** The issue was further clarified by Elections Assistance Committee (hereinafter "EAC") Advisory 2005-005: Lever Voting Machines" dated 8 September 2005.[6] **[ECF No. 1, Exhibit 16]**

On three separate occasions, the Advocate attempted to use the state-based administration procedure outlined in HAVA, Title IV, Section 402 and Louisiana Revised Statutes §18:567 through §18:567.6. On each of these three occasions, the Advocate was denied due process of the state based administrative procedure on technicalities, two based on factually incorrect statements of law by counsel to the Secretary of State **[ECF No. 1, Exhibit 10]**, and the last based on a typographical error of the Advocate **[ECF No. 1, Exhibit 4]**.

On three separate occasions, the Secretary of Louisiana has requested, and received funds, claiming that Louisiana "will not use the funds in a manner that is

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[5] Hans A. von Spakovsky, U.S. Department of Justice, Memorandum, 10 May 2005, https://www.justice.gov/crt/help-america-vote-act-13

[6] U.S. Election Assistance Commission, "EAC Advisory 2005-005: Lever Voting Machines", 8 September 2005, https://www.eac.gov/sites/default/files/eac_assets/1/6/EAC%20Advisory%20Lever%20Voting%20Machines%202005-005.pdf

inconsistent with the requirements of Title III of HAVA."[7] **[ECF No. 1, Exhibits 20, 21, 23]** However, the two voting systems used in Louisiana, the AVC Advantage introduced by Sequoia in 1990[8] and now owned by Dominion Voting Systems, nor the Imagecast X[9] manufactured by Dominion, produce a permanent paper record. This fact has been publicly admitted to by the Secretary of State. Over the course of five years, the Advocate has notified the Louisiana Secretary of State, the Louisiana Attorney General, the Federal Bureau of Investigation, the Attorney General of the United States, the United States Department of Justice, and two Presidential administrations of the flaws in the Louisiana elections systems. Yet, Attorney General of the United States has chosen to ignore the complaint without an official response.

On 20 December 2022, the Advocate filed a Chapter 7 Bankruptcy Case and assigned the permanent paper record to the Supreme Court of the United States for the sole purpose of requiring the United States Judiciary to take notice of this fact **[ECF No. 1, Exhibit 9]**. On 16 March 2023, the Advocate filed an adversarial proceeding against the State of Louisiana regarding the permanent paper record required by HAVA. On 17 May 2023, the United States Bankruptcy Court for the District of Columbia held a hearing and on 17 May 2023 issued an *Order Granting Defendant's Motion to Dismiss the Complaint* (Case No. 23-010010 ECF No. 20) with prejudice construing that there is no private right of action contained in the 1960 CRA and that ***only*** the Attorney General of the United States could bring an action under this law. The Advocate then appeal, but the appeal was deemed untimely.

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[7] Robert Kyle Ardoin, Louisiana Secretary of State, 2020 HAVA Election Security Grant, 14 February 2020, https://www.eac.gov/sites/default/files/paymentgrants/fundsrequest2020/LA_20ES_Funding_Request_Letter.pdf

[8] Verified Voting, AVC Advantage, accessed 29 November 2023, https://verifiedvoting.org/election-system/sequoia-dominion-avc-advantage/

[9] Louisiana Secretary of State, Review Administration and History, accessed 2 December 2023, https://www.sos.la.gov/ElectionsAndVoting/ReviewAdministrationAndHistory/Pages/default.aspx

The Advocate then filed a *Petition for a Writ in the Nature of a Mandamus* (ECF No. 1) along with a *Motion for Expedited Consideration* (ECF No.4) on 29 August 2023 in anticipation for the 14 October 2023 Gubernatorial Primary Election for the State of Louisiana. A second *Motion for Expedited Consideration* (ECF No. 7) was submitted on 11 October 2023. On 17 October 2023, fifty days after the initial filing, the Court issued the *Order Dismissing Pro Se Case with Prejudice* (ECF No. 11). On 20 October 2023, the Advocate timely appealed to the United States Court of Appeals for the District of Columbia Circuit.

