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U.S. DISTRICT COURT
N.D. OF ALABAMA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

EVAN MILLIGAN, *et al.*,
Plaintiffs,

v.

WES ALLEN, *et al.*,
Defendants.

Case No. 2:21-cv-1530-AMM

THREE-JUDGE COURT

STATE DEFENDANTS' SUPPLEMENTAL REPLY BRIEF ON *MILLIGAN* PLAINTIFFS' REQUEST FOR RELIEF UNDER SECTION 3(C) OF THE VOTING RIGHTS ACT

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INTRODUCTION

As the Eleventh Circuit recognized when assessing Section 3, "the remedy of preclearance" is "'a drastic departure from basic principles of federalism.'" *League of Women Voters of Fla. v. Fla. Sec'y of State*, 66 F.4th 905, 944 (11th Cir. 2023) (quoting *Shelby County v. Holder*, 570 U.S. 529, 535 (2013)). Case-by-case litigation is how rights are ordinarily adjudicated, and § 3, like § 5, was designed to remedy a specific harm—repeated violations of 14th and 15th Amendment rights that came faster than the speed of litigation. Only such extraordinary harms could justify such an extraordinary new power. And because this Court's ordinary equitable powers can fully remedy the harms this Court found, it is not "appropriate" to impose preclearance. 52 U.S.C. § 10302(c).

Plaintiffs' contrary reading of § 3 contradicts the provision's text, the wider context of the Voting Rights Act, and fundamental tenets of equity and federalism. While they earlier argued that "'remedy of preclearance' is discretionary and not mandatory," DE485:429, they now contend that "[t]he use of 'shall' in Section 3(c) strongly suggests the opposite—that a court *must* impose Section 3(c) preclearance once it identifies a constitutional violation." DE502:21. But that ignores the next ten words in the statute: "shall retain jurisdiction for such period as it may deem *appropriate*." 52 U.S.C. § 10302(c) (emphasis added). Statutory schemes that call for "appropriate relief" clearly "contemplate[] equitable consideration." *Weinberger*

v. Romero-Barcelo, 456 U.S. 305, 317 (1982). Thus, courts must follow the longstanding "rule that injunctive relief should be no more burdensome to the defendant than necessary to provide complete relief to the plaintiffs." *Califano v. Yamasaki*, 442 U.S. 682, 702 (1979).

Here, complete relief is possible without preclearance. Plaintiffs have already said so. DE497:2. They agreed that ordering the Special Master Plan through 2030 would be "a full remedy to the Section 2 violation." DE502:24. Plaintiffs cannot now protest that the plan is no longer a complete remedy. A § 2 violation alleging dilution is remedied by a plan that removes the dilution; likewise, a constitutional violation arising from dilution is remedied by a plan that removes the dilution. Thus, a "full remedy" for a § 2 vote-dilution claim is a "full remedy" for an intentional vote-dilution claim. Plaintiffs would reimagine § 3 as a sort of punitive sentence enhancement for States, to punish even when a normal injunction will do. But "[i]t is not the function of courts of equity to administer punishment." *Bangor Punta Operations, Inc. v. Bangor & A. R. Co.*, 417 U.S. 703, 717 n.14 (1974).

That leaves Plaintiffs to make the groundless assertion that Alabama imposed a "literacy test" through its absentee-voting law. There was no § 2 or intentional discrimination challenge brought against the law, enacted to prevent ballot fraud. And Plaintiffs here ignore that the Plaintiffs in *Alabama State Conf. of NAACP v. Marshall* never showed that *a single* affected voter would be unable to receive

absentee ballot assistance. *Alabama State Conf. of NAACP v. Marshall*, No. 2:24-CV-00420-RDP, 2024 WL 4282082, at *6 n.1 (N.D. Ala. Sept. 24, 2024). The fact that Plaintiffs would try to compare this narrow ballot integrity measure to the sweeping literacy tests of the past both ignores and unintentionally highlights the degree to which "[t]hings have changed in the South." *Nw. Austin Mun. Util. Dist. No. One v. Holder*, 557 U.S. 193, 202 (2009).

