

Nos. 24-109, 24-110

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IN THE

**Supreme Court of the United States**

STATE OF LOUISIANA,  
*Appellant,*

v.

PHILLIP CALLAIS, *et al.*,  
*Appellees.*

PRESS ROBINSON, *et al.*,  
*Appellants,*

v.

PHILLIP CALLAIS, *et al.*,  
*Appellees.*

**On Appeal from the United States District  
Court for the Western District of Louisiana**

**BRIEF FOR LOUISIANA HISTORIANS  
AS *AMICI CURIAE* SUPPORTING  
ROBINSON APPELLANTS**

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## INTERESTS OF *AMICI CURIAE*<sup>1</sup>

*Amici*<sup>2</sup> Dr. John Bardes of Louisiana State University, Dr. R. Blakeslee Gilpin of Tulane University, and Dr. Heather O’Connell<sup>3</sup> of Louisiana State University, are expert historians of Louisiana and the greater American South. They file this brief to assist the Court in understanding why past and present conditions in Louisiana, including Louisiana’s demography, support the State’s compelling interest in compliance with Section 2 of the Voting Rights Act. This recent historical evidence, together with modern-day sociological data, reinforces the evidence in the trial and *Robinson* records below. It supports a finding that the totality of the circumstances firmly justify Louisiana’s compliance with the Voting Rights Act in 2025, and the reversal of the District Court accordingly.

## INTRODUCTION AND SUMMARY OF ARGUMENT

Section 2 of the Voting Rights Act is a “permanent, nationwide ban on racial discrimination in voting[.]” *Shelby County v. Holder*, 570 U.S. 529, 557 (2013). The scope of Section 2 includes congressional redistricting. *Allen v. Milligan*, 599 U.S. 1, 38–41 (2023).

There is no question that Section 2 can require powerful remedies. Accordingly, it requires a powerful

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<sup>1</sup> No counsel for a party authored this brief in whole or in part, and no person other than amicus or their counsel made a monetary contribution to this brief’s preparation and submission.

<sup>2</sup> Institutional affiliation of *amici* is for identification only; views expressed are the authors’ own.

<sup>3</sup> At the initial merits stage, Dr. Adam Fairclough was included with *amici* rather than Dr. O’Connell. Due to Dr. Fairclough’s unavailability, Dr. O’Connell has been added.

showing before those remedies are available. Section 2 redistricting effects claims can only succeed when they prove each of the three *Gingles* preconditions. *Milligan*, 599 U.S. at 17–19. But this is not all Section 2 requires. Merely showing the *Gingles* preconditions “is not sufficient to establish a violation unless, under the totality of the circumstances, it can also be said that the members of the protected class have less opportunity to participate in the political process.” *Chisom v. Roemer*, 501 U.S. 380, 397 (1991). Section 2 can only require remedial redistricting when “an intensely local appraisal’ of the electoral mechanism at issue” demonstrates that such remedial action is justified. *Milligan*, 599 U.S. at 19 (quoting *Thornburg v. Gingles*, 478 U.S. 30, 79 (1986)).

The totality of the circumstances analysis (also referred to as the Senate factors analysis) is the tool courts use to make this intensely local determination. The totality of the circumstances is examined only after a plaintiff has proven a *prima facie* case of vote dilution by establishing the three *Gingles* preconditions, and “is ‘peculiarly dependent upon the facts of each case.’” *Id.* This analysis ensures that courts do not “commit the error of treating the three *Gingles* conditions as exhausting the enquiry required by § 2.” *Johnson v. De Grandy*, 512 U.S. 997, 1013 (1994). “Instead the *Gingles* requirements are preconditions, consistent with the text and purpose of § 2, to help courts determine which claims could meet the totality of the circumstances standard for a § 2 violation.” *Bartlett v. Strickland*, 556 U.S. 1, 21 (2009).

Failure to prove either the preconditions or the totality of the circumstances is failure to prove a violation. See *Voinovich v. Quilter*, 507 U.S. 146, 153 (1993) (reversing district court for failing to analyze

whether “under the totality of the circumstances, the devices result in unequal access to the electoral process.”). The ultimate touchstone of both prongs of the Section 2 analysis is to “prohibit[] any practice or procedure that, ‘interacting with social and historical conditions,’ impairs the ability of a protected class to elect its candidate of choice on an equal basis with other voters.” *Id.* at 153 (quoting *Gingles*, 478 U.S. at 47).

The totality of the circumstances analysis is no idle task. It requires a “searching practical evaluation of the past and present reality.” *Milligan*, 599 U.S. at 19 (quoting *Gingles*, 478 U.S. at 79). The totality-of-the-circumstances inquiry investigates “whether a history of persistent discrimination reflected in the larger society and its bloc-voting behavior portend[s] any dilutive effect from a newly proposed districting scheme[.]” *De Grandy*, 512 U.S. at 1013. The analysis looks backwards to help determine what the prospective effect of a redistricting scheme will be.

Present conditions are of vital importance to the Section 2 inquiry. Section 2 is “not based on any notion that the law gives every minority group an entitlement to some form of proportional representation.” *Mississippi Republican Exec. Comm. v. Brooks*, 469 U.S. 1002, 1004 (1984) (Stevens, J., concurring in summary affirmance). Section 2 requires “quite the contrary. It rest[s] on specific findings of fact describing the impairment . . . of [minority] voting strength[.]” *Id.* Only in jurisdictions where careful examination of the facts demonstrates that racial discrimination denies minority voters equal electoral opportunity has there been a wrong and can Section 2 require a remedy. *Cf. Growe v. Emison*, 507 U.S. 25, 40–41 (1993). This is such a circumstance.



That “searching practical evaluation of the past and present reality[,]” *Milligan*, 599 U.S. at 19, demonstrated that “the totality of the circumstances weigh[ed] in favor of” a violation in Louisiana’s congressional map. *Robinson v. Ardoin*, 605 F. Supp. 3d 759, 851 (M.D. La. 2022). The district court in *Robinson* considered voluminous evidence in weighing the totality of the circumstances. *Id.* at 844–51. And the district court’s conclusion that the totality-of-the-circumstances supported relief was affirmed on appeal. *Robinson v. Ardoin*, 86 F.4th 574, 597–98 (5th Cir. 2023).