SUMMARY OF THE ARGUMENT

When there is a clear, ongoing, and persistent violation of the law, that has been publicly admitted to, an agency decision not to enforce or prosecute should be deemed as "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law" and that decision should be reviewable in the absence of a "clear and convincing" congressional intent to the contrary.

Equity will not suffer a wrong without a remedy, and without action by the Attorney General, the Advocate is left unable to address a systematic wrong that has been given over to an arbitrary decision of a government agency. The Advocate has been damaged in property by his inability to complete a contract made by law assigning the permanent paper record to the Supreme Court of the United States. "The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right." *Marbury v. Madison*, 5 U.S. 137, 163 (1803).

The abuse of an "arbitrary government" is one of the evils listed in the Declaration of Independence. This is not the only evil that is apparent in this case, there has been the obstruction in the administration of justice, to include the suspension of and the neglect of the laws. The reliance of the district court upon the

ruling in *Heckler v. Chaney*, 470 U.S. 821, 826 (1985) to dismiss the petition, does not take into consideration the issues contained in the case. A full reading goes on to outline the situations that the ruling of the Supreme Court did not affect, all of which apply to this case.

Furthermore, the inaction of the Attorney General, as the head of the Department of Justice, upon such a vital matter clearly qualifies as arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with the law. This case and the facts intrinsic to the controversy are of national importance. The facts and the law of the case are not in question. Finally, given the failure of the Attorney General, the state of Louisiana, and the Department of Justice, to enforce the law, their actions demonstrate a clear pattern of arbitrary conduct that is not in accordance with the law. The judgment of the lower court should be reversed and the case should be remanded for further proceedings, if not decided immediately and a writ of mandamus issued.

ARGUMENT

I. THE REFUSAL TO ENFORCE IS NOT COMMON OR ORDINARY

In the *Memorandum Opinion* of 17 October 2023 (ECF No. 10) used for the *Order Dismissing Pro Se Case with Prejudice* (ECF No. 11) dismissing the *Petition for a Writ in the Nature of a Mandamus* (ECF No. 1), the district court stated that it was settled "that an agency's decision not to prosecute or enforce, whether through civil or criminal process, is a decision ***generally*** committed to an agency's absolute discretion." *Heckler v. Chaney* 470 U.S. 821, 831 (1985) [emphasis added]. The key word is **generally**. Webster's College Dictionary defines generally as "1. usually; commonly; ordinarily. 2. With respect to the larger part; for the most part. 3. Without reference to particular persons, situations, etc. that may be an exception." There is nothing general, common, or ordinary about this situation and this situation qualifies as an exception. There exists a very clear and flagrant violation

of the law taking place in Louisiana. This is willfully being ignored by the Attorney General of the United States and the state of Louisiana. The state of Louisiana was notified five years ago by the Advocate of the failure to comply with the Help America Vote Act. The Attorney General and the Department of Justice were notified by the Advocate slightly less than three years ago. The refusal to enforce the constitutionally protected rights of the people of the State of Louisiana, who are part of the people of the United States, is an abuse of discretion and not in accordance with the law.

In *Heckler v. Chaney*, the concurring opinion of Justice Marshall states that "[e]asy cases at times produce bad law" and that the "presumption of unreviewability" was instead "a product of that lack of discipline that easy cases make all too easy." Justice Marshall called *Heckler v. Chaney* a case where a carefully crafted decision could be used to defend the arbitrary dismissal of a case and this unreviewability was "fundamentally at odds with rule-of-law principles firmly embedded in our jurisprudence" *Heckler v. Chaney*, 470 U.S. 821, 840 (1985). The *Order Dismissing Pro Se Case with Prejudice* (ECF No. 11) being appealed to this court by the Advocate is exactly such a case.

