

**IN THE DISTRICT COURT OF APPEAL
FOR THE FIRST DISTRICT, STATE OF FLORIDA**

**Case No. 1D2026-1559
L.T. Case No. 2026-CA-925**

VONDA THOMPSON-WYNN; GINO VACCARI; EMMA JANE RUBINI,
SHELBY MCGUIRE-SMITH; MARK TABER; and SAIGE WISBY,
Plaintiffs-Appellants,

v.

CORD BYRD, in his official capacity as Florida Secretary of State;
the FLORIDA SENATE; and the FLORIDA HOUSE OF
REPRESENTATIVES,
Defendants-Appellees.

On Appeal from a Nonfinal Order of
the Second Judicial Circuit

THOMPSON-WYNN PLAINTIFFS-APPELLANTS' INITIAL BRIEF

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- Evan Axelbank, *Florida Redistricting Costs Climb as Millions are spent to alert voters confused of changes*, Fox 13 Tampa Bay (May 6, 2026), <https://www.fox13news.com/news/florida-redistricting-costs-climb-millions-spent-alert-confused-voters-changes> 43, 44
- Katelyn Ferral, *Florida’s new voting map will cost taxpayers, add work for elections supervisors*, Tampa Bay Times (May 5, 2026), <https://www.tampabay.com/news/florida-politics/elections/2026/05/05/florida-congressional-map-voting-midterms/> 43
- Welcome to Florida Redistricting 2022*, Florida Redistricting, <https://www.floridaredistricting.gov/> (last visited May 8, 2026) 8

INTRODUCTION

In 2010, Florida voters overwhelmingly cast their ballots with the primary purpose of enshrining an amendment to the Florida Constitution “to eliminate the age-old practice of partisan political gerrymandering—where the political party and representatives in power manipulate the district boundaries to their advantage.” *League of Women Voters of Fla. v. Detzner*, 172 So. 3d 363, 369 (Fla. 2015) (“*LWVFL*”). The U.S. Supreme Court approvingly cited Florida’s Fair Districts Amendment (“FDA”) as an example of states “actively addressing the issue [of excessive partisan gerrymandering] on a number of fronts.” *Rucho v. Common Cause*, 588 U.S. 684, 719 (2019). And not that long ago, the Florida Supreme Court enforced this constitutional provision to strike down the 2012 congressional maps, which it found were drawn with unconstitutional partisan intent. *LWVFL*, 172 So. 3d at 375.

Despite—and avowedly in spite of—Florida’s express constitutional prohibition on partisan gerrymandering, the Florida Legislature and Governor engaged in an unprecedented voluntary mid-decade redistricting to pass a new congressional plan (the “2026 Plan”) that blatantly violates the FDA. Remarkably, Florida elected

officials and their legal counsel *expressly admitted* that the 2026 Plan did so. It is thus no surprise that the 2026 Plan—crafted with a total lack of transparency, released to Fox News by Governor DeSantis in partisan red and blue shading before it was even sent to the Legislature, admittedly drawn relying on partisan data, and rammed through the Legislature, which fully adopted it as its own, in just two days’ time—was created with the intent to surgically crack and pack Democratic voters to favor one political party and its incumbents and to disfavor another. In pursuit of these unlawful partisan aims, the 2026 Plan also violates the Florida Constitution’s requirement that districts utilize existing political and geographic boundaries where feasible, splitting more counties and municipalities, reducing the compactness of districts, and needlessly moving millions of Floridians to new districts mid-decade for partisan advantage.

Plaintiffs-Appellants challenged the flagrantly unconstitutional 2026 Plan as quickly as possible—filing their lawsuit *the same day* the map was signed into law—and moving only days later for emergency temporary injunctive relief to prevent the implementation and enforcement of the unconstitutional 2026 Plan that would cause them irreparable harm in the upcoming 2026 congressional primary

and general elections. Any tight timeline for challenging the map was completely of Defendants-Appellees' own making. Indeed, the Governor took every step to delay the redistricting timeline, including announcing in January that a special session would come much later in the election calendar, delaying the special session, drawing the plan in secret, and waiting five days after the 2026 Plan was passed to sign it into law.

Despite Plaintiffs-Appellants' diligent action, the circuit court denied Plaintiffs-Appellants' motion for temporary injunctive relief—one day after the date by which the Secretary stated a map must be in place for the 2026 election—in large part because the court found that it is already too late in the election cycle to grant Plaintiffs-Appellants even status quo relief. The circuit court also found that injunctive relief was improper because the Governor, an elected state official, unilaterally announced the 2022 Plan—a state law—was unconstitutional, which, according to the circuit court, then placed a burden on Plaintiffs-Appellants to prove otherwise. And discounting the overtly partisan statements and actions of the map drawer, the Governor, and the Legislature, as well as the voluminous evidentiary record submitted by Plaintiffs-Appellants, the court

found that there was insufficient evidence to show a substantial likelihood of success on the issue of partisan intent.

This Court should reverse the circuit court’s decision, which has no basis in the law and constitutes an abuse of discretion. There is still time for this Court to avoid the irreparable harm that will result to Plaintiffs-Appellants, individual Florida voters, from being forced to vote under a map that was clearly drawn to gain partisan advantage for one political party in the 2026 midterm elections and beyond. Indeed, it is not too late in the election cycle to return to the status quo 2022 Plan—candidate qualifying does not even begin until June 8. Moreover, Plaintiffs-Appellants do not shoulder the burden to prove the constitutionality of the 2022 Plan—particularly where *elected state officials* vaguely and conveniently announce its unconstitutionality after defending it for years—but even if they did, Plaintiffs-Appellants have. In addition, such injunctive relief is warranted here because Plaintiffs-Appellants are substantially likely to succeed on the merits of their claims, a temporary injunction is squarely in the public interest, and it is undisputed that there is no adequate remedy at law apart from injunctive relief. At bottom, Florida’s Constitution has teeth—and this Court should enforce it.

Plaintiffs-Appellants respectfully request that this Court reverse the lower court's decision and grant them temporary injunctive relief against the unconstitutional 2026 Plan, reviving the 2022 Plan for the upcoming primary and general congressional elections.

STATEMENT OF THE CASE AND OF THE FACTS

I. FACTUAL BACKGROUND

A. The Fair Districts Amendment was overwhelmingly approved by voters to ban partisan gerrymandering.

In 2010, Floridians overwhelmingly, by a 62.9% to 37.1% margin, voted to enact the FDA concerning congressional districts to the Florida Constitution, in Article III, § 20. TW.App.118. The FDA provides that, "In establishing congressional district boundaries:"

(a) No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent; and districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice; and districts shall consist of contiguous territory.

(b) Unless compliance with the standards in this subsection conflicts with the standards in subsection (a) or with federal law, districts shall be as nearly equal in population as is practicable; districts shall be compact; and districts shall, where feasible, utilize existing political and geographical boundaries.

(c) The order in which the standards within subsections (a) and (b) of this section are set forth shall not be read to

establish any priority of one standard over the other within that subsection.

Art. III, § 20, Fla. Const.

The public record and Florida Supreme Court precedent make clear that, in passing the FDA, Florida’s voters primarily “sought to eliminate the age-old practice of partisan political gerrymandering . . . by forbidding the Florida Legislature from drawing a redistricting plan or an individual district with the ‘intent to favor or disfavor a political party or an incumbent.’” *LWVFL*, 172 So. 3d at 369. The FDA was crafted and passed in the wake of decades of partisan gerrymandering in Florida. *See, e.g.*, TW.App.113-118. Newspaper editorials endorsing the FDA, spokespeople advocating on behalf of the FDA, and the FDA’s own initiative committee all coalesced on the prohibition of partisan gerrymandering as the focal point of the amendment. *Id.* In prior litigation, the Secretary of State’s own expert concluded, in a report titled “Purpose of 2010 Fair Districts Amendments as Understood Through A Historical Review of the Information Available to Voters,” that the FDA had a “primary purpose of minimizing the political partisan drawing of legislative and

congressional districts in Florida.” TW.App.561, 564-65, 587, 597, 608-09, 615-16.

In the first redistricting cycle after the passage of the FDA, the Florida Supreme Court dutifully applied the new constitutional standard to invalidate Florida’s 2012 congressional map for having been drawn with unconstitutional partisan intent in violation of the FDA. *LWVFL*, 172 So. 3d at 375. In doing so, the Court noted that “[t]here is no question that the goal of minimizing opportunities for political favoritism was the driving force behind the passage of the Fair Districts Amendment.” *Id.* at 374 (quoting *In re Senate Joint Resol. of Legis. Apportionment 1176*, 83 So. 3d 597, 639 (Fla. 2012) (“*Apportionment I*”).

In 2019, the U.S. Supreme Court, in explaining why its decision finding partisan gerrymandering claims nonjusticiable in federal courts “does not condone excessive partisan gerrymandering . . . [or] condemn [such] complaints . . . to echo into a void,” approvingly cited the FDA as an example of states “actively addressing the issue [of excessive partisan gerrymandering] on a number of fronts.” *Rucho*, 588 U.S. at 719 (noting that “[p]rovisions in . . . state constitutions can provide standards and guidance for state courts to apply” in

protecting against partisan gerrymandering). That is exactly what was intended by Floridians in passing the FDA.