In the portion of their brief highlighted by this Court’s supplemental briefing order, Appellees make a series of assertions suggesting that the totality-of-the-circumstances cannot be satisfied here. Brief for Appellees, *Louisiana v. Callais*, Docket No. 24-109, 24-110 (Jan. 21, 2025), at 38 (“Appellees’ First Br.”).

First, Appellees discount the importance of the totality of the circumstances findings from the *Robinson* litigation. Appellees’ First Br. at 38. This argument is myopic. To pretend that there is no such evidence anywhere is to ignore that the *Robinson* litigation spawned these proceedings, and Louisiana’s impetus to redraw its congressional districts in the first place. Such a dodge does not pass muster.

Appellees then make three conclusory, erroneous assertions: that Louisiana’s Black population has “flatlined[,]” “dispers[ed] across the State[,]” and has done so either as the result of “social advancements, including integration,” or “Hurricane Katrina.” Appellees’ First Br. at 38. As set forth below, the Black population in Louisiana has steadily grown in the last forty years (while the White population has started to *decline*). Despite this growth, Louisiana remains highly segre-

gated by race, for reasons linked to discrimination throughout society. It is precisely this dynamic, the “interact[ion] with social and historical conditions[,]” *Gingles*, 478 U.S. at 47, which allowed the *Robinson* court to determine that “the totality of the circumstances weigh[ed] in favor of” a finding of racial vote dilution in Louisiana’s congressional map. *Robinson v. Ardoin*, 605 F. Supp. 3d 759, 851 (M.D. La. 2022).

These errors undermine Appellees’ principal argument: that Louisiana no longer has a compelling state interest in compliance with the Voting Rights Act. A careful, “searching” examination of “the past and present reality” in Louisiana demonstrates quite the opposite: Section 2 is still needed to ensure equal opportunity for Black voters in Louisiana. The judgment of the District Court should be reversed.

## ARGUMENT

### I. The Totality of the Circumstances Supports Louisiana’s Compelling State Interest in Complying With the Voting Rights Act.

Appellees argue that the totality of the circumstances analysis was not conducted in the court below, and suggest that means no such analysis was done at all. Appellees’ First Br. at 38. This is flatly incorrect.

Establishing vote dilution requires marshalling facts that span the scope of a jurisdiction’s electoral and social context, in order to determine whether past and present effects of racial discrimination are causing vote dilution. “[T]he ultimate conclusions about equality or inequality of opportunity were intended by Congress to be judgments resting on comprehensive, not limited, canvassing of relevant facts.” *De Grandy*, 512 U.S. at 1011.

That comprehensive accounting is precisely what happened here. The district court in *Robinson* considered voluminous evidence in conducting a Senate-factor-by-Senate-factor inquiry into the totality of the circumstances. *Robinson v. Ardoin*, 605 F. Supp. 3d 759, 844–51 (M.D. La. 2022) (“*Robinson I*”).

As is required by the totality of the circumstances analysis, the *Robinson I* court conducted a “searching” examination. 605 F. Supp. 3d at 844–51; *Milligan*, 599 U.S. at 19. It carefully examined the evidence, and concluded that the totality of the circumstances weighed in favor of Plaintiffs. *Robinson I*, 605 F. Supp. 3d at 844–51.

These findings were not disturbed, or even meaningfully disputed, on appeal or in this collateral litigation. The Fifth Circuit declined to issue a stay of the district court order, and the State did not press a challenge on the totality of the circumstances in its application. *Robinson v. Ardoin*, 37 F.4th 208, 216 (5th Cir. 2022) (“*Robinson II*”). A merits panel of the Fifth Circuit agreed with the stay panel and found that the trial court’s factual findings were “not clearly erroneous[.]” *Robinson v. Ardoin*, 86 F.4th 574, 597–98 (5th Cir. 2023) (“*Robinson III*”).<sup>4</sup>

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<sup>4</sup> One additional proceeding in the Fifth Circuit concerned the timing of the remedial hearing after *Robinson I*. *In re Landry*, 83 F.4th 300 (5th Cir. 2023). That panel issued partial relief, noting that “the merits of a Section 2 violation of the Voting Rights Act [have] no direct relationship with nor factual nor legal overlap with the scheduling issues this panel confronts. *Id.* at 305.

As the *Robinson III* panel noted, “the district court spent 39 pages in the published opinion discussing the evidence presented and expert testimony heard during its five-day evidentiary hearing, and 41 pages analyzing those facts and legal authority.” *Id.* at 598–99 (citation omitted). Only then did the district court conclude that the totality of the circumstances favored plaintiffs. *Robinson I*, 605 F. Supp. 3d at 851.

As for this litigation, the district court below made no findings on the totality of the circumstances. *See Callais v. Landry*, 732 F. Supp. 3d 574, 613 (W.D. La. 2024) (resolving case on first *Gingles* precondition).

The *Robinson* findings also align with the totality-of-the-circumstances analysis in *Nairne v. Ardoin*, a challenge to Louisiana’s state legislative districts. 715 F. Supp. 3d 808 (M.D. La. 2024). There, after a full trial on the merits concerning the same electoral jurisdiction (the State of Louisiana), the district court concluded that “all of the Senate Factors relevant to the Court’s consideration in this case favor[ed]” relief. *Id.* at 876. This analysis was affirmed by the Fifth Circuit. *Nairne v. Landry*, No. 24-30115, 2025 U.S. App. LEXIS 20758, at \*69 (5th Cir. Aug. 14, 2025) (finding “no clear error in each of the district court’s findings”).

