

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 11-50932

DEPARTMENT OF TEXAS, Veterans of Foreign Wars of the United States; AMVETS DEPARTMENT OF TEXAS, INCORPORATED; AMVETS POST 52, INCORPORATED; AMVETS POST 52, AUXILIARY, INCORPORATED; THE GREAT COUNCIL OF TEXAS, Improved Order of Redmen; REDMEN WAR EAGLE TRIBE NO. 17; REDMEN TRIBE NO. 21 GERONIMO; REDMEN RAMONA COUNCIL NO. 5; THE INSTITUTE FOR DISABILITY ACCESS, INCORPORATED, doing business as Adapt of Texas; TEMPLE ELKS LODGE NO. 138, Benevolent and Protective Order of Elks of The United States of America, Incorporated.; BRYAN LODGE NO. 859, Benevolent and Protective Order of Elks of The United States of America, Incorporated.; AUSTIN LODGE NO. 201, Benevolent and Protective Order of Elks of The United States of America, Incorporated.; ANNA FIRE AND RESCUE, INCORPORATED,

Plaintiffs - Appellees

v.

TEXAS LOTTERY COMMISSION; GARY GRIEF, Executive Director in His Official Capacity; SANDRA K. JOSEPH, Director of Charitable Bingo in Her Official Capacity; MARY ANN WILLIAMSON, Commissioner in Her Official Capacity; UNKNOWN COMMISSIONER IN OFFICIAL CAPACITY; J. WINSTON KRAUSE, Commissioner in His Official Capacity

Defendants - Appellants

Appeal from the United States District Court for the
Western District of Texas, Austin

ON PETITION FOR REHEARING EN BANC

(Opinion October 9, 2012, 5 Cir., 2012, 698 F.3d 239, withdrawn November 21, 2012)

(Opinion August 21, 2013, 5 Cir., 2013, 727 F.3d 415)

Before STEWART, Chief Judge, KING, JOLLY, DAVIS, JONES, SMITH, DENNIS, CLEMENT, PRADO, OWEN, ELROD, SOUTHWICK, HAYNES, GRAVES and HIGGINSON, Circuit Judges.

BY THE COURT:

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.