Most fundamentally, the notion that case-by-case litigation is insufficient to remedy Plaintiffs' claims is belied by this very case, where the conduct complained of occurred during the course of litigation, and was then addressed by litigation. And if there were any remaining doubt whether the State would attempt to "stay one step ahead of the federal courts." *Beer v. United States*, 425 U.S. 130, 140 (1976), the Defendants' recent assurances, DE493 at ¶¶ 3–5, and concessions, DE497 at ¶ 2, have resolved those doubts. Preclearance is an extraordinary remedy entirely unwarranted here.

ARGUMENT

I. Section 3(c) relief is not warranted without pervasive, flagrant, rampant, and widespread discrimination, including multiple recent constitutional violations by the jurisdiction to be covered.

A. Section 3(c) is not triggered because Plaintiffs failed to show multiple constitutional violations justifying equitable relief.

Plaintiffs ignore the Eleventh Circuit's admonition that "the remedy of [Section 3] preclearance" is "'a drastic departure from basic principles of

federalism.'" *League of Women Voters of Fla. Inc.*, 66 F.4th at 944 (quoting *Shelby County*, 570 U.S. at 535). "Federal courts do not exercise general legal oversight of the Legislative and Executive Branches, or of private entities." *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423-24 (2021). And courts "have no power per se to review and annul acts of Congress" or other laws "on the ground that they are unconstitutional." *Massachusetts v. Mellon*, 262 U.S. 447, 488 (1923). Rather, consistent with Article III and equitable principles that predate it, case-by-case litigation has been the norm since the founding. *See Shelby County*, 570 U.S. at 542, 546.

The VRA authorized a narrow departure from that understanding only because a century of litigation proved inadequate to protect the right to vote. *Id.* at 545. Through Section 5 and Section 4(b), preclearance applied to States with historically discriminatory voting devices and low registration and voting rates. *See id.* at 537. But Congress recognized that its coverage formula was not perfect, and areas not covered by Section 5 might also discriminate on such a widespread basis that preclearance was necessary to protect the right to vote. *See Conway Sch. Dist. v. Wilhoit*, 854 F. Supp. 1430, 1442 (E.D. Ark. 1994). At no point in our history, however, has preclearance been expected or even permissible based upon a single constitutional violation.

Against this backdrop, and in accordance with its text, Section 3(c) first requires multiple constitutional "violations." If Congress wanted to open the door to preclearance upon the finding of a single violation, it knew how to say so. *Cf. Milwaukee v. Illinois*, 451 U.S. 304, 329 n.22 (1981) (interpreting text "as written" where "Congress knows how to say" otherwise). It could have permitted preclearance after a finding of "any violation," just as the section refers to obtaining relief "in any proceeding" against "any State …." 52 U.S.C § 10302(c). *Cf. Sw. Airlines Co. v. Saxon*, 596 U.S. 450, 457-58 (2022) (applying the "meaningful-variation canon"). Instead, as it did throughout Section 3, Congress used the word "violations." In Section 3(a), for instance, Congress permitted appointment of federal observers after finding "violations," but it went on to clarify that observers are not necessary if, among other things, "incidents" of discrimination "have been few in number." By creating an exception for States with "few" infractions—which still implies more than one—Congress confirmed its focus on consistent, repeat offenders. Reading Section 3(c) within that historical, constitutional, and statutory "context" makes clear preclearance is reserved for narrow circumstances. 1 U.S.C. § 1. *Cf. Federal Communications Commission v. Consumers' Research*, 606 U. S. ____ (2025) (Kavanaugh, J., concurring) (slip op., at 9).

The multiple violations must also "justify[] equitable relief" now. 52 U.S.C. § 10302(c). Other than the violation in this case, Plaintiffs don't even try to explain

how any other violation meets that statutory requirement. Indeed, every violation they identify has already been remedied, and there is no claim that injuries from those violations remain or that preclearance of congressional redistricting maps would redress some unspecified leftover harm.