Appellees’ assertion that “Appellants adduced zero evidence at trial—and can cite nothing in the legislative record—even beginning to apply the *Gingles* totality of circumstances factors to the Louisiana of 2024[,]” Appellees’ First Br. at 38, is nothing more than an unremarkable observation that *this* litigation did not turn on the totality-of-the-circumstances inquiry. Of course not. The totality-of-the-circumstances, and the factfinding attendant to it, was thoroughly litigated in the related, antecedent action. *See Robinson I*, 605 F. Supp. 3d at 844–51.

*Accord Callais v. Landry*, 732 F. Supp. 3d 574, 607 (W.D. La. 2024) (recounting *Robinson* and assuming “compliance with Section 2 was a compelling interest for the State”); *see also Nairne v. Ardoin*, 715 F. Supp. 3d at 876 (totality of the circumstances weighed in favor of relief).

The *Robinson* and *Nairne* findings stand for two propositions here. First, contrary to Appellees’ argument, every court to conduct or review the relevant statewide totality of the circumstances analysis found it weighed in favor of a Section 2 violation. And second, Louisiana continues to bear the effects of racial discrimination in its electoral system. *Robinson I*, 605 F. Supp. 3d at 844–51; *Nairne v. Ardoin*, 715 F. Supp. 3d at 868–78.

\* \* \*

Against the weight of these findings, Appellees muster only three drive-by assertions that the totality of the circumstances does not favor Section 2 liability. They argue “[s]tatewide BVAP has flatlined while dispersing across the State, propelled by social advancements, including integration, and Hurricane Katrina.” Appellees’ First Br. at 38. *Amici* discuss each in turn.

#### **A. Louisiana Has Seen Significant Growth, Not Decline, in its Black Population.**

In 1996, a federal district court found that a challenged majority-minority congressional district, which encompassed some of the same areas as District 6, was not required by the Voting Rights Act because the minority population was too widely dispersed. *Hays v. Louisiana*, 936 F. Supp. 360, 370 (W.D. La. 1996). Appellees argue this “perfectly encapsulates” the composition of District 6 because statewide BVAP

has “flatlined while dispersing across the State” when compared to 1996. Appellees’ First Br. at 23, 38.

This is simply untrue. Louisiana Census data clearly refutes the notion that the Black population has “flatlined[.]” Instead, Louisiana’s Black voting age population (“BVAP”) has increased.

From 1980 to 2020, Louisiana’s BVAP clearly and steadily increased, in both absolute numbers and as a share of the eligible electorate. In 1980, the U.S. Census Bureau reported that Louisiana had 766,187 Black residents of voting age, amounting to 26.6% of the eligible electorate.<sup>5</sup> In 1990 (the census which furnished the population numbers at issue in *Hays*), the Census reported 833,938 Black residents of voting age, amounting to 27.87% of potential voters.<sup>6</sup> In 2000<sup>7</sup> the Census reported 973,149 Black residents of voting age (an increase of 27.0% relative to 1980), amounting to 29.95% of those eligible to vote.<sup>8</sup> And the 2020

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<sup>5</sup>See U.S. CENSUS BUREAU, *Table 3, Population of Voting Age, for States, by Race and Spanish Origin: 1980 Census*, <https://www2.census.gov/programs-surveys/cps/tables/p25/948/tab03.pdf> (last visited Aug. 28, 2025).

<sup>6</sup> See U.S. DEP’T OF COM., *1990 Census of Population, General Population Characteristics, Louisiana*, at 73, <https://www2.census.gov/library/publications/decennial/1990/cp-1/cp-1-20.pdf> (last visited Aug. 28, 2025).

<sup>7</sup> Beginning with the 2000 Census, respondents had the option to select more than one race. For the 2000 Census and later, Black population figures are calculated from all respondents who self-identified as Black, even if they selected more than one racial identity. *Accord Robinson I*, 605 F. Supp. 3d at 819 (employing this method). This Court has confirmed the validity of this approach. *Georgia v. Ashcroft*, 539 U.S. 461, 473 n.1 (2003).

<sup>8</sup> U.S. CENSUS BUREAU, *2010 Redistricting Tables, Louisiana Custom Tables, Table 3, Population by Race Alone or in Combination and Hispanic or Latino Origin, for All Ages and for*

Census reported a Louisiana BVAP of 1,115,769 (an increase of 14.7% relative to 2000), amounting to 31.25% of the potential electorate.<sup>9</sup>

Meanwhile, over the past two decades, the non-Hispanic White share of the eligible Louisiana electorate actually *fell* from 2,128,485 residents, or 65.5% of the voting-age population in 2000, to 2,082,110 residents (a decrease of 2.18%), or 58.3% of the voting age population in 2020.<sup>10</sup> The only population that can be said to have “flatlined” in Louisiana in recent years is the non-Hispanic White population.

These numbers are even more revealing in the context of Louisiana as a whole. Louisiana’s total population has only grown very slightly in the past 20 years. In the 2000 Census, Louisiana had 4,468,976 total (not just voting-age) residents.<sup>11</sup> In 2020,

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*18 Years and Over, for Louisiana: 2000 and 2010*, <https://www.census.gov/data/tables/2010/dec/2010-redistricting-data.html?attachment-list-39c07b6982%3Apage=1#attachment-list-39c07b6982> (navigating to Louisiana Custom Tables at Table 3) (last visited Aug. 28, 2025).

<sup>9</sup> See U.S. CENSUS BUREAU, *Table P3, Race for the Population 18 Years and Older*, [https://data.census.gov/table/DECENNIALPL2020.P3?q=&y=2020&d=DEC+Redistricting+Data+\(PL+94-171\)](https://data.census.gov/table/DECENNIALPL2020.P3?q=&y=2020&d=DEC+Redistricting+Data+(PL+94-171)) (last visited Aug. 28, 2025).

<sup>10</sup> See *id.* A like-to-like analysis is not possible before the 2000 Census because “[t]he 1990 census questions on race and Hispanic origin were changed for Census 2000.” Elizabeth M. Grieco & Rachel C. Cassidy, *Overview of Race and Hispanic Origin*, at 1 (Mar. 2001), <https://www2.census.gov/library/publications/decennial/2000/briefs/c2kbr01-01.pdf>.