B. The 2022 congressional plan was endorsed as constitutional by Governor DeSantis and defended by Defendants-Appellees.

The last congressional redistricting in Florida occurred in 2022, following the results of the 2020 decennial census. Because of the state's population growth, Florida was accorded an additional congressional seat, bringing its total congressional delegation to 28 members. The Legislature initially passed its own proposed congressional redistricting plan, CS/SB 102, on March 4, 2022.¹ However, on March 29, 2022, Governor DeSantis vetoed the Legislature's congressional plan and called a special session from April 19-22, 2022.² Ultimately, on April 21, 2022, the Legislature passed SB 2-C, the 2022 congressional map ("2022 Plan") proposed by Governor DeSantis's office, and Governor DeSantis signed SB 2-C into law on April 22. *Id.*

¹ CB/SB 102 also contained a secondary congressional plan which would go into effect in the event that CD 5 of the initial plan was invalidated. *Welcome to Fla. Redistricting 2022*, Fla. Redistricting, <https://www.floridaredistricting.gov/> (last visited May 8, 2026).

² *Id.*

The 2022 Plan was drawn using the population data from the 2020 census and contained 28 equally populated districts. Eight of those districts favored Democrats, and 20 favored Republicans. TW.App.181, ¶ 34. The 2022 Plan includes 10 districts identical to the ones in the Legislature’s original plan and 18 new districts created by the Governor’s map drawer, including Congressional Districts (“CDs”) 9, 10, 11, 12, 13, 14, 15, 16, and 18. TW.App.201 at 20:54-21:05.

In a presentation on the ultimately-enacted 2022 Plan, the self-identified map drawer, Deputy Chief of Staff for the Executive Office of the Governor Alex Kelly, stated that “race-neutral principles” motivated all districts he drew in the map, including the 2022 Central Florida and Tampa Bay area districts. *See, e.g., id.* at 15:23-35, 1:13:35-1:13:46, 1:33:03-07. In drawing the 2022 Plan, the map drawer stated that he focused on the Tier II requirements, including compactness, adhering to major roadways, and minimizing municipal splits. *Id.* at 1:16:08-20, 1:04:02-33, 1:10:43-1:11:02.

The 2022 Plan was used in the 2022 and 2024 elections. The 2022 Plan has been challenged in court, but no court has issued a ruling finding any district in the 2022 Plan unconstitutional. On July

17, 2025, the Florida Supreme Court issued a decision upholding Florida’s 2022 Plan against a challenge to CD 5 under the FDA’s racial vote dilution requirements. In that litigation, Appellees, the Florida House and Senate, insisted that “[n]o other district [] raises the same equal-protection concerns” as CD 5 in the 2022 Plan. TW.App.652. In response to a post on X that read “@GovRonDeSantis’ 2022 congressional map that added 4 Republican seats, caused Dems to lose 3 seats, upheld by Florida Supreme Court,” Governor DeSantis endorsed the 2022 Plan, responding: “[t]his was always the constitutionally correct map —and now both the federal courts and the FL Supreme Court have upheld it.” TW.App.122.

C. The 2025-2026 partisan redistricting wars motivated partisan gerrymandering in Florida.

On July 15, 2025, President Donald Trump began publicly calling for states with Republican-controlled legislatures to conduct mid-decade redistricting to gain additional Republican seats in the U.S. House of Representatives. TW.App.121. President Trump’s initial request was focused on Texas, but he added that “there could be some other states. We’re going to get another three or four or five in addition . . . we have a couple of other states where we’ll pick up

seats also.” *Id.* Following the President’s public call for redistricting, several states redrew their congressional districts “in ways that are predicted to favor the State’s dominant political party.” *Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418, 419 (2025); TW.App.123.

On July 24, 2025, Governor DeSantis said that he thought Florida could engage in mid-decade redistricting, primarily citing a claim that “the state is malapportioned” because of an undercount in the 2020 census as the reason why “it would be appropriate to do a redistricting in the mid-decade.” TW.App.122-23. No Census recount or reapportionment ever occurred. However, on August 7, 2025, the House announced the creation of the House Select Committee on Congressional Redistricting. TW.App.123.

Following Texas’s redistricting, President Trump posted on social media on August 20, 2025: “Big WIN for the Great State of Texas!!! Everything Passed, on our way to FIVE more Congressional seats and saving your Rights, your Freedoms, and your Country, itself. Texas never lets us down. Florida, Indiana, and others are looking to do the same thing.” *Id.* And on October 29, 2025, Evan Power, the Chairman of the Republican Party of Florida, advocated

for Florida to engage in a mid-decade redistricting which he claimed could result in three to five additional Republican congressional seats. TW.App.123-24.

On December 1, 2025, Governor DeSantis announced that he would be calling a special session for congressional redistricting in Spring 2026. TW.App.124. On December 3, 2025, Senate President Ben Albritton sent a Memorandum out to all Senators and Senate professional staff saying that “[t]he Governor has expressed a desire to address this issue next Spring. As such, there is no ongoing work regarding potential mid-decade redistricting taking place in the Senate at this time.” TW.App.203. The Memorandum also cautioned members about the limitations of legislative privilege related to redistricting. *Id.*

The House Select Committee on Redistricting met twice, on December 4 and 10, 2025, receiving presentations on an introduction to congressional redistricting outlining the basics of redistricting and the legal standards governing redistricting. At the December 4, 2025 meeting, Representative Mike Redondo, the Chair of the Committee, stated that the committee was formed to redistrict during the Legislature’s regular session, not a special session, because:

Given the fact that we are less than a year away from the election, not to mention the fact that the candidate qualifying period for federal office is in late April, it would be irresponsible to delay the creation and passage of a new map, especially until after session. It would also be irresponsible to any who are called to civil service and, most importantly, it would be irresponsible to the citizens of Florida.

TW.App.205 at 4:18-37; TW.App.125. At the December 10, 2025 meeting, in response to a question about whether Florida would be required to redistrict in response to a decision in the *Louisiana v. Callais* case, outside counsel to the House answered that it would “be a judgment call that has to be made when we see the *Callais* decision.” TW.App.206 at 1:00:00-1:00:17. Chair Redondo also promised that there would be “an opportunity for public comment at future meetings.” *Id.* at 1:14:42-1:15:03. The committee did not hold another meeting until April 28, 2026, at which, as discussed below, the committee provided less than two hours total time for public comment, which was ignored. TW.App.128.

Leading up to the mid-decade redistricting, Florida legislators made it clear that a redraw of the congressional map would be for partisan gain. For example, on December 10, 2025, State Senator Gruters reposted a pundit predicting that Florida would add up to five seats through a mid-decade redraw. TW.App.125. He also

claimed that such a redraw would increase the Republican majority and give President Trump “a full four years.” *Id.*; TW.App.126 (separate State Rep. stating that a mid-decade redistricting, if “[d]one correctly . . . will strengthen Republican seats, [and] help keep a GOP majority in Congress . . .”).

On January 7, 2026, Governor DeSantis issued a proclamation formally announcing the call for a special session for congressional redistricting to take place from April 20, 2026, through April 24, 2026. TW.App.126; TW.App.352. Governor DeSantis specified that the session was “to ensure that Florida’s congressional maps accurately reflect the population of our state and to comply with an upcoming U.S. Supreme Court ruling.” TW.App.207-09; TW.App.126; TW.App.212 (citing *Callais* as a reason for mid-decade redistricting). The U.S. Supreme Court did not issue its decision in the *Callais* case prior to the beginning of the special session or prior to the drafting of the congressional map introduced at the special session. The *Callais* decision came down on April 29, 2026—the same day the 2026 Plan was passed. *Louisiana v. Callais*, 146 S. Ct. 1131, 1147 (2026).

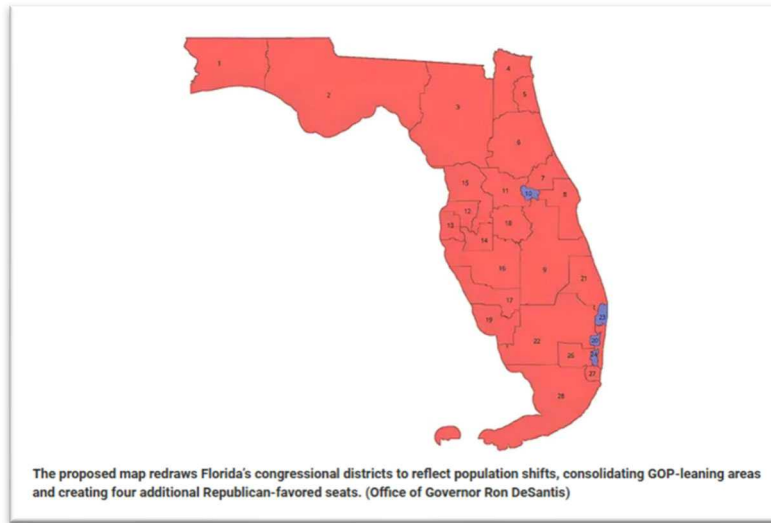
The original special session was supposed to start on April 20, 2026, but it was widely known that on April 21, Virginians were voting on a constitutional amendment allowing a redraw of their congressional districts prior to the 2026 election. TW.App.126. On April 15, 2026, right before the Virginia election, Governor DeSantis issued another proclamation delaying the special session to April 28, 2026, through May 1, 2026. TW.App.214-16; TW.App.126. On April 21, 2026, the amendment allowing a redraw of Virginia's congressional districts was approved by voters in Virginia. TW.App.127. Following the passage of the Virginia amendment, calls for Florida to engage in a retaliatory partisan gerrymander intensified, including from U.S. House Speaker Mike Johnson and Florida CD 3's Rep. Kat Cammack. TW.App.127.