Even if Plaintiffs could identify ongoing harm from those other violations, the violations would not trigger Section 3(c). First, local violations do not weigh on whether *the State* must preclear its congressional maps. Section 3(c)'s reference to violations "within the territory of such State or political subdivision" does not demand otherwise because that language "simply makes clear that political subdivisions … may be subjected to § 3(c) relief based on their own violations." *Perez v. Abbott*, 390 F. Supp. 3d 803, 817 (W.D. Tex. 2019); *cf. Milliken v. Bradley*, 433 U.S. 267, 282 (1977) ("[F]ederal-court decrees exceed appropriate limits if they … are imposed upon governmental units that were neither involved in nor affected by the constitutional violation[.]"). Congress, to be sure, considered "local violations" before subjecting States in their "entirety"—*including* local governments—to preclearance, DE502:10. It made sense for Congress to consider, whether, for example, counties violated rights before freezing county law. In that situation, considering local violations ensured that "burdens" lined up with "needs." *Northwest Austin*, 557 U.S. at 203. The opposite is true here because Plaintiffs demand preclearance of the State's congressional districting plans. That remedy will

have no effect on local laws, and the manner a local government elects its city council or board of education is not very probative, if at all, of how the State will draw congressional districts.

The local violations resulting in consent decrees are especially inapposite for considering Section 3(c) preclearance. No one disputes that consent decrees are "judicially enforceable," DE502:11, but by entering a consent decree, presumably the localities "promptly" remedied perceived violations, *id.* at 16, a fact that Plaintiffs concede has "repeatedly" led courts to "decline[] to impose Section 3(c) relief," DE485:435. And at least one court has found that consent decrees had "reduced" value in this context. *See Jeffers v. Clinton*, 740 F. Supp. 585, 600 (E.D. Ark. 1990).

Second, for the remaining state violations, Plaintiffs focus on the intent of the legislature in 1975 and the motivations of a handful of legislators (no longer in office) from over a decade ago. DE502:12. Those violations cannot empower the Court to presume legislative guilt for the next decade. As for the *Shaw* claim in *Alabama Legislative Black Caucus*, Plaintiffs suggest it is relevant because such a claim *could* demonstrate that a State acted to "restrict or dilute African American voting strength." DE502:12. But they never contend that was the case in *Alabama Legislative Black Caucus*. *See, e.g.*, DE498:4.

B. Preclearance is inappropriate and unconstitutional absent pervasive, flagrant, rampant, and widespread voting discrimination that makes case-by-case litigation inadequate.

As Plaintiffs previously acknowledged, even after findings of "violations justifying equitable relief," 52 U.S.C. § 10302(c), preclearance is "not mandatory," DE485:429. Plaintiffs now change course, suggesting that Section 3(c)'s "use of 'shall' … strongly suggests … that a court *must* impose Section 3(c) preclearance once it identifies a constitutional violation." DE502:21. But that reading of the statute omits what follows just a few words later: courts "shall retain jurisdiction for such period as it may deem *appropriate*." § 10302(c) (emphasis added). Principles of textual interpretation, federalism, and equity all show that preclearance would not be appropriate here.

For Section 5 preclearance, the Court has recognized that such an extraordinary departure from the norm is not "appropriate" absent the "exceptional and unique conditions" Congress confronted in the 1960s. *Shelby County*, 570 U.S. at 555 (cleaned up). Thus, courts have looked to the Supreme Court's Section 5 jurisprudence to understand Section 3(c). *See League of Women Voters of Fla.,* 66 F.4th at 944; *Perez,* 390 F. Supp. 3d at 819, 821. In this area, courts must "heavily rel[y] on *Shelby County*." DE502:17. Even Plaintiffs once saw preclearance as a "discretionary" remedy "most appropriate" to combat "the same 'exceptional conditions' Congress confronted when the [VRA] was enacted." DE485:429.

Plaintiffs now say a court "*must* impose Section 3(c) preclearance once it identifies a constitutional violation." DE502:21. Until a week ago, they knew preclearance had to be "appropriate." If courts understood preclearance to be required in any case upon a single constitutional violation, Section 3(c) would not be a "rarely used" statutory provision, *Conway*, 854 F. Supp. at 1442, receiving little attention from the district and circuit courts and essentially none from the Supreme Court, *see, e.g.*, *League of Women Voters of Fla.,* 66 F.4th at 944.