<sup>11</sup> U.S. CENSUS BUREAU, *Louisiana: 2000* (Sept. 2002), <https://www2.census.gov/library/publications/2002/dec/phc-1-20.pdf>.

Louisiana had 4,657,757 total residents,<sup>12</sup> for a growth rate of only 4.2% in a time where the population of the United States as a whole has grown 17.8%.<sup>13</sup> This is the main driver of Louisiana’s loss of a congressional representative after the 2010 Census. To the extent Louisiana’s population has not shrunk, it is in large part due to growth in its Black population.

**B. Louisiana’s Black Population Has Not Dispersed.**

Next, Appellees rely on the District Court’s finding that the Black population in Louisiana has become “even more [dispersed] since *Hays*’ nearly identical slash district was struck down in the 1990s.” Appellees’ First Br. at 38, 47; *see also Callais v. Landry*, 732 F. Supp. 3d at 613 (finding Louisiana’s Black population to be more dispersed than when *Hays* was decided).<sup>14</sup>

Again, Appellees’ argument, and the court below’s similar conclusion, is erroneous. The Black population in Louisiana remains highly concentrated and segregated.

Louisiana is characterized more by residential stability than dispersion. Louisiana migration data indicate unusually low rates of migration; most Black (and White) residents still reside in the area in which they

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<sup>12</sup> U.S. CENSUS BUREAU, *Historical Population Change Data (1910-2020)* (Apr. 26, 2021), <https://www.census.gov/data/tables/time-series/dec/popchange-data-text.html>.

<sup>13</sup> *Id.*

<sup>14</sup> If this argument were correct, it would bear on both the first *Gingles* precondition, by making it difficult to draw a reasonably configured demonstrative district, *see Milligan*, 599 U.S. at 28–29, and the totality of the circumstances, by demonstrating decreased racial segregation in Louisiana. Because it is not correct, it does neither.



were born. When Louisianans do move, the largest percentage relocates to surrounding areas.<sup>15</sup>

Black residents of Louisiana have some of the very lowest rates of both inter-parish and interstate migration, relative to Black residents of other U.S. states. According to the U.S. Census American Community Survey (“ACS”) 1-year estimates, 95.3% of Black Louisiana residents lived in the same parish as they had one year earlier. Only five states had lower rates of Black intercounty or interstate migration.<sup>16</sup> And according to U.S. News & World Report, Louisiana is 50<sup>th</sup> out of 50 states in net migration to and from the

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<sup>15</sup> U.S. CENSUS BUREAU, *Table B07404B, Geographical Mobility in the Past Year (Black or African American Alone) for Residence 1 Year Ago in the United States, 2023 American Community Survey 1-Year Estimates*, [https://data.census.gov/table/ACSST1Y2023.B07404B?q=B07404B:+Geographical+Mobility+in+the+Past+Year+\(Black+or+African+American+Alone\)+for+Residence+1+Year+Ago+in+the+United+States&tp=true](https://data.census.gov/table/ACSST1Y2023.B07404B?q=B07404B:+Geographical+Mobility+in+the+Past+Year+(Black+or+African+American+Alone)+for+Residence+1+Year+Ago+in+the+United+States&tp=true) (last visited Aug. 28, 2025); U.S. CENSUS BUREAU, *Table B07404H, Geographical Mobility in the Past Year (White Alone, Not Hispanic or Latino) for Residence 1 Year Ago in the United States, 2023 American Community Survey 1-Year Estimates*, [https://data.census.gov/table/ACSST1Y2023.B07404H?q=B07404H:+Geographical+Mobility+in+the+Past+Year+\(White+Alone,+Not+Hispanic+or+Latino\)+for+Residence+1+Year+Ago+in+the+United+States&tp=true](https://data.census.gov/table/ACSST1Y2023.B07404H?q=B07404H:+Geographical+Mobility+in+the+Past+Year+(White+Alone,+Not+Hispanic+or+Latino)+for+Residence+1+Year+Ago+in+the+United+States&tp=true) (last visited Aug. 28, 2025). See also MIGRATION PATTERNS, <https://migrationpatterns.org/> (last visited Aug. 28, 2025).

<sup>16</sup> U.S. CENSUS BUREAU, *Table B07404B, Geographical Mobility in the Past Year (Black or African American Alone) for Residence 1 Year Ago in the United States, 2023 American Community Survey 1-Year Estimates*, [https://data.census.gov/table/ACSST1Y2023.B07404B?q=B07404B:+Geographical+Mobility+in+the+Past+Year+\(Black+or+African+American+Alone\)+for+Residence+1+Year+Ago+in+the+United+States&tp=true](https://data.census.gov/table/ACSST1Y2023.B07404B?q=B07404B:+Geographical+Mobility+in+the+Past+Year+(Black+or+African+American+Alone)+for+Residence+1+Year+Ago+in+the+United+States&tp=true) (last visited Aug. 28, 2025).

state.<sup>17</sup> Louisiana is a state characterized not by population dispersal, but by historic population stasis.

Geographic clustering is also commonly measured using Local Moran's  $I$  statistic, which assesses how similar an area is to its neighbors.<sup>18</sup> This tool is especially useful for identifying “hot” (High-High) and “cool” (Low-Low) spots—areas where high or low values of a particular attribute cluster together. It also flags outliers, such as High-Low (high values of an attribute surrounded by low values) and Low-High (the reverse). Applying this metric to Louisiana's racial demographics reveals significant spatial clustering of the Black population in Louisiana.<sup>19</sup> There are six distinct clusters indicating regions of the state where parishes of starkly different percent Black concentrations abut one another. Parishes with high Black population shares are clustered along the Mississippi and Red Rivers—corridors historically shaped by intensive cotton cultivation, forced

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<sup>17</sup> *Net Migration*, U.S. NEWS & WORLD REPORT, <https://www.usnews.com/news/best-states/rankings/economy/growth/net-migration> (last visited Aug. 28, 2025).