D. The 2026 Plan was drafted in secret, in reliance on partisan data.

The 2026 Plan was drawn behind closed doors in a secretive process. The map was drawn by Jason Poreda, a staffer from Governor DeSantis' office, over the course of just two weeks. TW.App.354-55; TW.App.128; TW.App.217 at 1:26:06-14. It appears that rather than being initially developed by or in consultation with

the Legislature or legislative staff, the 2026 Plan was created solely by the Governor's office. According to Mr. Poreda, the only persons with whom he consulted or who reviewed the map prior to the April 27 release were "other [EOG] staff and counsel" that he refused to refer to by name on advice of counsel. TW.App.217 at 1:35:12-58. There was no opportunity for public comment or input during the development of the 2026 Plan. TW.App.127-28.

The 2026 Plan was not released to the public until April 27, 2026, the day before the special session on congressional redistricting commenced. TW.App.127. Governor DeSantis first released the 2026 Plan to Fox News, which published an article at 10:00 a.m. on April 27, 2026, including an image of the 2026 Plan credited as having been provided by the "Office of Governor Ron DeSantis." TW.App.219-20; TW.App.127. The image, shown below, depicts the 2026 Plan, color coded in red and blue to show the partisan lean of each district.



The map displays the 2026 Plan with four Democratic districts, which is a reduction by half of the eight Democratic districts in the 2022 Plan. In the image, the map was described as “consolidating GOP-leaning areas and creating four additional Republican-favored seats.” TW.App.219-20. The article also included a statement from Governor DeSantis which directly cited partisanship as a reason for the redraw, stating that since the 2020 Census, Florida has “moved from a Democrat majority to a 1.5 million Republican advantage.” TW.App.219.

Later that day, the Governor’s Office provided the 2026 Plan to the Senate Ethics and Elections Committee and House Select Committee on Congressional Redistricting along with a supporting memorandum from David Axelman, General Counsel to Governor

DeSantis (the “Axelman Memo”) and an accompanying data packet. TW.App.223-78; TW.App.279-82; TW.App.283-333. Senate President Ben Albritton then forwarded the materials to all members of the Senate. TW.App.223-78. The same documents were provided to the members of the House. TW.App.334-35; TW.App.128.

The following day, April 28, the Legislature held two hearings, one in the House and one in the Senate. At the hearings, the Governor’s map drawer, Jason Poreda, and Mohammad Jazil, redistricting counsel for the Governor’s office (and who now represents the Secretary in this litigation), presented the 2026 Plan to the respective committees. TW.App.128. Mr. Poreda and Mr. Jazil asserted, consistent with the Axelman Memo and based on the Governor’s unilateral interpretation of the law, that the map drawer was not bound by the FDA’s prohibition on drawing districts with partisan intent because the FDA is unconstitutional based on its racial provisions. TW.App.282; TW.App.128. As a result, Mr. Poreda openly admitted that partisan data was considered “for every district that [he] drew.” TW.App.217 at 43:45-44:06, 1:39:00-31; TW.App.128.

The only district in the 2022 Plan identified in the Axelman Memo as being constitutionally problematic was CD 20 and it was identified based only on the shape of the district. TW.App.281. But CD 20, which is not oddly shaped, is also more compact than a number of districts in both the 2022 and 2026 Plans. TW.App.191-92. Moreover, in a legislative committee hearing, the House Redistricting Chair stated that CD 20's performance on Tier II criteria was improved in the 2022 Plan, including on respecting major roadways and minimizing municipal splits. TW.App.399.

The two April 28 hearings, held on the same afternoon barely 24 hours after the 2026 Plan had been released, were the only opportunities for public comment and feedback on the Plan throughout the entire process. TW.App.128; TW.App.217; TW.App.336. Less than two hours total were provided for public comment, but those comments were overwhelmingly in opposition to the 2026 Plan. *Id.* Nevertheless, the 2026 Plan passed out of both committees without a single amendment even having been proposed. *Id.*

The same day the maps were presented to the Legislature, Defendant Secretary of State Byrd posted on X a picture celebrating

the infamous Elbridge Gerry, who he described as the “nam[e]sake of gerrymandering.” TW.App.337-38. Alex Lanfranconi, Gov. DeSantis’ Communications Director, reposted it several hours later, adding a laughing-face emoji. *Id.*

On April 29, the House met to briefly debate and vote on the bill. Mid-way through the House’s debate on the bill, the U.S. Supreme Court’s decision in the *Louisiana v. Callais* case was released. TW.App.128. The House voted down a proposal to recess for two hours to consider any impact the *Callais* decision might have on the redistricting. TW.App.339 at 44:50-45:35. An hour after the release of the *Callais* decision, the House passed the bill. TW.App.128. Before doing so, on the floor of the House, the sponsor of the 2026 Plan denied that the map was solely the Governor’s and proactively adopted it as the Legislature’s stating “We are the ones considering the map. We are the ones voting on the map. We have not deferred our duties under the Constitution.” TW.App.128; TW.App.339 at 16:40-16:52. The Senate sponsor echoed the same sentiment. TW.App.128-29; TW.App.340 at 1:34:54-1:35:12. Shortly thereafter, the bill was debated and passed by the Senate without amendment.

TW.App.340. It was signed into law by the Governor on May 4, 2026. TW.App.129.

Drawn with partisan data and unbound by the FDA's ban on partisan gerrymandering, the 2026 Plan egregiously cracks and packs Democratic voters to favor the Republican Party and disfavor the Democratic Party. TW.App.181-89, ¶¶ 34-39, Figures 1-8. The 2022 Plan had 20 Republican seats, and 8 Democratic seats. TW.App.181, ¶ 34. In distinct contrast, the 2026 Plan boosted the Republican seats to 24 of 28 seats, while slashing in half the number of Democratic seats to only 4. *Id.* In particular, the 2026 Plan carves up formerly Democratic CDs 9, 14, 22, and 25 into the surrounding areas and flips them into Republican districts. TW.App.176, 181-84, 186, 188-90. Thus, despite the Republican Presidential candidate receiving only 56% of the vote in 2024, the 2026 Plan awards Republicans 86% of Florida's congressional seats. TW.App.176, ¶ 19.

In order to crack and pack Democratic voters, the 2026 Plan splits more counties more times than the 2022 Plan and splits almost double the number of municipalities. TW.App.336 at 1:01:32-1:02:06. The 2026 Plan also declined in terms of compactness in numerous districts, as well as on agreement with various boundaries under the

Legislature's own metric. TW.App.191-92; TW.App.332-33; TW.App.341-43. And despite being based on the same 2020 Census data, the 2026 Plan needlessly moves millions of Floridians into new districts, altering 21 of 28 congressional districts, disparately impacting Democrats and substantially altering Democratic districts in the process. TW.App.176, 189-95.

E. The 2026 Elections.

Florida's congressional primary is not scheduled to take place until August 18, 2026. On May 4, 2026, all 67 Supervisors of Election were instructed to preserve the 2022 Plan in the event this litigation results in an injunction against the 2026 Plan. TW.App.359-60. The State begins accepting candidate qualifying materials on May 25, 2026, but the candidate qualifying period does not start until June 8, 2026. TW.App.730, ¶ 8. Candidate names will not be certified until June 13, 2026 at the earliest. *Id.* ¶ 9.

II. PROCEDURAL BACKGROUND

Thompson-Wynn Plaintiffs-Appellants, individual Florida voters Vonda Thompson-Wynn, Gino Vaccari, Emma Jane Rubini, Shelby McGuire-Smith, Mark Taber, and Saige Wisby, filed their lawsuit challenging the 2026 Plan and individual CDs 9, 10, 11, 12, 13, 14,

15, 16, and 18 on May 4, 2026, the same day the 2026 Plan was signed into law by Governor DeSantis. Plaintiffs-Appellants sued Defendants-Appellees Cord Byrd, in his official capacity as the Secretary of State, the Florida House of Representatives, and the Florida Senate. The case was assigned to circuit court judge Joshua M. Hawkes.

Plaintiffs-Appellants alleged that the 2026 Plan and individual CDs violate multiple Florida constitutional requirements, including that “[i]n establishing congressional district boundaries . . . [n]o apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent,” Art. III, § 20(a), Fla. Const. (Counts I and II), and the requirement that “districts shall, where feasible, utilize existing political and geographical boundaries.” Art. III, § 20(b), Fla. Const. (Count III).