True, Plaintiffs do not demand Alabama preclear *all* changes to *all* voting laws, but the "substantial," "extraordinary," "unprecedented," and "troubling" intrusions imposed by preclearance do not fall away when a plaintiff demands preclearance of just one type of voting law. *Shelby County*, 570 U.S. at 540, 545-46, 550. In both circumstances, federal courts still act in sharp "departure" from their ordinary authority. *Presley v. Etowah Cnty. Comm'n*, 502 U.S. 491, 500-01 (1992); *Shelby County*, 570 U.S. at 542-45. Normally, for a federal court to halt State action, a plaintiff must come into court and prove that the State acted beyond its authority. *Cf. Trimble v. Gordon*, 430 U.S. 762, 778 (1977) (Rehnquist, J., dissenting) (noting that "the Constitutional Convention in 1787 rejected the idea that members of the federal judiciary should sit on a council of revision and veto laws which it considered unwise"). And in redistricting cases, the plaintiffs must overcome the heavy presumption of legislative good faith. *Alexander v. S.C. State Conf. of the NAACP*,

602 U.S. 1, 10 (2024). Preclearance flips the burden on the State to prove its innocence. That power is extraordinary. *Contra* DE502:3-4, 17-18. Freezing a single type of state law threatens sovereignty no matter the category, but imposing preclearance over districting is especially invasive, for even the mere "review of districting legislation" works "a serious intrusion on the most vital of local functions." *Miller v. Johnson*, 515 U.S. 900, 915 (1995). To show that an "extraordinary" preclearance remedy is appropriate, Plaintiffs must show discrimination so widespread that ordinary remedies—the ones that apply to every single other type of constitutional violation—are inadequate to protect the right to vote. *See* DE498:18-19.

Litigation did not suffice when Congress faced a long history of States flagrantly violating voting rights so often that despite successful voting rights lawsuits, huge percentages of black Americans were unable to cast ballots. *See Katzenbach*, 383 U.S. at 313. States purposefully and repeatedly violated voting rights in the face of final judgments. *Id.* at 314, 335. Congress thus made a "presumption" that certain jurisdictions were "likely" to continue violating rights and evading court orders. *McCain v. Lybrand*, 465 U.S. 236, 245-46 (1984). And that presumption of illegality and disobedience was precipitated by "nearly a century" of "notorious" and "blatant" discrimination. *Brnovich v. Democratic Nat'l Comm.*, 594 U.S. 647, 655-56 (2021). So if it is "unclear" whether preclearance is

warranted today, DE502:25, that is because "no one can fairly say" voting discrimination looks anything like it did in the 1960s, *Shelby County*, 570 U.S. at 554.

Preclearance is not appropriate here because Alabama has not engaged in widespread violations that prevent case-by-case litigation from protecting the right to vote. Here, litigation has been adequate. The State is not even endeavoring to draw new maps now or at any time before new census data arrives in 2031, absent some intervening circumstance in this case on appeal. DE493, ¶¶ 3-5; DE497, ¶¶1-2. This is not Alabama of 1965. Plaintiffs have nothing to show for even the faintest suggestion that Alabama is engaging in "unremitting" and "widespread" violations that make "case-by-case litigation … inadequate" and preclearance "appropriate." *Katzenbach*, 383 U.S. at 309, 328, 334. So they ignore it.

Further, Defendants' recent statements and concessions should guarantee that case-by-case litigation remains both possible and appropriate to remedy any future claims concerning Alabama's Congressional maps. Defendants' agreement to use the Special Master plan for the remainder of the decade unless they prevail on appeal should put preclearance to rest. Plaintiffs agree that a permanent injunction requiring use of the Special Master's map fully remedies their Section 2 claim. *See* DE502:24. Yet, they go on to say that injunction would not completely remedy their Fourteenth Amendment claim. *Id.* That cannot be right. If an injunction remedies dilution under

Section 2, then it must also remedy the intentional dilution they allege as the basis of their constitutional claim. This concededly complete remedy confirms that case-by-case litigation is adequate.