<sup>18</sup> *How Cluster and Outlier Analysis (Anselin Local Moran's  $I$ ) Works*, ESRI, <https://pro.arcgis.com/en/pro-app/latest/tool-reference/spatial-statistics/h-how-cluster-and-outlier-analysis-anselin-local-m.htm> (last visited Aug. 28, 2025).

<sup>19</sup> These results were produced using a first-order Queen's contiguity spatial weights matrix and the free software GeoDa. See Luc Anselin, *Contiguity-Based Spatial Weights*, [https://geodacenter.github.io/workbook/4a\\_contig\\_weights/lab4a.html](https://geodacenter.github.io/workbook/4a_contig_weights/lab4a.html) (last visited Aug. 28, 2025); *An Introduction to Spatial Data Science*, GEODA, <https://geodacenter.github.io/> (last visited Aug. 28, 2025).

migration of tens of thousands of enslaved people, and Black majorities.<sup>20</sup>

Descendants of the enslaved communities living along the Red River system in 1860 are still concentrated in the Red River Valley today. Tracking the surnames of Black Louisianans descended from those enslaved in District 6 finds that the large majority of descendants of the enslaved communities resided either in the same parish as their ancestors, or in another parish within District 6.<sup>21</sup> For example, a plantation owner with the surname Joubert claimed ownership of 74 enslaved people in St. Landry Parish in 1860. Nearly 100 years later, there were 182 Black Louisianans with the surname Joubert, and less than 10% of them lived outside of District 6 (with 83% still residing in St. Landry).<sup>22</sup> This finding is consistent with other surnames analyzed.

Zooming in past the parish level, an analysis of census blocks and voting precincts shows substantial spatial concentration of Black voters statewide. Roughly 7 in 10 Black adults (69.48%) live within majority-Black census blocks.<sup>23</sup> Nearly half (44.92%)

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<sup>20</sup> See Brief for Louisiana Historians as Amici Curiae Supporting Appellants, *Louisiana v. Callais*, Docket No. 24-109, 24-110 (2024).

<sup>21</sup> *Id.* at 21–25.

<sup>22</sup> *Id.*

<sup>23</sup> These figures are calculated using the 2025 redistricting block equivalency file available on the Louisiana Secretary of State website. See *Shapefiles & Block Equivalency Files Based Upon 2020 Census Geography*, [https://redist.legis.la.gov/default\\_ShapeFiles2020](https://redist.legis.la.gov/default_ShapeFiles2020) (last visited Aug. 29, 2025) (2025 Block Equivalency File). The block equivalency file gives the population (including population by race) of every Census block in Louisiana, along with each block's corresponding precinct and parish. This

live in census blocks that are extremely segregated (80% Black or more). Likewise, the overwhelming majority of White adults (89.16%) live in majority-White census blocks and over half (57.61%) live in census blocks that are extremely segregated (80% White or more). In short, the racial concentration of the voting-age population remains extremely pronounced in Louisiana.

### **C. Louisiana’s Black Population Remains Heavily Shaped by Racial Discrimination.**

Appellees finally argue that the alleged flatlining and dispersal of Louisiana’s Black population is due at least in part to “social advancements, including integration[.]” Appellees’ First Br. at 28, 38. This too is incorrect. Lasting racial discrimination and inequality continue to influence Louisiana’s Black population.

*Amici* do not purport to replicate the entire totality-of-the-circumstances analysis here. That analysis was ably conducted by the *Robinson I* court, 605 F. Supp. 3d at 844–51. Instead, *Amici* highlight a few salient categories, all of which provide significant evidence that, counter to Appellees’ assertions, Louisiana’s continued racial segregation is driven by discrimination.

#### **1. School segregation.**

School desegregation has remained painfully static in Louisiana since the 1960s. Numerous parishes across Louisiana have failed to comply with decades-old desegregation orders. In Concordia Parish, for example, the 1965 desegregation case (*Smith v.*

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enables calculation of the population demographics for each Census block, precinct, and parish in Louisiana.

*Concordia Parish School Board*, No. 1:65-cv-11577 (W.D. La.)) remains active; the district has not been declared unitary. After continued delays to desegregation, the Fifth Circuit ordered district courts in May of 1969 to “solicit alternative plans from various defendant school boards.”<sup>24</sup> A September 1970 order by the district court demanded an exhaustive set of requirements for ensuring the school board was complying with the desegregation order.<sup>25</sup> There have been hundreds of responses, motions and orders since, all concerning the exact nature of compliance or lack thereof with the desegregation orders of 1969-70.

The especially egregious example of Concordia demonstrates how Louisiana’s schools and resources are sharply divided by race. Despite a nearly even districtwide demographic split (approximately 47.0% White, 46.6% Black),<sup>26</sup> discipline and access to rigor in Concordia diverge: White students are 1.5 times more likely than Black students to take at least one AP class, while Black students are 2.6 times more likely to be suspended than White students.<sup>27</sup> Recent

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<sup>24</sup> Greg Margolis & Alex Moody, *Smith v. Concordia Parish Sch. Bd.*, C.R. LITIG. CLEARINGHOUSE, <https://clearinghouse.net/case/13739/> (last visited Aug. 28, 2025); see also *Hall v. St. Helena Parish Sch. Bd.*, 417 F.2d 801, 809, 812 (5th Cir. 1969) (consolidating appeals of cases from across Louisiana).

<sup>25</sup> *Smith v. Concordia Parish Sch. Bd.*, No 1:65-cv-11577, ECF No. 82 (W.D. La. Jan. 20, 2015) (digitizing order entered on Sept. 3, 1970).

<sup>26</sup> *Concordia Parish Public Schools*, U.S. NEWS & WORLD REPORT, <https://www.usnews.com/education/k12/louisiana/districts/concordia-parish-108738> (last visited Aug. 29, 2025).