In *Heckler v. Chaney*, the concurring opinion by Justice Brennan explicitly stated that the court "properly does not decide today that nonenforcement decisions are unreviewable." Justice Brennan went on to define four specific criteria where nonenforcement decisions are reviewable. These are where: 1. "an agency flatly claims that it has no statutory jurisdiction to reach certain conduct" 2. "an agency engages in a pattern of nonenforcement of clear statutory language" 3. "an agency has refused to enforce a regulation lawfully promulgated and still in effect" and 4. "a nonenforcement decision violates constitutional rights." This case involves all four of these criteria in some fashion, and therefore this case is reviewable.

II. THE REFUSAL TO ENFORCE IS NOT PROTECTED FROM REVIEW

The Attorney General has not denied that he has statutory jurisdiction and instead has chosen to remain silent, if only to avoid admitting that the decision not to investigate or prosecute is intentional. This silence is all the worse because the Attorney General of the United States, as the head of the Department of Justice, is in charge of the ***only agency*** with the jurisdiction to enforce the Help America Vote Act, since the state of Louisiana has failed to do so. ***Qui tacet consentire videtur*** [he who is silent seems to consent]. "The HAVA does not include a private right of enforcement. By its text, the HAVA only allows enforcement via attorney general suits or [a State-based] administrative complaint." *American C.R. Union v. Philadelphia City Commissioners*, 872 F.3d 175, 184 (3d Cir. 2017) The Department of Justice admitted to having this responsibility to the State of Louisiana in 2005. "HAVA vests the Attorney General with the responsibility of enforcing Title III of HAVA, which imposes uniform and nondiscriminatory election technology and administration requirements."

The statutory language regarding enforcement is clear. It is the responsibility of the Attorney General to enforce HAVA, yet there exists an undeniable pattern of nonenforcement by the Department of Justice. Considering the ample notice given to the Department of Justice from the Advocate, the willful nonenforcement can be considered an outright refusal to enforce a regulation lawfully promulgated and a regulation that is still in effect.

Finally, this nonenforcement decision allows for the existence of an ongoing pattern of conduct that violates the constitutional rights of the people of Louisiana, who are part of the people of the United States. Section 301 (a)(2)(B)(iii) of HAVA states that "[t]he paper record produced under subparagraph (A) shall be available as an official record for ***any recount*** conducted with respect to ***any election*** in which the system is used." [emphasis added] While not part of this case, it should be noted that there are many states that do not produce the permanent paper record of a ballot cast to be used in recounts during the state elections, let alone federal

elections. "Undeniably the Constitution of the United States protects the right of all qualified citizens to vote, in state as well as in federal elections" *Reynolds v. Sims*, 377 U.S. 533, 554 (1964).

Since the *Order Dismissing Pro Se Case with Prejudice* (ECF No. 11), there have been multiple recounts in the elections for the state of Louisiana. The first major recount took place on 19 October 2023 in an election for Livingston Parish Sheriff. In this recount, ***only*** the absentee ballots were counted. This is another clear violation of the requirements of HAVA, but even more so a violation of law as defined by the Supreme Court of the United States. "We regard it as equally unquestionable that the right to have one's vote counted is as open to protection by Congress as the right to put a ballot in a box." *United States v. Mosley*, 238 U.S. 383, 386 (1915).

In the 18 November 2023 Louisiana election, a recount was requested for a Caddo Parish Sheriff election. In this election, the race was decided by a single vote and once again, only the absentee ballots were counted. This time, given many improprieties observed about the election, the case was taken to trial in *Nickelson v Whitehorn and R. Kyle Ardoin*, Case No. 647419-A, First Judicial District Court, Caddo Parish, Louisiana and a new election was ordered. This case demonstrates another situation 52 U.S.C. § 21081 (a)(2)(B)(iii) is being violated by the state of Louisiana.

III. THE REFUSAL TO ENFORCE IS ARBITRARY AND CAPRICIOUS

"[R]ights, even the most basic, are illusory if the right to vote is undermined." *Wesberry v. Sanders*, 376 U.S. 1, 17-18 (1964). When it comes to protecting the most vital function of Government, the Department of Justice cannot exercise arbitrary enforcement. The facts of this case are not in question. The State of Louisiana was notified by the Department of Justice and the Elections Advisory Committee in 2005 that there existed a need to comply with Title III of HAVA. "Section 301(d) of

HAVA unambiguously requires each covered state and jurisdiction to comply with the voting system standards of Section 301 'on and after January 1, 2006.'" The memorandum called the deadline "absolute." Louisiana did not bother to attempt to comply.