This litigation does not approach the "pervasive, flagrant, widespread, and rampant discrimination that faced Congress in 1965." *Shelby County*, 570 U.S. at 554 (cleaned up). Plaintiffs ignore what the Supreme Court has said to be true again and again—that navigating the twin commands of Section 2 and the Fourteenth Amendment is not as straightforward as complying with, for example, the prohibition on discriminatory literacy tests. Indeed, it appears, that in *Louisiana v. Callais*, after the Supreme Court received two dozen briefs and over an hour of oral argument about Louisiana's 2024 congressional plan, the Court decided it needed more briefing and re-argument next term. See Order, No. 24-109 (U.S. June 27, 2025). *Callais* was potentially poised to bring clarity to States when balancing the competing hazards of liability in redistricting. And yet the Supreme Court found itself unable to do that even with the extensive record and arguments before it.

In another attempt to show extraordinary conditions, Plaintiffs even go so far as to dispute whether Alabama eliminated literacy tests. DE502:19-21. In the 1960s, States administered literacy tests in "discriminatory fashion," where white voters were often "excused" or "given easy versions" while black voters were given

"difficult" tests with zero tolerance for errors. *Katzenbach*, 383 U.S. at 312, 334. The entire point was to disenfranchise black Americans.

By contrast, Alabama's ballot harvesting law (the so-called "repackaged and renamed" literacy test, DE502:20) permits blind, disabled, or illiterate voters to receive "assistance by an individual of the voter's choice" in filling out an absentee ballot application so long as the assistor is not paid. Ala. Code § 17-11-4(e). "Highly respected judges in this [D]istrict and the Middle District have … recognized that voter fraud may be a problem," *Ala. St. Conf. of the NAACP v. Marshall*, 746 F. Supp. 3d 1203, 1237 (N.D. Ala. 2024), and the law furthers the "compelling interest in preserving the integrity of its election process," *id.* at 1213 (quoting *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006)). In addition to serving powerful interests, the law's burden is so minimal that the plaintiffs could not find a single voter unable to complete an absentee ballot application without prohibited assistance. *See Marshall*, 2024 WL 4282082, at *6 n.1 (finding that all evidence was consistent with Defendants' evidence that "voters perhaps can choose people not within the scope of SB1 to assist them"). Though Plaintiffs demean the law as a race-based plow, some of them were also plaintiffs in that case, and none claimed racial discrimination. *See Marshall*, 746 F. Supp. 3d at 1215. That Plaintiffs need to highlight *this* law (which was not even challenged as discriminatory in intent or

effect) to claim "similarities" to 1965 (DE502:21), confirms the obvious: "things have changed dramatically." *Shelby County*, 570 U.S. at 547.[1]

Without support from the Supreme Court's preclearance precedent, Plaintiffs analogize several district court opinions. DE502:15-16. But those decisions change nothing. In *Jeffers v. Clinton*, discriminatory action was "swift and certain" when a black candidate might succeed. 740 F. Supp. at 595. Yet, as Plaintiffs say, Alabama has "many more Black representatives today" than in 1965 because of successful "VRA litigation." DE502:19. If Alabama today had the sort of record found decades ago in *Jeffers*, those results would not be so durable. Plaintiffs also cite *Patiño v. City of Pasadena*, 230 F. Supp. 3d 667 (S.D. Tex. 2017), which imposed preclearance with "no analysis," *League of Women Voters of Fla., Inc. v. Lee*, 595 F. Supp. 3d 1042, 1176 (N.D. Fla. 2022); *accord Perez*, 390 F. Supp. 3d at 813 n.6. But an extraordinary remedy like preclearance deserves more.[2]

[1] The hastily prepared 1992 Department of Justice preclearance objection is not proof of discriminatory intent or effect. *See Miller v. Johnson*, 515 U.S. 900, 922-23 (1995); *see also id.* at 924-25 (condemning DOJ's "policy of maximizing majority-black districts"); *Abrams v. Johnson*, 521 U.S. 74, 81, 84-90, 93 (1997). *Contra* DE502:23.