<sup>27</sup> *Concordia Parish School District*, PROPUBLICA (last updated Oct. 2018), <https://projects.propublica.org/miseducation/district/2200480> (last visited Aug. 29, 2025).

reporting by the *Los Angeles Times* captures the on-the-ground contrast: Ferriday High (90% Black) appears “old and worn, surrounded by barbed wire,” while just eight miles away, Vidalia High (62% White) boasts “clean and bright” facilities and a fresh paint job; “Even at a glance, the differences are obvious,” notes the paper. For Brian Davis, father of a Ferriday student, these stark discrepancies suggest “we’re not supposed to have the finer things. . . . It’s almost like our kids don’t deserve it. . . . A lot of parents over here in Ferriday, they’re stuck here because here they don’t have the resources to move their kids from A to B. . . . You’ll find schools like Ferriday — the term is, to me, slipping into darkness.”<sup>28</sup>

Nevertheless, local and state leaders have consistently fought to prevent any equalization of resources. In 2024, the Department of Justice proposed a consent order, which the Concordia Parish School Board rejected.<sup>29</sup> Louisiana’s Attorney General offered to defend the Concordia Parish School Board at no

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<sup>28</sup> Collin Binkley & Sharon Lurye, *Trump Officials Are Vowing to End School Desegregation Orders. Some Parents Say They’re Still Needed*, L.A. TIMES (June 7, 2025), <https://www.latimes.com/world-nation/story/2025-06-07/trump-officials-are-vowing-to-end-school-desegregation-orders-some-parents-say-theyre-still-needed>.

<sup>29</sup> Draft Consent Order at 7, *Smith v. Concordia Parish Sch. Bd.*, No. 65-CV-11577 (W.D. La. 2024), available at [https://core-docs.s3.us-east-1.amazonaws.com/documents/asset/uploaded\\_file/3196/FHS/5100460/Proposed\\_Consent\\_Order.pdf](https://core-docs.s3.us-east-1.amazonaws.com/documents/asset/uploaded_file/3196/FHS/5100460/Proposed_Consent_Order.pdf) (last visited Aug. 28, 2025); Sabrina Simms Robertson, *School board votes down DOJ consent order to restructure schools, forms cooperative endeavor with AG’s office to fight it in court*, NATCHEZ DEMOCRAT (Dec. 17, 2024), <https://www.natchezdemocrat.com/2024/12/17/school-board-votes-down-doj-consent-order-to-restructure-schools-forms-cooperative-endeavor-with-ag-s-office-to-fight-it-in-court/>.

cost, and her office has been holding strategy sessions with the school board.<sup>30</sup>

The pattern of protracted resistance to school desegregation, and the hoarding of public resources for White students, has been replicated statewide.<sup>31</sup> Moreover, segregation in public schooling does not account for the additional racial segregation produced by private schooling. While 23.7% of White students in

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<sup>30</sup> Sabrina Simms Robertson, *Concordia School board, AG rep strategize on desegregation lawsuit*, NATCHEZ DEMOCRAT (July 7, 2025), <https://www.natchezdemocrat.com/2025/07/07/concordia-school-board-meets-with-ag-representative-to-plan-strategy-for-60-year-old-desegregation-case/>; Sabrina Simms Robertson, *State AG, parish school board to review desegregation lawsuit*, NATCHEZ DEMOCRAT (Dec. 9, 2024), <https://www.natchezdemocrat.com/2024/12/09/state-ag-parish-school-board-to-review-desegregation-lawsuit/>.

<sup>31</sup> Carlie Kollath Wells, Russell Contreras & Kavya Beheraj, *Louisiana's Most Segregated School Systems, Mapped*, AXIOS NEW ORLEANS (May 17, 2024), <https://www.axios.com/local/new-orleans/2024/05/17/louisianas-most-segregated-school-systems-mapped> (noting that “Louisiana’s public schools have become more racially segregated in the past 30 years”). See generally CARL BANKSTON & STEPHEN CALDAS, *A TROUBLED DREAM: THE PROMISE AND FAILURE OF SCHOOL DESEGREGATION IN LOUISIANA* (2022); *United States v. Desoto Parish Sch. Bd.*, No. 67-CV-12589 (W.D. La.); *Thomas v. Sch. Bd. of St. Martin Parish*, No. 65-CV-11314 (W.D. La.); *Moore v. Tangipahoa Parish Sch. Bd.*, No. 65-CV-15556 (E.D. La.). See also Adam Harris, *The New Secession*, THE ATLANTIC (May 20, 2019), <https://www.theatlantic.com/education/archive/2019/05/resegregation-baton-rouge-public-schools/589381/>; Greg LaRose, *Proposal would let breakaway school districts avoid statewide votes*, LOUISIANA ILLUMINATOR (Apr. 4, 2024), <https://lailluminator.com/2024/04/04/school-districts/>.

Louisiana attended private school in 2021-22, only 5.8% of Black students did the same.<sup>32</sup>

## 2. Housing segregation.

Louisiana is ranked moderately high in terms of Black-White residential segregation relative to other states.<sup>33</sup> There is even greater Black-White separation at the local level. By the standard dissimilarity index, Orleans Parish scores about 0.6—a level researchers classify as *very high*—and Caddo Parish (Shreveport) is around 0.53.<sup>34</sup> Independent analyses label both New Orleans and Baton Rouge as high-segregation metros. The New Orleans metro area is the fifteenth-most segregated region in the United States; Baton Rouge, Lake Charles, and Shreveport-Bossier City each make

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<sup>32</sup> *Student Racial Demographics: Louisiana Elementary and Secondary Public and Private Schools*, LA. LEGIS. AUDITOR (Jan. 25, 2023), [https://app.lla.state.la.us/publicreports.nsf/0/a4fa835e5738df42862589420071c04c/\\$file/00000951.pdf?openelement&.7773098](https://app.lla.state.la.us/publicreports.nsf/0/a4fa835e5738df42862589420071c04c/$file/00000951.pdf?openelement&.7773098).