On May 8, 2026, Plaintiffs-Appellants filed an emergency motion for temporary injunctive relief on their claims, with accompanying expert reports and supporting materials. On May 13, 2026, the circuit court ordered the consolidation of *Thompson-Wynn* with two other related cases also challenging the 2026 Plan: *Equal Ground Education Fund, Inc. v. Byrd*, Case No. 2026 CA 914 (main

case number) and *Common Cause v. DeSantis*, Case No. 2026 CA 928. All three sets of Plaintiffs-Appellants' temporary injunction motions were heard at a hearing held remotely on May 15, 2026.

Eleven days later, on May 26, 2026, the circuit court issued an eight-page order denying Plaintiffs-Appellants' motions for temporary injunctive relief. TW.App.358. The circuit court's decision came one day after the date identified by the Secretary of State by which a map for the 2026 election must be in place. *Id.* at 353. The circuit court found that even though it has the power "to enjoin and maintain the status quo during litigation," the "2022 map was declared unconstitutional when the Governor and Legislature replaced it with the 2026 map" and Plaintiffs-Appellants did "not sufficiently challenge the political branches' finding that CD-20 in the 2022 map was drawn with impermissible racial intent" and thus it could not prevent implementation of the "duly enacted 2026 map." TW.App.354-55. The court further noted that "if the Legislature and Governor are correct that the 2022 map has racial classifications, Plaintiffs-Appellants would have to provide this Court with sufficient evidence under strict scrutiny to justify the Court ordering its use again." *Id.* at 355.

Although the circuit court decided against issuing injunctive relief, it went “on to analyze the traditional elements of a temporary injunction.” *Id.* at 356. On the likelihood of success on the merits, the court considered limited evidence relating to partisan intent, including comments by the map drawer, and concluded that “there is insufficient evidence of impermissible intent to show substantial likelihood of success on the merits.” *Id.* at 356-57. The Court did not address the bulk of Plaintiffs-Appellants’ evidence, or the incumbent favoritism or boundary disagreement claims. Moving to irreparable harm, the court noted that it “need not decide that issue,” but stated that “the Executive and Florida House Defendants do not dispute the notion of irreparable harm.” *Id.* at 357. The court also found that it was undisputed that Plaintiffs-Appellants have no adequate remedy at law and “they cannot be compensated through money damages.” *Id.*

Finally, the circuit court found that “the balance of hardships and the public interest weigh heavily against the issuance of an injunction.” *Id.* In doing so, the court noted that “the election machinery of the state is already underway,” and “[t]he public interest weighs more in favor of certainty than a haphazard judicial

mandate of discarded maps.” *Id.* at 358. The circuit court expressly did not decide any issues related to the constitutionality of the FDA, noting such a ruling would be “premature” at this “preliminary stage” of the litigation. *Id.* at 352.

On May 26, 2026, *Thompson-Wynn* Plaintiffs-Appellants filed their notice of appeal of the circuit court’s order denying temporary injunctive relief.

SUMMARY OF ARGUMENT

The 2026 Plan was passed with impermissible intent to favor one political party and its incumbents and to disfavor the other political party and its incumbents. It also violates the Tier II requirement that congressional maps utilize political and geographic boundaries where feasible. With both direct and circumstantial evidence and an application of the clear legal precedent on the FDA, Plaintiffs-Appellants demonstrated a substantial likelihood of success on the merits of these claims, that there was a lack of an adequate remedy at law, that Plaintiffs-Appellants would suffer irreparable harm absent an injunction, and that the public interest would be served by injunctive relief. Defendants-Appellees failed to

rebut Plaintiffs-Appellants' evidence, instead largely relying on irrelevant and inaccurate legal theories.

In spite of this, the circuit court denied Plaintiffs-Appellants' preliminary injunctive relief, chiefly citing the claim that it would be an improper use of the injunctive power to enjoin the 2026 Plan and, consequently, revive the 2022 Plan for use in the 2026 congressional elections. This conclusion was made both contrary to the law—including applying the wrong legal standard and failing to properly place the burdens of proof on the appropriate parties for the requested revival of the status quo—and in an abuse of discretion—including by relying on inaccurate and unsupported factual findings. The circuit court also improperly assessed the applicability of the *Purcell* principle, which does not foreclose the relief sought by Plaintiffs-Appellants.

The circuit court only cursorily addressed the voluminous direct and circumstantial evidence presented by Plaintiffs-Appellants in support of the four factors justifying a temporary injunction for their claim that the 2026 Plan is infected by impermissible intent to favor and disfavor political parties. Its assessment of those factors involved multiple errors, both legal and factual. The circuit court also

altogether ignored Plaintiffs-Appellants’ well-pled and supported claims that the 2026 Plan is infected by impermissible intent to favor and disfavor incumbents and violates the Tier II requirement to utilize political and geographic boundaries where feasible. In sum, the circuit court’s order is not supported by the law or the facts and must be reversed.

STANDARD OF REVIEW

“The purpose of a temporary injunction is to preserve the status quo while the movant seeks permanent injunctive relief.” *Holland M. Ware Charitable Found. v. Tamez Pine Straw LLC*, 343 So. 3d 1285, 1289 (Fla. 1st DCA 2022). “A hybrid standard of review applies to trial court orders on requests for temporary injunctions.” *Bd. of Cnty. Comm’rs, Santa Rosa Cnty. v. Home Builders Ass’n of W. Fla., Inc.*, 325 So. 3d 981, 984 (Fla. 1st DCA 2021). The appellate court reviews the lower court’s legal conclusions *de novo*. “[W]hether the evidence is legally sufficient to justify entry of an injunction is a question of law that we review *de novo*.” *Holland M. Ware Charitable Found.*, 343 So. 3d at 1289. Factual findings are reviewed for abuse of discretion, but “[t]he trial court’s factual determinations must be supported by competent, substantial evidence.” *Bd. of Cnty. Comm’rs*, 325 So. 3d

at 984 (quoting *Planned Parenthood of Greater Orlando, Inc. v. MMB Props.*, 211 So. 3d 918, 926 (Fla. 2017)).

ARGUMENT

I. Preliminary injunctive relief is appropriate here.

The circuit court, in contravention of the law and abusing its discretion, denied Plaintiffs-Appellants' motion for a temporary injunction on the basis that granting such relief would be an improper use of injunctive power. But Plaintiffs-Appellants seek only to preserve the status quo, the emblematic circumstance for temporary injunctive relief. There is no legal or factual basis to find, as the circuit court did, that the revival of the 2022 Plan would run contrary to law. Nor does the federal *Purcell* principle, nor any state-law equivalent, foreclose Plaintiffs-Appellants' requested relief. Indeed, Plaintiffs-Appellees seek merely to maintain the 2022 Plan, originally adopted by Defendants-Appellees House and Senate and that governed Florida's congressional elections from its adoption in 2022, through two elections, and up until May 4, 2026. Having themselves deliberately waited and turned Florida's status quo *upside down* a mere 24 days ago—and with it the expectations of candidates, election administrators, and voters—Defendants-

Appellees should not now be heard by a court of equity to object to the maintenance of the map that had been in place since 2022 while a full adjudication of this rushed and obvious partisan gerrymander occurs. The circuit court’s denial of Plaintiffs-Appellants’ temporary injunction on these bases was error, and this Court should reverse.

A. Plaintiffs-Appellants seek only to preserve the status quo.

The prohibitory relief sought by Plaintiffs-Appellants—an injunction against the 2026 Plan—would have the effect of automatically reviving the status quo 2022 Plan.³ The 2022 Plan is indisputably the status quo, as recently defined by this Court. In *Byrd I*, this Court held that “[i]n any constitutional challenge to a newly enacted law, the status quo will be the condition prior to the subject matter in controversy arising: the circumstances *prior* to the challenged law becoming effective.” *Byrd v. Black Voters Matter Capacity Bldg. Inst., Inc.*, 339 So. 3d 1070, 1079 (Fla. 1st DCA 2022) (“*Byrd I*”), *writ denied*, 340 So. 3d 475 (Fla. 2022) (mem.). Applied to

³ HB 1-D—the statute to be enjoined—simultaneously repealed its predecessor, therefore an injunction against it will revive that predecessor under the longstanding principle of statutory revival. See, e.g., *Castellanos v. Next Door Co.*, 192 So. 3d 431, 448 (Fla. 2016).

redistricting legislation, “the status quo here plainly is the congressional districting as it existed before [the challenged statute] went into effect.” *Byrd I* at 1079. Whereas in *Byrd I*, Plaintiffs-Appellants were seeking to impose a remedial plan that had never been enacted by the legislature, Plaintiffs-Appellants here seek an injunction which would have the effect of reviving the *legislatively-enacted* 2022 Plan—the presumptively constitutional status quo.⁴

The circuit court properly identified that courts have “all writs power to enjoin and maintain the status quo during litigation.” TW.App.354. The circuit court then, however, incorrectly accepted Defendants-Appellees’ contention that, simply because they (elected officials) vaguely declared the 2022 Plan unconstitutional, Plaintiffs-Appellants bear the burden to demonstrate that the 2022 Plan is constitutional. Not so.