[2] The Northern District of Florida's decision declining to preclear legislation in a jurisdiction already subject to Section 3(c) does not speak to whether Section 3(c) relief is warranted, *see McMillan v. Escambia Cnty.*, Fla., 559 F. Supp. 720, 727 (N.D. Fla. 1983). *Contra* DE502:15. Nor do cases in which the government *agreed* to bail-in. *See* DE502:8 n.2.

II. The Court should not retain jurisdiction as an exercise of "inherent equitable power."

The Court should not subject the State to preclear next decade's congressional districts in this Court under the guise of its "inherent equitable power," either. Just days ago, the Supreme Court reiterated that equitable authority is not unlimited but restricted to the authority to issue the types of relief "'traditionally accorded by courts of equity' at our country's inception." *See Trump v. CASA, Inc.*, 606 U.S. ___ (2025) (quoting *Grupo Mexicano de Desarrollo, S. A. v. Alliance Bond Fund, Inc.*, 527 U. S. 308, 319 (1999)) (slip op., at 5-6 & n.5); DE498:27-28. Yet Plaintiffs never explain why courts have authority to retain jurisdiction over a State's election laws to preapprove new legislation or provide a standard to apply in determining when courts should do so, and they even refuse to acknowledge any limitation of equitable powers. The use of this Court's inherent equitable power to preemptively exercise jurisdiction over a hypothetical challenge to a hypothetical law that won't exist until 2031 at the soonest is inappropriate and unnecessary for several reasons.

First, Congress already created an avenue to "retain jurisdiction" to review a new voting "qualification, prerequisite, standard, practice, or procedure." 52 U.S.C. § 10302(c). To insist that this Court do so under inherent powers circumvents the statutory scheme, *cf. Alexander v. Sandoval*, 532 U.S. 275, 290 (2001) ("The express provision of one method of enforcing a substantive rule suggests that Congress intended to preclude others."), and defeats the purpose of the Section 3(c) remedy.

And while Plaintiffs claim retention of jurisdiction "is far different from preclearance," DE502:29, their main authority recognized the opposite, *see Jeffers*, 740 F. Supp. at 603 (retention of jurisdiction to review new map is "in the nature of preclearance"). If Plaintiffs are not entitled to Section 3(c)'s extraordinary statutory remedy, it's not within the Court's ordinary and inherent powers to impose it on its own.

Second, and most significant, Plaintiffs neglect to consider the State's recent assurances and concessions in agreeing to forgo drawing a remedial plan following the Court's injunction, agreeing to forgo drawing any *other* congressional plan before receiving the 2030 census data, and agreeing not to contest the duration of an injunction that required Alabama to use the Special Master's Plan for the remainder of the decade. DE493, ¶¶ 3-5; DE497, ¶¶1-2. Until the 2030 cycle, and while reserving their rights of appeal in this case, the State Defendants have made it clear that Alabama will continue with the court-ordered Special Master's Plan. DE493, ¶¶ 3-5; DE497, ¶¶1-2. Despite these clear representations and agreements, *see* DE493; DE497; DE498[3], Plaintiffs argue as if the State plans to ignore the Special Master Plan and/or draw mid-cycle redistricting plans. The reality is that the State's

[3] The State also addressed its concessions orally before the Court at the parties' May 28, 2025 virtual Status Conference.

concessions eliminate any remote need for this Court to retain jurisdiction outside of its present authority to enforce and ensure compliance with its injunctions.

While few jurisdictions have established a clear standard or set of factors to help determine when a court should retain jurisdiction in the context of a Voting Rights Act violation, the court in *Regensburger v. City of Bowling Green* illustrated that a court may exercise this inherent authority when it is "necessary or practicable to achieve compliance[.]" 278 F. 3d 588, 597 (6th Cir. 2002). The State's representations alone negate any necessity or practicability of jurisdiction retention.