The fact that Louisiana has not complied in the 17 years since receiving the memorandum cannot be considered accidental or an oversight. The Advocate has officially notified Louisiana on three separate occasions, going so far as to take the state of Louisiana and the Louisiana Secretary of State to court in *Faust v the State of Louisiana,* (Case No. 23-010010-ELG D.D.C.) to ensure that they were notified in proper legal fashion. Instead, the former Attorney General of Louisiana who has known about this issue is now Governor after an election was conducted with non-compliant election systems.

Exacerbating the issue, the state of Louisiana has continued to take funds while stating that the funds would not be used contrary to the requirements of Title III of HAVA since notification. It cannot be denied; the State of Louisiana does not produce the permanent paper record required by Title III of HAVA. Nor, can it be denied that the state of Louisiana knows that there has been a violation of the law. It is clear that the state of Louisiana has willfully chosen not to produce the permanent paper record. There is only one question that truly matters, why does the state of Louisiana, the Governor of the state of Louisiana, the former Attorney General of the state of Louisiana (and now Governor-elect), the Attorney General of the United States, and the Department of Justice insist on ignoring this violation of the law?

Black's Law dictionary's first definition of arbitrary is "[d]epending on individual discretion; of, relating to, or involving a determination made without consideration of or regard for facts, circumstances, fixed rules, or procedures." The decision by the Attorney General to ignore the complaints coming out of Louisiana seems to have been made without consideration of or regard to the facts and procedures.

If the Attorney General has ceased to exercise his role as defender of the laws, he has chosen to do it for the most fundamental right that a free society may possess. "For, the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself." *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886)

IV. THE REFUSAL TO ENFORCE IS AN ABUSE OF DISCRETION

Black's Law defines abuse of discretion as "[a]n adjudicator's failure to exercise sound, reasonable, and legal decision making." There is no reasonable explanation why the Attorney General has refused to act. The need to act is apparent and it is the legal duty of the Attorney General to act. "What every prosecutor is practically required to do is to select the cases for prosecution and to select those in which the offense is the ***most flagrant***, ***the public harm the greatest***, and ***the proof the most certain***." (*The Federal Prosecutor*, Jackson, Robert H) [emphasis added] The public harm here is the greatest. The proof of noncompliance is certain and it comes in the form of a public statement from the former Louisiana Secretary of State. Robert Kyle Ardoin, the former Louisiana Secretary of State, publicly admitted that there are no paper ballots produced in both federal and state elections. **[ECF No. 1, Exhibit 22]** Now, in the span of a little more than a single month, more than two recounts have taken place in Louisiana without the using the full number of ballots cast in the elections, merely the absentee ballots were used. This is because the Direct Record Electronic voting systems used in Louisiana only print out a total count of votes cast and cannot be audited. This is a violation of Title III of HAVA that has left the public at large aggrieved by the inaction of the Attorney General.

"As the Court acknowledges, the APA presumptively entitles any person "adversely affected or aggrieved by agency action," 5 U.S.C. § 702 — which is defined to include the "failure to act," 5 U.S.C. § 551 (13) — to judicial review of that action." *Heckler v. Chaney*, 470 U.S. 821, 843 (1985) (Marshall, J. Concurring). This

is not a situation where agency resources would be uselessly expended, as there is not even a need for an investigation. There is simply the need for the Attorney General to implement the law already lawfully promulgated. The Advocate is unclear why this is an issue.