<sup>33</sup> *Residential Segregation (Black / White) by State*, NAT'L INST. ON MINORITY HEALTH AND HEALTH DISPARITIES, [https://hdpulse.nih.gov/data-portal/physical/table?age=001&age\\_options=ageall\\_1&demo=01005&demo\\_options=air\\_pollution\\_1&physicaltopic=100&physicaltopic\\_options=physical\\_2&race=00&race\\_options=raceall\\_1&sex=0&sex\\_options=sexboth\\_1&statefips=00&statefips\\_options=area\\_states&state](https://hdpulse.nih.gov/data-portal/physical/table?age=001&age_options=ageall_1&demo=01005&demo_options=air_pollution_1&physicaltopic=100&physicaltopic_options=physical_2&race=00&race_options=raceall_1&sex=0&sex_options=sexboth_1&statefips=00&statefips_options=area_states&state) (last visited Aug. 28, 2025).

<sup>34</sup> FED. RSRV. BANK OF ST. LOUIS, *White to Non-White Racial Dissimilarity (5-year estimate) Index for Orleans Parish, LA*, <https://fred.stlouisfed.org/series/RACEDISPARITY022071> (last visited Aug. 28, 2025); FED. RSRV. BANK OF ST. LOUIS, *White to Non-White Racial Dissimilarity (5-year estimate) Index for Caddo Parish, LA*, <https://fred.stlouisfed.org/series/RACEDISPARITY022017> (last visited Aug. 28, 2025). See also *Residential Segregation*, DIVERSITY AND DISPARITIES, <https://s4.ad.brown.edu/projects/diversity/segregation2010/Default.aspx> (last visited Aug. 28, 2025).



the top fifty.<sup>35</sup> Since 1991, five of Louisiana’s six largest metro areas have become *more* racially segregated.<sup>36</sup> Louisiana’s parishes are also becoming more racially segregated: From 2013 to 2023, the average parish racial dissimilarity index score climbed from 37.5 to 39.0.<sup>37</sup>

Housing audit studies, which ask people with comparable qualifications but of different races to record how they are treated, are widely recognized as the gold standard for identifying housing discrimination. A study focusing on New Orleans and several other major U.S. cities found that Black auditors were far more likely to be denied housing than White auditors.<sup>38</sup> In New Orleans, the Black auditor was treated “unfavorably” relative to the White auditor in 43 out of 75 tests. The discrimination was notably more severe in New Orleans than in the other cities because there was a strikingly high rate of outright refusals to even show the housing unit to Black auditors. These findings underscore how Louisiana

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<sup>35</sup> *Most to Least Segregated Metro Regions in 2020*, BERKELEY OTHERING & BELONGING INST., <https://belonging.berkeley.edu/most-least-segregated-metro-regions-2020> (last visited Aug. 28, 2025).

<sup>36</sup> *Change in Segregation, 1990-2019*, BERKELEY OTHERING & BELONGING INST., <https://belonging.berkeley.edu/change-segregation-1990-2019> (last visited Aug. 28, 2025).

<sup>37</sup> *Racial Dissimilarity Index | Louisiana*, FED. RSRV. ECON. DATA, FED. RSRV. BANK OF ST. LOUIS, <https://fred.stlouisfed.org/release/tables?rid=419&eid=353324> (last visited Aug. 28, 2025).

<sup>38</sup> LA. FAIR HOUS. ACTION CTR., *Denials, Discounts, and Discrimination: An Investigation into Racial Discrimination in Rental Practices in the Gulf South* (2021), <https://lafairhousing.org/wp-content/uploads/2021/07/LaFHAC-Denials-Discounts-and-Discrimination-in-the-Gulf-South.pdf> (last visited Aug. 29, 2025).

housing access, and therefore residential patterns, remain shaped by racial discrimination.

### 3. Other socioeconomic measures.

The American Human Development Index (AHDI) is a widely used tool that combines official data on health, education, and standard of living to measure overall life quality on a scale of 0 to 10.<sup>39</sup> The 2020 report shows an overall United States score of 5.24; a Louisiana score of 4.35; but a White Louisianan score of 5.15 compared with a Black Louisianan score of 2.93.<sup>40</sup> The factors driving this differential are that Black Louisianans have significantly shorter life expectancy, more limited educational access, and significantly lower income levels.

Mortality rates in the state further demonstrate the vast gulf that still exists between Black and White Louisianans. Measured in deaths per 100,000 residents, Whites have a premature avoidable mortality rate of just 393.6 while Blacks have a rate of 617.2—an absolute gap of 223.6 per 100,000, meaning the Black rate is about 56.8% higher.<sup>41</sup>

Unemployment rates follow the same pattern. According to the ACS 2019–2023 5-year estimates, the unemployment rate for Black Louisianans (9.7%) is

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<sup>39</sup> See Kristen Lewis, *A Portrait of Louisiana 2020: Human Development in an Age of Uncertainty*, 9 (2020), [https://ssrc-static.s3.amazonaws.com/moa/A\\_Portrait\\_of\\_Louisiana\\_2020.pdf](https://ssrc-static.s3.amazonaws.com/moa/A_Portrait_of_Louisiana_2020.pdf) (last visited Aug. 29, 2025).

<sup>40</sup> *Id.* at 26.

<sup>41</sup> David C. Radley et al., *Advancing Racial Equality in U.S. Health Care: The Commonwealth Fund 2024 State Health Disparities Report*, THE COMMONWEALTH FUND (Apr. 18, 2024), <https://www.commonwealthfund.org/publications/fund-reports/2024/apr/advancing-racial-equity-us-health-care>.

more than twice that of White Louisianans (4.6%)—a disparity of 110.9%. This gap vastly surpasses the national average: Nationally, the disparity between Black and non-Hispanic White unemployment rates is 84.6%.<sup>42</sup>

So too with poverty. According to the ACS 2019–2023 5-year estimates, 29.8% of Black Louisianans live below the poverty line, compared with 12.4% of non-Hispanic White Louisianans—a 140.3% higher rate.<sup>43</sup>

Income figures tell the same story. Using the ACS 2019–2023 5-year per-capita income figures, the average income for non-Hispanic White Louisianans is nearly twice that of Black Louisianans—\$41,753 vs. \$22,710. Put another way, Black Louisianans earn 45.6% less than White Louisianans.<sup>44</sup>

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<sup>42</sup> U.S. CENSUS BUREAU, *Table S2301, Employment Status, American Community Survey 5-Year Estimates*, [https://data.census.gov/table/ACSST5Y2023.S2301?q=%22unemployment+rate%22&g=010XX00US\\_040XX00US22&y=2023&moe=false&tp=false](https://data.census.gov/table/ACSST5Y2023.S2301?q=%22unemployment+rate%22&g=010XX00US_040XX00US22&y=2023&moe=false&tp=false) (last visited Aug. 28, 2025).

