VIRGINIA:

In the Court of Appeals of Virginia on **Monday** *the* **22nd** *day of* **December 2025**.

In re: Attorney General-Elect Jay Jones, Movant.

Circuit Court No. CL20-582

From the Circuit Court of the City of Lynchburg

Before Judges Friedman, Frucci and Senior Judge Clements

On December 1, 2025, Attorney General-Elect Jay Jones timely filed an Emergency Motion for Extension of Time to File Notice of Appeal in the circuit court matter of *Raul Wilson, et al. v. Colonel Matthew D. Hanley (In His Official Capacity as Superintendent of the Virginia State Police),* Circuit Court No. CL20-582, under Rules 5A:3(a) and 5A:6(a), asking "for an order extending the time within which a notice of appeal may be filed from December 1, 2025 until January 30, 2026" from the circuit court's October 29, 2025 final order.

Colonel Hanley (defendant below) subsequently filed an "Opposition to and Motion to Strike 'Attorney General Elect Jay Jones's Emergency Motion for Extension of Time to File Notice of Appeal'" on December 3, 2025, arguing that because the Attorney General-Elect is not a party to the case, he has no authority to make the motion.

Raul Wilson, et al. (plaintiffs below), also filed "Plaintiffs' Response in Opposition to Nonparty Jay Jones's Emergency Motion for Extension of Time to File Notice of Appeal" on December 3, 2025, arguing that Attorney General Jason Miyares is the only person who could have filed a notice of appeal in the circuit court, and thus the Attorney General-Elect's motion is invalid and should be dismissed.

The case below involved a constitutional challenge to Code § 18.2-308.2:5, which mandated a universal background check for all firearm sales, both through licensed firearm dealers and private sales between individuals. The circuit court found that the statutory scheme presented an unconstitutional restriction on adults under the age of 21. Consequently, the court, in its final order, permanently enjoined and prohibited "[t]he

Virginia Department of State Police, and all law enforcement divisions, agencies, and officers within the Commonwealth, to include their successors or replacements in office . . . from administering, enforcing, or otherwise imposing upon any person the requirements of [Code § 18.2-308.2:5]." Colonel Hanley—represented by the current Attorney General, Jason Miyares—chose not to appeal that ruling.[1]

After considering the Attorney General-Elect's Emergency Motion, this Court requested supplemental briefing on the applicability of *Cameron v. EMW Women's Surgical Ctr.*, 595 U.S. 267 (2022); *Berger v. NC State Conf. of the NAACP*, 597 U.S. 179 (2022); and *Cnty. Bd. of Arlington v. Nordgren*, Rec. No. 1923-24-4 and *Wilson's Ventures v. Nordgren*, Record No. 2122-24-4. The threshold issue before us is whether the Attorney General-Elect had standing to file the motion. Having reviewed the supplemental briefing, and for the reasons stated in this order, we deny the Attorney General-Elect's motion.

In Virginia, the "[a]uthority and responsibility for representing the State's interests in civil litigation," including state agencies and departments, "rest[s] exclusively with the State's Attorney General." *Va. House of Delegates v. Bethune-Hill*, 587 U.S. 658, 663-64 (2019); *see also* Code § 2.2-507(A) ("All legal service in civil matters for the Commonwealth, the Governor, and every state department, institution, division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct of all civil litigation in which any of them are interested, shall be rendered and performed by the Attorney General[.]"). Virginia "has adopted an approach resembling that of the Federal Government, which 'centraliz[es]' the decision whether to [pursue an appeal] by 'reserving litigation in this Court to the Attorney General and the Solicitor General.'" *Id.* at 664 (quoting *United States v. Providence J. Co.*, 485 U. S. 693, 706 (1988)).

[1] We address only the question and the litigants before us; however, we note that the plaintiffs' claim in the circuit court presented an as-applied, rather than a facial, challenge to Code § 18.2-308.2:5. Thus, the proper scope of the circuit court's order remains an open question. *See, e.g.*, Va. Const., Art. IV, § 2; *see also Trump v. CASA, Inc.*, 606 U.S. 831 (2025).

Even so, states must have mechanisms to address situations where attorneys general oppose laws passed by their legislatures and then decline to defend them in litigation.[2] *Berger v. North Carolina State Conf. of the NAACP*, 597 U.S. 179, 185 (2022). Virginia provides such mechanisms for interested parties to intervene in civil cases. *See* Rules 3:14 and 3:14A. These rules are applicable both to state officials and private citizens, but all interested parties must adhere to the requirements specified in the governing procedural rules.

To file a valid motion to extend the deadline to file a notice of appeal in any case, the movant must be an "aggrieved party" to the circuit court's judgment. Code § 17.1-405(A). The Supreme Court has held that Code § 17.1-405 "confers standing to bring an appeal to the Court of Appeals *only* on those who were litigants joined in the proceeding from which the judgment appealed from was taken." *Bonanno v. Quinn*, 299 Va. 722, 732 (2021) (emphasis added). The class of "aggrieved part[ies]" entitled to appeal does not "include those who might, should, or must be joined as parties, but rather . . . those who actually have been so joined." *Id.* at 731. The Attorney General-Elect did not move to intervene while the case remained within the circuit court's jurisdiction. *See generally* Rule 1:1(a) (providing that the circuit court retains jurisdiction over a case for 21 days after it has entered final judgment).[3]

The Attorney General-Elect identifies no claim of his own at this point in the case; he explicitly asserts only a purported future interest in the case. The United States Supreme Court's analysis in both *Cameron* and *Berger* was concerned with "the participation of lawfully authorized state agents." *Berger*, 597 U.S. at 192. Virginia law does not authorize an Attorney General-Elect to defend Virginia's interests before the elected official's inauguration. And, while Virginia law does allow for intervention, *see* Rules 3:14 and 3:14A, this can occur only when the Rules of Court which permit it have been followed. *See Cameron*, 595 U.S. 267 (holding

[2] In North Carolina, the jurisdiction in which *Berger* arose, state law specifically allows certain other public officials to pursue appeals where an Attorney General declines to uphold the legislature's handiwork. 597 U.S. at 183. Virginia has not embraced a North Carolina-style system.

[3] We recognize the timing of the proceedings here strained the Attorney General-Elect's ability to intervene within the 21-day time period.

that sitting state officials should have been permitted to intervene when state law gave them the right to do so, the case remained active, and the officials timely moved to intervene); *see also Berger*, 597 U.S. 179 (same).

Here, the Attorney General-Elect is not currently a sitting state official, and he did not intervene below. Additionally, the Attorney General-Elect presumably seeks to represent the interests of Colonel Hanley, the defendant below. Hanley, however, has responded to the Attorney General-Elect's motions, maintaining that he does *not* wish to appeal the circuit court's order. Under our Rules, at this juncture, the Attorney General-Elect lacks standing to resuscitate and pursue Hanley's appeal.

For these reasons, the motion for an extension of time is denied.

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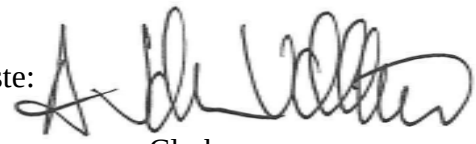
Teste: 
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