V. THE REFUSAL TO ENFORCE IS NOT IN ACCORDANCE WITH THE LAW

In the *Memorandum Opinion* (ECF No. 10), the district court argues that there exists an "absence, as here, of "specific legislation requiring particular action by the Attorney General" and setting "forth specific enforcement procedures," *Adams v. Richardson,* 480 F.2d 1159, 1162 (D.C. Cir. 1973) Yet a specific administrative interpretation is found in EAC Advisory 2005-005: Lever Voting Machines" dated 8 September 2005.[10] The advisory states:

> "[I]t is the position of the EAC that those machines which produce a limited paper record (documenting only vote totals) also do not meet these requirements. HAVA makes it clear that the reason it requires a paper record trail is to ensure all voting systems create a permanent, manually auditable record for use in a recount."

Enforcement procedures are given by HAVA Title IV, Section 401 "Actions by the Attorney General for Declaratory and Injunctive Relief", which is precisely what the Advocate requested in this matter. In addition, the admission by the Department of Justice that the Attorney General has this very responsibility in 2005 can act as the legislation requiring specific action. This is supported by the Supreme Court, "[t]he court found "law to apply" in the form of a FDA policy

[10] U.S. Election Assistance Commission, "EAC Advisory 2005-005: Lever Voting Machines", 8 September 2005, https://www.eac.gov/sites/default/files/eac_assets/1/6/EAC%20Advisory%20Lever%20Voting%20Machines%202005-005.pdf

statement which indicated that the agency was "obligated" to investigate" *Heckler v. Chaney*, 470 U.S. 821, 826 (1985)

VI. THERE SHOULD NOT BE A WRONG WITHOUT A REMEDY

The right for relief under the Declaratory Judgment Act, 28 U.S.C. § 2201 should still exist in this case. There has been a harm to the right of a citizen's vote to be "counted" by an agency's refusal to act in the state of Louisiana and the open case in Louisiana demonstrates that the absence of a permanent paper record is an "actual controversy". Nor is this a case without injury to property. The Advocate duly assigned the permanent paper record to the Supreme Court in accordance with the Code of the District of Columbia. Therefore, the case involves property rights that have been suppressed. The Advocate has exhausted all avenues prescribed by law to obtain relief, yet remains without a result. The Advocate has suffered a wrong that has no remedy, a wrong shared by the people of the state of Louisiana. As has been stated, the state based administrative review was denied on false grounds and the Attorney General of the United States has remained silent.

"The Administrative Procedure Act provides specifically not only for review of "[a]gency action made reviewable by statute" but also for review of "final agency action for which there is no other adequate remedy in a court," 5 U.S.C. § 704." *Abbott Laboratories v. Gardner*, 387 U.S. 136, 140-41 (1967)

"Law has reached its finest moments when it has freed man from the unlimited discretion of some ruler, some civil or military official, some bureaucrat." *United States v. Wunderlich*, 342 U.S. 98, 101 (1951) While the Louisiana state elections have concluded, the violation of the laws have yet to be corrected. The decision of the Attorney General not to enforce and the district court's 17 October 2023 *Order Dismissing Pro Se Case with Prejudice* (ECF No. 11) while relying upon *Adams v. Richardson* and *Heckler v. Chaney* as justification to dismiss the petition conforms with the definition of arbitrary as "founded on prejudice or preference

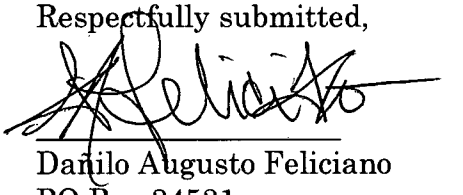
rather than on reason or fact." The Supreme Court has stated, in no uncertain terms, that "there is no place in our constitutional system for the exercise of arbitrary power" *Garfield v. Goldsby*, 211 U.S. 249, 262 (1908)

CONCLUSION

WHEREFORE, for the foregoing reasons, the Advocate respectfully prays that the Court find the refusal to act by the United States Attorney General to be (a) arbitrary, (2) capricious, and (3) an abuse of discretion, reverse the orders of the lower courts and remand the case for further proceedings, if not immediately issue of a writ of mandamus, and what other relief the Court may find appropriate.

Dated: 27 March 2024

Respectfully submitted,



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