In its order, the circuit court relies heavily on *Byrd I*, but that case does not place any such burden on Plaintiffs-Appellants,

⁴ Further emphasizing how the 2022 Plan is the status quo, the Florida Supervisors of Elections were instructed to “*preserve* the previous congressional map that was in place for the 2022 and 2024 elections,” the 2022 Plan, to be prepared for it be used once again in 2026. TW.App.360 (emphasis added).

particularly where there is no evidence that the 2022 Plan is unconstitutional. Defendants-Appellees' argument to the contrary is nothing more than an attempt to side-step the public official standing doctrine, under which Defendants-Appellees cannot challenge the constitutionality of state law or refuse to administer state law as unconstitutional. See *State ex rel. Atl. Coast Line R. Co. v. State Bd. of Equalizers*, 94 So. 681 (Fla. 1922); *Crossings at Fleming Island Cmty. Dev. Dist. v. Echeverri*, 991 So. 2d 793 (Fla. 2008). Seeking to invalidate an entire voter-enacted constitutional amendment through the backdoor, *Defendants-Appellees* alleged the unconstitutionality of the 2022 Plan—which is unquestionably a state statute—the very statute they defended in *Byrd I*. This is impermissible under the public official standing doctrine. And while the circuit court noted that questions regarding the constitutionality of the FDA are premature at this stage, it nonetheless functionally endorsed Defendants-Appellees' impermissible constitutional challenge by shifting the burden of proof to Plaintiffs-Appellants to demonstrate the constitutionality of the presumptively constitutional, otherwise unchallenged 2022 Plan. This was legal error. Where Plaintiffs-Appellants, as here, seek only to preserve the status quo,

Defendants-Appellees cannot erect and enforce a burden on them to prove the lawfulness of that status quo (which they affirmatively stated in defending the map in court) by cursorily alleging the 2022 Plan is now unconstitutional.

B. Enjoining the 2026 Plan and thereby reviving the 2022 Plan is appropriate relief.

The circuit court committed legal error and abused its discretion to find that an injunction of the 2026 Plan resulting in the revival of the 2022 Plan was improper. Even to the extent that this Court agrees with the circuit court that an analysis of the 2022 Plan could be justified under these circumstances, the circuit court nonetheless erred in failing to require Defendants-Appellees to meet the burden to prove a racial gerrymandering claim against any particular district in the 2022 Plan before proceeding. Defendants-Appellees cannot do so, and there is insufficient evidence in the record to conclude that the 2022 Plan is unconstitutional.

As the foundation of its finding that injunctive relief is improper, the circuit court incorrectly stated that “the 2022 map was declared unconstitutional when the Governor and Legislature replaced it with the 2026 map challenged in this litigation.” TW.App.355; *id.*

(referencing “the political branches’ finding” and the Legislature’s “finding that the 2022 map is unconstitutional”). At the outset, the executive and legislative branches hold no power to declare any statute unconstitutional with any legal force—that power is solely vested in the judiciary. Art. V, § 1, Fla. Const. So, while the Governor has recently reversed course to declare that he now believes the 2022 Plan to be unconstitutional—despite before pronouncing that it “was always the constitutionally correct map,” TW.App.122—that declaration does not provide a valid legal basis on which the circuit court could premise its refusal to revive the 2022 Plan.

Furthermore, while some individual legislators may have shared the Governor’s views, some did not, *see, e.g.*, TW.App.340 at 3:47:27-52 (Senate bill sponsor expressing disagreement with argument that the remainder of the FDA would fall if the race-based provisions were declared unconstitutional), and more importantly, there was *no legislative pronouncement or finding of unconstitutionality* of any part of the 2022 Plan, nor could there be such a pronouncement that could legitimately constrain the court’s authority to construe the constitutionality of statutes. Even the court’s own factual findings do not reference where any such legislative finding exists. *See*

TW.App.352-53. The only definitive legislative statement on the 2022 Plan is the one that was made when the Legislature passed that plan just four years ago. By adopting the 2022 Plan, the Legislature endorsed its constitutionality. Instead, the circuit court relied on a non-existent legislative “finding that the 2022 map is unconstitutional” in its determination that the 2022 Plan should not be revived. TW.App.355. This is both wrong as a matter of law and an abuse of discretion because it relies on the court’s incorrect factual determination with no basis in evidence. Moreover, even if there was a “finding” by either political branch, that is not law. Once this improper factual claim is extinguished, the proper legal test is applied, and the record evidence is properly weighted, the circuit court’s determination that it would be improper to impose relief resulting in the revival of the 2022 Plan cannot stand.

The furthest Defendants-Appellees or the Governor go is to broadly allege that CD 20 in the 2022 Plan is oddly shaped and thus must have been drawn (by them) in violation of the U.S. Constitution. TW.App.281. While the circuit court claimed that “if the Legislature and the Governor are correct that the 2022 map has racial classifications, Plaintiffs-Appellants would have to provide this Court

with sufficient evidence under strict scrutiny to justify the Court ordering its use again,” TW.App.355, that assumes the unconstitutionality of the 2022 Plan, and is wrong for several reasons.

First, Defendants-Appellees have not met their burden to make an allegation triggering strict scrutiny. The circuit court, following the lead of Defendants-Appellees, confuses broad “racial classification” challenges, which cannot be alleged against the 2022 map writ large, with racial gerrymandering challenges, which could be lodged against districts in a redistricting plan.⁵ But Defendants-Appellees have failed even to *attempt* to reach the high burden of proving a racial gerrymandering claim for any district in the 2022

⁵ *Even if* Defendants-Appellees were permitted to make a claim that the FDA required racial classification in the 2022 Plan such that the entire plan might be invalid, Defendants-Appellees also failed to meet their burden to demonstrate that the race-related provisions of the FDA violate the Equal Protection Clause. The text of the FDA’s race-related provisions does not require that race predominate in the creation of districts, nor has any court—state or federal—held that such a requirement for racial predominance exists in the FDA. To the contrary, the Florida Supreme Court recently held that compliance with the Tier I non-diminishment provision did *not* require the creation of a non-compact district if doing so would require racial predominance. *Black Voters Matter Capacity Bldg. Inst., Inc. v. Sec’y, Fla. Dep’t of State*, 415 So. 3d 180, 198-99 (Fla. 2025) (“*Byrd II*”). And nothing in the U.S. Supreme Court’s recent decision in *Callais* invalidates the FDA under the Equal Protection Clause.

Plan. The Florida Supreme Court recently articulated the two-step inquiry that must be undertaken to challenge a district as a racial gerrymander. To assess a racial gerrymandering claim, the court must first answer the threshold question of “whether race was the *predominant* factor motivating the legislature’s decision to place a significant number of voters within or without a particular district.” *Black Voters Matter Capacity Bldg. Inst., Inc. v. Sec’y, Fla. Dep’t of State*, 415 So. 3d 180, 195 (Fla. 2025) (“*Byrd II*”) (emphasis added) (quoting *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178, 187 (2017)). This is a weighty burden. See, e.g., *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 11 (2024) (The “evidentiary burden in these cases is especially stringent.”). Strict scrutiny is only applied in a second step “once it has been shown that ‘racial considerations predominated over others’” in the drawing of that district. *Byrd II*, 415 So. 3d at 196 (citing *Bethune-Hill*, 580 U.S. at 191).

This two-step inquiry for racial gerrymandering challenges was left unaltered by the U.S. Supreme Court’s decision in *Callais*. Indeed, the Court reaffirmed that although “use of race in government decisionmaking generally triggers strict scrutiny, in gerrymandering cases a challenger *must* show race was the government’s *predominant*

consideration.” *Callais*, 146 S. Ct. at 1147 (emphasis added). Defendants-Appellees here, however, provide no evidence—besides pointing to CD 20’s shape alone—that race predominated in the creation of *any* district in the 2022 Plan. Indeed, the House fails even to identify any congressional district to which it *might* make such a challenge. Defendants-Appellees therefore fail to provide any of the allegations or evidence needed for the circuit court to assess even the threshold question of racial predominance, let alone to move onto a strict scrutiny analysis of the 2022 Plan or to declare that it cannot issue an injunction that would result in the revival of the 2022 Plan.

Nor is there any evidence on the record which would suggest that the 2022 Plan, which was duly enacted by the Legislature and signed into law by the Governor, is unlawful. The 2022 Plan has “the same presumption of constitutionality as all legislative acts.” TW.App.354; *see also Byrd II*, 415 So. 3d at 197. Additionally, while, as the circuit court noted, no litigation has directly related to CD 20, Defendants-Appellees have been and currently still are in court defending the 2022 Plan, and no state or federal court has found that any district in the 2022 Plan violates state or federal law. Indeed, the record evidence supports the *constitutionality* of the 2022 Plan. In

prior litigation, Defendants-Appellees Florida House and Senate flatly admitted that “[n]o other district [] raises the same equal protection concerns” as CD 5—which was upheld by the Florida Supreme Court—in the 2022 Plan. TW.App.652. That alone demonstrates that it is pure partisan convenience—and not any legal infirmity with any district in the 2022 Plan—that is motivating Defendants-Appellees’ about-face here.