The State's concessions also draw a clear distinction between the cases Plaintiffs cite in support of retaining jurisdiction and the facts here. For support, Plaintiffs point to courts that "retained jurisdiction … and heard later challenges to new plans." DE502:27; *see e.g., id.* at 27 n.5. Plaintiffs, however, demand the Court retain jurisdiction for the sole purpose of hearing a later challenge to a map that the State has clearly represented it will not draw until the next decade, when it will then be required to do so in light of new data. To retain jurisdiction—not to assess compliance with an injunction, but to assess liability in the first instance—is a preclearance remedy. Those decisions from "the 20th century" do not "address[] the propriety" of imposing a novel preclearance remedy that circumvents a congressional remedy. *CASA*, slip op., at 9 & n.7. In other words, those decisions never explain why this Court inherently has such an extraordinary power. Nor do

those decisions deal with defendants, like the State Defendants here, who have made representations that eliminate any necessity or practicability for retaining jurisdiction.[4]

Apart from never explaining why the Court has this authority, Plaintiffs also fail to articulate why the remedy is needed. On the one hand, they demand this Court have the "first opportunity" to hear any challenge because it is "familiar[]" with the State's "conduct," DE502:25, and disclose that the challenge they're planning for "the 2030 cycle would involve the same principle defendant, the same cause of action, and similar factual allegations," *id.* at 29. But that is just what plaintiffs said in *Boe v. Marshall*, making the suspect decision to relate their case to another pending before Judge Myron Thompson because they purportedly "implicate[d] overlapping and often identical issues of law and fact," including "an understanding

[4] In addition to this key distinction, several of the cases Plaintiffs cite are factually inapplicable for other reasons. For example, in *United States v. Virginia*, the court retained jurisdiction *on remand following an order* from the Fourth Circuit for Virginia *to take action to remedy the constitutional violation*. *See generally* 518 U.S. 515 (1996). Similarly, in *Fain v. Caddo Par. Police Jury*, the court retained jurisdiction because it *ordered the defendants to decide* whether it was proceeding with an interim plan and/or calling a special election. 312 F. Supp. 54, 57-58 (W.D. La. 1969). Here, the Court has not ordered the State to take any action necessitating further review or supervision. In *Shayer v. Kirkpatrick*, the court retained jurisdiction "to implement, enforce, and amend [its] judgment as shall be meet and just and in accordance with the 1980 census figures" *only through the 1980 districting cycle*. 541 F. Supp. 922, 935 (W.D. Mo.), *aff'd sub nom*. 456 U.S. 966 (1982). Plaintiffs request goes well beyond this scope, though. Finally, although Plaintiffs cite *Blacks United For Lasting Leadership, Inc. v. City of Shreveport* as a case where "the district court retained jurisdiction over its court-ordered plan and heard a later challenge after a new census," DE502:25 n.5, that court actually retained jurisdiction to avoid delay because it *remanded the case and ordered the district court to remedy its own prior errors*. 571 F.2d 248, 255 (5th Cir. 1978).

of facts regarding gender identity and gender dysphoria;" "questions of Alabama's authority to constrain the medical options of transgender individuals; and … application of the Equal Protection Clause to sex-based classifications as applied to transgender individuals." Pls. Mot. to Reassign to Judge Myron H. Thompson as a Related Case at 2, *Walker v. Marshall*, No. 2:22-cv-167 (M.D. Ala. Apr. 12, 2022), ECF 8. That sounds a lot like asking Judge Thompson to "address new claims arising out of the same pattern of conduct." DE502:28.

Plaintiffs claim retention of jurisdiction is necessary "to assure compliance with … court orders." DE502:26. But the court always has authority to enforce compliance with its injunctions, *see* DE498:26, whether or not it retains jurisdiction, and whether or not it decides that it will hear a potential challenge to a map based on census data that does not yet exist. If compliance is the reason, retention of jurisdiction is unnecessary.

CONCLUSION

The Court should not grant relief under Section 3(c) of the Voting Rights Act or otherwise retain jurisdiction.

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CERTIFICATE OF SERVICE

I certify that on July 1, 2025, I electronically filed the foregoing notice with the Clerk of the Court using the CM/ECF system, which will send notice to all counsel of record.

/s/ James W. Davis
Counsel for Secretary Allen