

**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' REPLY IN
SUPPORT OF SUGGESTION FOR PASS-THROUGH
CERTIFICATION**

Nothing in Defendants-Appellees' Response warrants denying Plaintiffs-Appellants' suggestion for pass-through certification. Rather, that Response heavily relies upon the factually inaccurate claim that it is too late for relief, misconstruing the record before the circuit court, and hoping that this court will ignore recent guidance from the Florida Supreme Court. The voluminous evidence Plaintiffs-Appellants submitted below demonstrates the blatant partisan intent behind the 2026 Plan, and the lower court ignored multiple other claims for temporary injunctive relief. The 2026 Plan clearly violates the Florida Constitution, and there is still time for Florida's appellate courts to allow a lawful election to be held under the 2022 Plan.

First, it is not too late for Plaintiffs-Appellants to receive relief before the 2026 elections. 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. Defendants-Appellees' timing allowed parties only 21 days to challenge the legality of any map before their claimed May 25 deadline for relief. 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.

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. 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). Candidate qualifying does not even begin until June 8.

TW.App.730, ¶ 8; candidate names will not be certified until June 13, 2026, at the earliest, *id.*, ¶9; and 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. There is, therefore, still time to return to the status quo 2022 Plan. 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. And 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. Defendants-Appellees' primary argument that it is simply too late for relief fails.

Second, the record is more than sufficient for Plaintiffs-Appellants to establish a likelihood of success on the merits. 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. *See* Initial Br. at 47-56. In failing to properly consider this overwhelming evidence, the circuit court abused its discretion in determining that this factor weighed against Plaintiffs-Appellants. But the circuit court's abuse of discretion in its flawed analysis of the facts supporting Plaintiffs-Appellants' partisan intent claim does not cancel out the voluminous evidence that was presented in its support. Furthermore, the court entirely ignored Plaintiffs'-Appellants' additional claims of unconstitutional incumbent favoritism and failure to utilize existing boundaries, leaving Plaintiffs-Appellants' substantial evidence in support of those claims entirely unimpacted. *See* Initial Br. at 57-60.

Third, Defendants-Appellees fail to provide a sufficient justification for why this Court should not heed the Florida Supreme Court's recent reminder that cases regarding the validity of a "congressional districting plan" are of great public importance and especially fit for pass-through certification. *See Black Voters Matter Capacity Bldg. Inst., Inc. v. Sec'y, Fla. Dep't of State*, 415 So. 3d 180, 193 (Fla. 2025). Defendants-Appellees briefly note that that reminder

came “in a merits opinion, not the preliminary posture here,” Resp. at 5, but that does not change the fact that this case, which will determine under which plan the 2026 congressional election proceeds, is of great “importance and statewide significance.” *League of Women Voters of Fla. v. Data Targeting, Inc.*, 140 So. 3d 510, 511 (Fla. 2014); see also *In re Senate Joint Resol. of Legis. Apportionment 1176*, 83 So. 3d 597, 614 (Fla. 2012) (“*Apportionment I*”) (recognizing the Court’s “important responsibility to ensure that the joint resolution of apportionment comports with both the United States and Florida Constitutions”). And, like it would have in *BVM II*, granting pass-through certification here will ensure that the state’s highest court has the final word on which redistricting plan should govern the upcoming election, because, as noted above, it is not too late for the Court to make that determination.

This appeal presents an issue of utmost statewide public interest and importance. To protect the legitimacy of the upcoming congressional election, this court ought to certify the appeal for pass-through jurisdiction, so that the state’s highest court has the opportunity to review Plaintiffs-Appellants’ claims ahead of the upcoming election.

Respectfully submitted this 1st day of June, 2026,

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CERTIFICATE OF SERVICE

I hereby certify that on June 1, 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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