In line with this statement, the 2022 map drawer disclaimed any consideration of race in the drawing of the 2022 districts whose reconfiguration is challenged by *Thompson-Wynn* Plaintiffs-Appellants. TW.App.201 at 15:23-35, 1:13:35-46. And during the map-drawing process, Tier II justifications were provided for the configuration of CD 20, including respecting major roadways and minimizing municipal splits. TW.App.399. Moreover, CD 20, which is not oddly shaped, is also more compact visually and mathematically than a number of districts in both the 2022 and 2026 Plans. TW.App.191-92. And the Governor himself previously endorsed the 2022 Plan as “the constitutionally correct map” noting that it had

been upheld by “both the federal courts and the [Florida] Supreme Court.” TW.App.122.⁶

At bottom, there is no basis to conclude that any district in the 2022 Plan violates the constitution, and denying Plaintiffs-Appellants’ injunctive relief on that basis is error.

C. The federal *Purcell* principle does not apply or weigh in favor of denying relief.

The *Purcell* principle, the idea that federal courts should refrain from issuing any injunction to state election laws or procedures close to commencement of an election, does not and should not foreclose Plaintiffs-Appellants’ requested injunctive relief. *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring) (mem.). Neither this court nor the lower court, as state judicial entities, are bound by the parameters of *Purcell*. See TW.App.357-58, *see also McCormick for U.S. Senate v. Chapman*, No. 286 M.D. 2022, 2022 WL 2900112, at *15 (Pa. Commw. Ct. June 2, 2022) (casting doubt as to

⁶ In addition, *even if* CD 20 or any other district in Southeastern Florida had to be reconfigured, it did not necessitate or explain the cracking and packing of congressional districts in the Central Florida or Tampa Bay regions that resulted in the 2026 Plan. See, e.g., TW.App.666 (changing only three congressional districts, and none in Central Florida or the Tampa Bay region, to improve CD 20’s performance on traditional redistricting criteria).

whether *Purcell* prevented state court challenge to implementation of state law). Even assuming *Purcell*, or some other similar principle governs this matter, “common sense” dictates granting the requested injunction. TW.App.357-58.

Purcell does not forbid the granting of *any* and *all* injunctions in a period close to an upcoming election. Such a ban would encourage intentional delay by state elections officials in passing any unlawful election procedure or provision knowing that no court would effectively bar any new provision prior to the upcoming election. *State ex rel. Ohio Democratic Party v. LaRose*, 178 Ohio St. 3d 229, 255, 257 N.E.3d 130, 152-53 (Ohio 2024) (Brunner, J., dissenting). Defendants-Appellees here are guilty of such unacceptable and intentional delay, waiting until April 29, 2026 to pass the new map.⁷ This date was less than a month before May 25, 2026, the date Defendants-Appellees state is the cut off for implementation of any congressional maps. See TW.App.353. With the map being signed

⁷ This new map was passed only on April 29, 2026, despite it being publicly discussed over nine months prior. TW.App.108-71. The original special session was supposed to take place a week earlier, however, was delayed, seemingly to await the election results on the constitutional amendment in Virginia that would allow for redrawing of their congressional districts. See *id.*

into law on May 4, 2026, Defendants-Appellees' timing allowed parties only 21 days to challenge the legality of any map.⁸ Such unclean hands by Defendants-Appellees cannot be rewarded. "Courts must maintain the ability to act as a check on election officials, especially when the rights at issue involve voting." *State ex rel. Ohio Democratic Party*, 178 Ohio St. at 255.

The concerns normally associated with *Purcell* as well as those cited by the lower court are also not implicated here.⁹ See TW.App.357-58. Indeed, "the primary concerns underlying the *Purcell* principle—confusion and disruption—are largely absent here." *Count Us In v. Morales*, No. 1:25-cv-00864-RLY-MKK, 2026 WL 1009067, at *6 (S.D. Ind. Apr. 14, 2026). Rather, in cases such as this, where Plaintiffs-Appellants simply ask for maintenance of the long standing status quo, *Purcell* does not apply. *Id.* ("In more cases

⁸ Nor was there any delay by any parties. Plaintiffs-Appellants filed their complaint the same day the challenged map was signed into law. See TW.App.001-39.

⁹ The cases cited by the lower court are easily distinguishable from the instant matter. In *State ex rel. Haft v. Adams*, 238 So. 2d 843, 845 (Fla. 1970), the Plaintiff improperly delayed seeking relief, while in *State ex rel Walker v. Best*, 163 So. 696, 697 (Fla. 1935), the election was only 15 days away, unlike here. Both cases also took place between over fifty and ninety years ago. TW.App.358.

than not, ‘merely require[ing] the revival of previous practices’ will not prove so disruptive that the Purcell principal bars relief.”) (quoting *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 248 (4th Cir. 2014).

Here, the temporary injunctive relief requested by Plaintiffs-Appellants is simple, and only requires “the revival” of the prior map. *League of Women Voters of N.C.*, 769 F.3d at 248. (“[F]or some of the challenged changes . . . systems have existed, do exist, and simply need to be resurrected.”). Utilizing the 2022 Plan rather than the 2026 Plan poses little to no burden. In fact, it is quite the opposite. The 2022 Plan has been in place for years and was previously used for congressional elections in the state; whereas the 2026 Plan was hastily adopted and its implementation will require significant costs in voter education (that some election officials claim to not even have done) as well as more change and work on the part of the state and local election officials to implement.¹⁰ Moreover, all 67 Election

¹⁰ Katelyn Ferral, *Florida’s new voting map will cost taxpayers, add work for elections supervisors*, Tampa Bay Times (May 5, 2026), <https://www.tampabay.com/news/florida-politics/elections/2026/05/05/florida-congressional-map-voting-midterms/>; Evan Axelbank, *Florida Redistricting Costs Climb as Millions are spent to alert voters confused of changes*, Fox 13 Tampa

Supervisors were instructed to preserve the 2022 Plan in case it was necessary to use for the 2026 election. TW.App.359-60. Quick and underfunded enactment of the new map is likely to confuse voters more than any injunction.¹¹ Thus, it is Defendants-Appellees, with their last-minute implementation of the 2026 map, that are the cause of the “confusion and disruption” to the elections. Plaintiffs-Appellants seek to rectify this disruption.

The 2026 primary elections are approximately three months away. While this deadline is quickly approaching, it is far from too soon to implement changes. *See League of Women Voters of Fla., Inc. v. Fla. Sec’y of State*, 32 F.4th 1363, 1372 n.7 (11th Cir. 2022). Indeed, the candidate qualifying period doesn’t even open until June 8, 2026, and candidate names will not be certified until June 13. TW.App.730, ¶¶ 8, 9. If the State of Florida found no issue with implementing an entirely new map in early May, reviving a map that has already been in place for years should pose minimal burdens,

Bay (May 6, 2026), <https://www.fox13news.com/news/florida-redistricting-costs-climb-millions-spent-alert-confused-voters-changes>.

¹¹ Axelbank, *supra* note 10.

and indeed, very likely will provide more stability and less confusion for Florida voters in the upcoming election cycle.

II. Plaintiffs-Appellants are entitled to preliminary injunctive relief.

Plaintiffs-Appellants are entitled to preliminary injunctive relief against the 2026 Plan. The circuit court made multiple errors in its order denying Plaintiffs-Appellants' motion for a temporary injunction. The Court abused its discretion in its flawed analysis of the facts supporting Plaintiffs-Appellants' partisan intent claim, particularly Plaintiffs-Appellants' argument that they are substantially likely to succeed on the merits of that claim. Moreover, the court provided no analysis of—and indeed *completely ignored*—Plaintiffs-Appellants' additional claims of unconstitutional incumbent favoritism and failure to utilize existing boundaries.

The factors relevant to a motion for temporary injunction are: (a) substantial likelihood of success on the merits, (b) a lack of an adequate remedy at law, (c) irreparable harm absent the entry of an injunction, and (d) that injunctive relief will serve the public interest. *Fla. Dep't of Health v. Florigrown, LLC*, 317 So. 3d 1101, 1110 (Fla.

2021). Contrary to the circuit court’s order, all four factors favor granting Plaintiffs-Appellants’ requested relief.

A. Plaintiffs-Appellants have demonstrated a substantial likelihood of success on the merits.

Plaintiffs-Appellants have demonstrated that they are substantially likely to succeed on the merits of their claims. The FDA includes two tiers of requirements for congressional redistricting. The first tier includes the requirement that “[i]n establishing congressional district boundaries . . . [n]o apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent.” Art. III, § 20(a), Fla. Const. The second tier includes several common redistricting criteria, including a requirement that “districts shall, where feasible, utilize existing political and geographical boundaries.” *Id.* § 20(b). Plaintiffs-Appellants’ Count I alleges that the 2026 Plan and the specifically challenged districts violate the partisan intent prohibition, while Counts II and III allege similar violations of the incumbent favoritism prohibition and boundary utilization requirement, respectively.

Plaintiffs-Appellants have provided more than sufficient evidence to show they are substantially likely to succeed on the

merits of these claims. Yet in considering this factor in its order, the circuit court abused its discretion and erroneously analyzed the facts relevant to Plaintiffs-Appellants' argument for their partisan intent claim, and failed to consider at all Plaintiffs-Appellants' additional claims.

i. Plaintiffs-Appellants have demonstrated a substantial likelihood of success on the merits of their partisan intent claim.

Plaintiffs-Appellants have demonstrated that they are substantially likely to succeed on the merits of their claim that the 2026 Plan as a whole, as well as individual CDs 9, 10, 11, 12, 13, 14, 15, 16, and 18, were drawn with the intent to favor Republicans and disfavor Democrats. Intent is assessed by examining both direct and circumstantial evidence. *Apportionment I*, 83 So. 3d at 617. Direct evidence of intent can include communications, documents, and statements of actors "responsible for drafting districting plans." *LWVFL*, 172 So. 3d at 388 (internal citation and quotation marks omitted). In terms of circumstantial evidence, the "specific sequence of events leading up to the challenged decision also may shed some light on the decisionmaker's purposes" and "might afford evidence that improper purposes are playing a role." *Id.* at 389 (internal

citations and quotation marks omitted). Additional evidence of intent includes deviations from the Tier II criteria, as well as the partisan effects of the map. *Apportionment I*, 83 So. 3d at 617, 639-40. In complying with the FDA’s prohibition on partisan intent, “there is no acceptable level of improper intent.” *LWVFL*, 172 So. 3d at 375.

Plaintiffs-Appellants provided extensive and thorough evidence demonstrating how the political context of Florida’s mid-decade redistricting, the irregular and secretive process leading to the 2026 Plan’s adoption, the partisan effect of the 2026 Plan, the 2026 Plan’s failure to adhere to Tier II criteria, and the failure of any of the proffered justifications to explain the configuration of the 2026 Plan or the challenged districts *all* support a finding of unconstitutional partisan intent. In failing to properly consider this overwhelming evidence, the circuit court abused its discretion in determining that this factor weighed against Plaintiffs-Appellants.

First, the national and state-level context which led to Florida’s mid-decade congressional redistricting provides circumstantial evidence of the improper intent of the Florida Legislature in adopting the 2026 Plan. No Florida politician, including Governor DeSantis, raised the possibility of engaging in mid-decade congressional

redistricting until President Trump called on states with trifecta Republican control to draw maps more favorable to the Republican Party.¹² Further, Governor DeSantis ultimately justified the creation of the 2026 Plan, which was passed in the midst of a nationwide partisan gerrymandering war, by citing an increase in the number of Republican voters in Florida. There is no credible argument that the Legislature was unaware of this context.

Second, the 2026 Plan was drawn in an extraordinary and unusual process infected with the intent to favor the Republican Party and to disfavor the Democratic Party. The map was drawn with an unprecedented lack of transparency by a single member of the Governor's staff, with no input by any member of the Legislature nor any members of the public prior to the map's completion. TW.App.128. That executive staff member, Jason Poreda, testified to the Legislature that, in drawing the 2026 Plan, *he considered partisan data "for every district that [he] drew."* TW.App.217 at 1:39:00-31. Before anyone else was given access to the 2026 Plan,

¹² This is despite the fact that the first justification offered by Governor DeSantis (adjusting the districts to account for a "miscount" in the 2020 Census) was equally "relevant" in the three years preceding President Trump's call.

Governor DeSantis provided a partisan-shaded, red and blue color copy to Fox News. A mere 48 hours later, with less than two hours total for public comment, the 2026 Plan had been passed by the Legislature. According to Florida Supreme Court precedent, this extreme lack of regularity and transparency—and the conscious effort to shield decision-making from the public eye—is compelling circumstantial evidence in a partisan intent inquiry. *See, e.g., LWVFL*, 172 So. 3d at 374 (holding that “transparency became legally significant under the Florida Constitution” with the addition of the FDA).

Third, the extreme partisan skew of the 2026 Plan as a whole, as well as the intentional cracking of individual districts in the Tampa Bay and Central Florida regions for Republican advantage, provide further evidence of improper partisan intent. Plaintiffs-Appellants’ expert report provides an extensive analysis showing that the 2026 Plan, which was admittedly drawn in reliance on partisan data, drastically reduces the number of Democratic seats to favor the Republican Party and disfavor the Democratic Party. Specifically, the 2026 Plan boosted the number of Republican seats to 24 of 28 seats, while slashing in half the number of Democratic seats from 8 to only

4. TW.App.181, ¶ 34. In particular, the 2026 Plan carves up formerly Democratic CDs 9, 14, 22, and 25 into the surrounding areas and flips them into Republican districts. TW.App.176, 181-84, 186, 188-90. Thus, despite the Republican Presidential candidate receiving only 56% of the vote in 2024, the 2026 Plan awards Republicans 86% of Florida’s congressional seats. TW.App.176, ¶ 19. And, as admitted by Mr. Poreda himself, this skewed partisan effect was accomplished *at the expense of* traditional redistricting criteria. See TW.App.336 at 1:01:32-1:02:06; TW.App.283 at 50-51; TW.App.341.

Fourth, the 2026 Plan’s violations of the Tier II requirements create an inference of improper intent. See *Apportionment I*, 83 So. 3d at 639. Tier II requires that districts “shall be as nearly equal in population as is practicable; districts shall be compact; and districts shall, where feasible, utilize existing political and geographical boundaries.” Art. III, § 20(b), Fla. Const. Adherence to the Tier II requirements is mandatory, and deviation is permissible “only to the extent necessary” for Tier I compliance. *Apportionment I*, 83 So. 3d at 640; Art. III, § 20(b)-(c), Fla. Const. While the 2026 Plan is equally populated, it performs the same *or worse* than the 2022 Plan on compactness and boundary utilization, see TW.App.336 at 1:01:32-

1:02:06; TW.App.332-33; TW.App.341; TW.App.191-92 (Table 5), thus demonstrating that the 2026 Plan’s departures on these metrics were not necessary for any Tier I compliance.

Fifth, neither of the proffered justifications can explain the configuration of the 2026 Plan or the challenged districts. Governor DeSantis claimed that the 2026 Plan was necessary because 1) the districts in the 2022 Plan are malapportioned, and 2) because the 2022 Plan erroneously took into account the consideration of race in the drawing of certain districts. But as Mr. Poreda testified, the 2026 Plan has the same number of districts, the same per district population, and was drawn using population data *identical to that of the 2022 Plan*, and as such could not have accounted for any supposed malapportionment issues in the 2022 Map.¹³ What’s more, to the extent the 2026 Plan seeks to “remedy” districts from the 2022 Plan, that does not apply to the districts challenged by *Thompson-Wynn* Plaintiffs-Appellants, as Mr. Poreda testified that those efforts were limited to the 2022 Plan’s CDs 20, 26, 27, and 28, *see*

¹³ Further undermining this justification is the fact that the data shows that the population deviation actually *increased* from the 2022 Plan, which had a deviation of 8.2%, while the 2026 Plan has a deviation of 9.8%. TW.App.178-80, ¶¶ 30-33, Tables 2-3.

TW.App.217 at 58:02-23, and thus cannot justify the configuration of the specifically challenged districts.

The circuit court abused its discretion by failing to consider the vast majority of this evidence—much of which is of a form that the Florida Supreme Court has specifically found to be compelling. Instead, the circuit court’s brief opinion singles out a few spoonfuls of this mountain of evidence which it finds unavailing at this stage. Not so.

To begin, the Court notes that Mr. Poreda’s admission that he relied on partisan data in drawing the 2026 Plan “is not direct evidence of impermissible intent.” TW.App.356. Because “Mr. Poreda did not say that he drew district lines to favor or disfavor an incumbent or party,” “one must infer that because he used partisan data . . . he then used it with impermissible intent,” and “[o]nce an inference is required, evidence moves into the circumstantial category.” *Id.*

This statement is doubly wrong. First, the Florida Supreme Court has held that the only acceptable use of political data in the redistricting process is as “a necessary component of evaluating whether a minority group has the ability to elect representatives of

choice.” *Apportionment I*, 83 So. 3d at 619. Because the utilization of partisan data for that purpose was expressly disclaimed here, no inference is required to reach the only logical conclusion that Mr. Poreda used partisan data for impermissible reasons. He certainly wasn’t using the data to ensure the 2026 Plan treated the parties fairly—the drastically skewed partisan effect of the 2026 Plan and its systemic gutting of Democratic districts belie any other purpose. *See, e.g.*, TW.App.172. Second, even accepting the circuit court’s discounting of Mr. Poreda’s use of partisan data, the Florida Supreme Court has also held that “the focus of [a partisan intent] analysis must be on *both direct and circumstantial* evidence of intent.” *Apportionment I*, 83 So. 3d at 617. Thus, placing Mr. Poreda’s statement in the “circumstantial category” does not eliminate its probative value.

Next, the circuit court found that Mr. Poreda’s reliance on partisan data had less “weight” because, as Mr. Poreda claimed in his testimony to the Legislature, his process in drawing the 2026 Plan was to “remove[] the race-based aspects of CD-20, which required him to redraw the surrounding districts that then cascaded to changes throughout the state.” TW.App.356. However, as noted

supra, Mr. Poreda explicitly testified that, to the extent the 2026 Plan seeks to “remedy” districts from the 2022 Plan that were drawn based on racial criteria, those efforts were limited to the 2022 Plan’s CDs 20, 26, 27, and 28. TW.App.217 at 58:02-23. And, as evidenced by Mr. Poreda’s decision to leave seven of Florida’s congressional districts (all Republican) unchanged from the 2022 Plan, the redrawing of a single district does not require the reconfiguration of every other district in the state. *See also* TW.App.664-71 (providing alternative map evidence showing that altering CD 20 did not require changing districts elsewhere in the state).

Finally, the circuit court simply accepts as “well taken” Defendants-Appellees’ vague “evidentiary objection to Plaintiffs numerous experts,” who they claim were presented “at the preliminary injunction stage without adequate chance at rebuttal.” TW.App.357. But Defendants-Appellees have provided no substantive basis for this objection, and the court made no ruling on the issue. The court suggests that because Plaintiffs-Appellants’ experts “did not use Florida’s EDR data to measure mid-decade population shifts, while Mr. Poreda indicated that he did,” the efficacy of Plaintiffs-Appellants’ expert reports is reduced. *Id.* Notably,

Defendants-Appellees never made this argument. More importantly, Mr. Poreda himself stated explicitly that he “used 2020 Census data exclusively” and did not overlay the map with any other population data at any point in the drawing process. TW.App.217 at 1:22:24-31. On the latter point regarding Defendants-Appellees’ chance for rebuttal, it is worth noting that Defendants-Appellees had Plaintiffs-Appellants’ expert reports for a week, at which point their own experts were given an opportunity to file reports in response. This response time is sufficient, especially given that Plaintiffs-Appellants’ experts had just over a week between the passage of HB 1-D and Plaintiffs-Appellants’ temporary injunction submissions to prepare their own reports.

It is on the basis of this limited analysis of a few select pieces of evidence that the circuit court concluded that “from this record, there is insufficient evidence of impermissible intent to show substantial likelihood of success on the merits.” TW.App.357. But the court did not analyze or consider the vast majority of Plaintiffs-Appellants’ proffered evidence, and as a result its factual determinations are not, as is required, “supported by competent, substantial evidence.” *Holland M. Ware Charitable Found.*, 343 So. 3d at 1290.

ii. The Court failed to address Plaintiffs-Appellants' other claims.

Plaintiffs-Appellants have also demonstrated that they are substantially likely to succeed on the merits of Counts II and III. The circuit court committed error in failing to even consider these claims in its order. See *Mulbery v. Forman*, 207 So. 3d 894, 896 (Fla. 2d DCA 2017) (“[A] trial court abuses its discretion where it fails to address the merits of a petition or complaint for declaratory judgment.”).

Plaintiffs-Appellants’ Count II argues that the 2026 Plan and the specifically challenged districts were drawn with the intent to disfavor incumbents from the Democratic Party and correspondingly favor incumbents from the Republican Party in violation of Art. III, § 20(a). As a Tier I requirement, deviation from the criteria in Tier II can provide additional supporting evidence. Further, once incumbent favoritism is shown, the burden shifts to the Legislature “to justify its decisions in drawing the congressional district lines,” with no deference afforded to the Legislature’s decisions. *LWVFL*, 172 So. 3d at 396-97, 400. For establishing intent to favor incumbents, prior cases have considered, *inter alia*, levels of core retention as relevant

and compelling circumstantial evidence. *Apportionment I*, 83 So. 3d at 618-19, 654.

To start, the direct and circumstantial evidence described *supra*, see Sec. II.A.i, which supports a finding of unconstitutional partisan intent, similarly supports a finding of unconstitutional incumbent favoritism.¹⁴ In addition to this evidence, Plaintiffs-Appellants' expert provided data showing that, both in the 2026 Plan as a whole and in the challenged districts, Republican-leaning districts have significantly higher core retention rates than Democratic-leaning districts. See TW.App.189-90, ¶ 41, Table 4 (showing Democratic districts had a core retention rate of only 41.3% on average, compared to 82.74% for Republican districts). And all seven unchanged districts between the 2022 to 2026 Plans were Republican districts (100% core retention), whereas at least one Democratic district has a 0% core retention rate. *Id.* at 190.

¹⁴ Especially when a plan is “designed to help or handicap particular candidates based on . . . membership in a particular party,” *Apportionment I*, 83 So. 3d at 618, Article III, § 20(a)'s prohibitions on partisan intent and intent to favor an incumbent are closely linked; courts regularly evaluate the two standards in tandem and often consider evidence of one as evidence of both. See, e.g., *id.* at 615-19.

Plaintiffs-Appellants' Count III argues that the 2026 Plan and the specifically challenged districts failed to utilize existing geographic and political boundaries where feasible in violation of Art. III, § 20(b). This provision requires that, where it is capable of being done, district lines must follow the boundary lines of municipalities, counties, significant roadways, waterways, and rail lines, and avoid the excessive splitting of municipality and county boundaries. See *Apportionment I*, 83 So. 3d at 636-38.

The 2026 Plan exhibits an excessive splitting of municipalities and counties, that is unexplained by any permissible factor. See TW.App.336 at 1:01:32-1:02:06. The 2026 Plan also features a lower utilization of political and geographic boundaries than the 2022 Plan, using the data and analysis provided by the Legislature. See TW.App.332-33; TW.App.341-43. The same decrease in boundary utilization is evident with regard to many of the specifically challenged districts. *Id.*

Despite this probative evidence in the record in support of Counts II and III, the circuit court made *no mention* of either claim or any of the supporting evidence in its analysis of whether Plaintiffs-Appellants are likely to succeed on the merits of their claims. As such,

the circuit court's analysis erred by improperly disregarding two of Plaintiffs-Appellants' three claims.

B. The remaining factors favor granting Plaintiffs-Appellants' requested relief.

Plaintiffs-Appellants also easily satisfy the remaining factors for obtaining a temporary injunction. In analyzing these factors, the circuit court erred in failing to conclude the same with regard to the issues of irreparable harm and the public interest.¹⁵

With regard to Plaintiffs-Appellants' argument that they will suffer irreparable harm absent an injunction, as the circuit court notes, "[t]he Executive and Florida House Defendants do not dispute [this]," while the Florida Senate "argues that because Plaintiffs' right to vote is not at issue, the precedent they cite is not as relevant in a map-drawing case." TW.App.357. The Senate's technical argument ignores the practical reality that absent a preliminary injunction, the 2026 primary and general elections will move forward under the unconstitutional 2026 Plan. After these elections take place, Plaintiffs-Appellants have no opportunity for relief and must live with

¹⁵ The circuit court's order acknowledges that Plaintiffs-Appellants lack an adequate remedy at law, a point which no Defendant-Appellee disputes. TW.App.357.

the results of an election that took place under an unconstitutionally gerrymandered map. See *League of Women Voters of Fla., Inc., v. Detzner*, 314 F. Supp. 3d 1205, 1223-24 (N.D. Fla. 2018) (quoting *Cunningham v. Adams*, 808 F.2d 815, 821 (11th Cir. 1987). This is particularly so where *state elected officials* are openly defying a constitutional amendment passed by Florida’s voters in order to achieve partisan gain in the upcoming elections. As Defendants-Appellees Byrd and the House acknowledge, this is sufficient for Plaintiffs-Appellants to meet their burden on this factor.¹⁶

The circuit court also claims that, “[e]ven if Plaintiffs had established all of the other elements, the balance of hardships and the public interest weigh heavily against the issuance of an injunction.” TW.App.357. This conclusion relies heavily on issues of timing and electoral integrity—timing problems caused by Defendants-Appellees—which Plaintiffs-Appellants have already addressed. See *supra*, Sec. I.C. The circuit court ultimately concludes

¹⁶ The circuit court concluded that it “need not decide [the irreparable harm] issue at this stage given the other points raised and decided.” TW.App.357. But in weighing the factors in considering a motion for a temporary injunction, which party this element favors is a relevant consideration that the circuit court was mistaken to discard.

that “[t]he public interest weighs more in favor of certainty than a haphazard judicial mandate of discarded maps.” TW.App.358. But using the 2022 Plan would cause no uncertainty, and the public interest can hardly favor any “certainty” of conducting an election under an unconstitutional map. Moreover, any concerns regarding the haphazard discarding of maps rings hollow, when Defendants-Appellees did just that a mere weeks ago.

For these reasons, these factors favor granting Plaintiffs-Appellants’ requested relief, and the circuit court erred in failing to reach this conclusion in its order.

CONCLUSION

For the foregoing reasons, and to prevent irreparable harm, Plaintiffs-Appellants respectfully request that this Court reverse the circuit court’s decision, and temporarily enjoin the implementation of the 2026 Plan, which will revive the status quo 2022 Plan for the congressional primary and general elections in 2026.

Respectfully submitted this 29th day of May, 2026,

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I hereby certify that on May 29, 2026, I electronically filed the foregoing using the Florida Courts E-Filing Portal, which will serve an electronic copy to counsel in the Service List below.

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I hereby certify that the foregoing brief complies with all applicable font and word-count requirements in Rules 9.045(b) and 9.210(a)(5)(b), Florida Rules of Appellate Procedure. It was prepared in 14-point Bookman Old Style font and contains 12,069 words, excluding the parts of the brief exempted by Rule 9.045(e), Florida Rules of Appellate Procedure.

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