<sup>43</sup> U.S. CENSUS BUREAU, *Table S1701, Poverty Status in the Past 12 Months, American Community Survey 5-Year Estimates*, [https://data.census.gov/table/ACSST5Y2023.S1701?q=S1701&g=010XX00US\\_040XX00US22](https://data.census.gov/table/ACSST5Y2023.S1701?q=S1701&g=010XX00US_040XX00US22) (last visited Aug. 28, 2025).

<sup>44</sup> U.S. CENSUS BUREAU, *Table B19301H, Per Capita Income in the Past 12 Months (in 2023 Inflation-Adjusted Dollars) (White Alone, Not Hispanic or Latino), American Community Survey 5-Year Estimates*, <https://data.census.gov/table/ACSDT5Y2023.B19301H?q=%22per+capita+income%22&g=040XX00US22&y=2023> (last visited Aug. 28, 2025); U.S. CENSUS BUREAU, *Table B19301B, Per Capita Income in the Past 12 Months (in 2023 Inflation-Adjusted Dollars) (Black or African American Alone), American Community Survey 5-Year Estimates*, <https://data.census.gov/table/ACSDT5Y2023.B19301B?q=%22per+capita+income%22&g=040XX00US22&y=2023> (last visited Aug. 28, 2025).

U.S. News & World Report rankings bear out these findings. Their study of racial income inequality labels Louisiana the 13<sup>th</sup> worst state for racial income inequality (38<sup>th</sup> overall).<sup>45</sup> The magazine’s “Equality Metric,” which encompasses race, gender, and disability, is even harsher, with Louisiana ranked 44<sup>th</sup> overall.<sup>46</sup>

Finally, consider homeownership rates by the race of householder:<sup>47</sup>

<b>Year</b>	<b>White</b>	<b>Black</b>
<b>1990</b>	72.3%	50.9%
<b>2000</b>	75.7%	51.8%
<b>2010</b>	76.0%	51.1%
<b>2020</b>	77.3%	46.1%

Despite the Black voting-age population growing from 26.6% to 31.25% of the electorate, the homeownership rate fell for Black residents (by 4.8%) while increasing for White residents (by 5%). Overall, the White-Black gap in homeownership rates grew by 9.8%, from 21.4% in 1990 to 31.2% in 2020.

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<sup>45</sup> *Income Gap by Race*, U.S. NEWS & WORLD REPORT, <https://www.usnews.com/news/best-states/rankings/opportunity/equality/income-gap-race> (last visited Aug. 28, 2025).

<sup>46</sup> *Equality*, U.S. NEWS & WORLD REPORT, <https://www.usnews.com/news/best-states/rankings/opportunity/equality> (last visited Aug. 28, 2025).

<sup>47</sup> *Forecasting State and National Trends in Household Formation and Homeownership: Louisiana*, URBAN INSTITUTE, <https://www.urban.org/policy-centers/housing-finance-policy-center/projects/forecasting-state-and-national-trends-household-formation-and-homeownership/louisiana?utm> (last visited Aug. 28, 2025).

#### 4. Hurricane Katrina.

Appellees also suggest that Hurricane Katrina is a non-discriminatory explanation for the purported dispersal of Black Louisianans. Appellees' First Br. at 38. But careful study of the events following Hurricane Katrina illustrates that racial discrimination played a key role in migration and return.

Return migration to storm-affected areas was highly racially selective.<sup>48</sup> White residents were generally able to return home more quickly than Black residents, due in large part to the severity of the damage sustained by the houses of Black residents.<sup>49</sup> Half of White residents had returned to New Orleans within 3 months of Katrina, whereas fewer than half of Black residents had returned to the city within 14 months.<sup>50</sup> By one 2015 estimate, over 175,000 Black residents left New Orleans in the year after Katrina, and more than 75,000 never returned—and in Katrina's aftermath, while the city's poor remained overwhelmingly Black, the upper and middle classes were increasingly White.<sup>51</sup>

While some New Orleans neighborhoods became more racially diverse after Katrina, this change largely reflected the inability of many Black residents to return, combined with White residents moving into

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<sup>48</sup> Elizabeth Fussell et al., *Race, Socioeconomic Status, and Return Migration to New Orleans after Hurricane Katrina*, 31 POPULATION AND ENV'T 20 (2010).

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* at 31.

<sup>51</sup> Ben Casselman, *Katrina Washed Away New Orleans's Black Middle Class*, FIVETHIRTYEIGHT (Aug. 24, 2015), <https://fivethirtyeight.com/features/katrina-washed-away-new-orleanss-black-middle-class>.

predominantly Black neighborhoods.<sup>52</sup> Several neighboring parishes implemented discriminatory measures intended to prevent those displaced by Katrina from obtaining housing in their parishes: one restricted homeowners' abilities to rent single-family homes to non-relatives (until federal civil rights litigation forced them to stop), while another passed a resolution opposing low-income, multi-family housing in the areas closest to New Orleans.<sup>53</sup> And in response to evacuees arriving in St. Tammany Parish post-Katrina the sheriff "announced that people with dreadlocks or 'chee wee hairstyles' could 'expect to be getting a visit from a sheriff's deputy.'" <sup>54</sup> A broader body of research demonstrates that disasters often exacerbate racial inequality, in part due to inequities in how FEMA aid is distributed.<sup>55</sup>

Black New Orleans residents also disproportionately faced obstacles to voting after the storm. During the mayoral elections following Katrina in 2006,

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<sup>52</sup> Nathan Babb, "Baby Won't You Please Come Home:" *Studying Ethnoracial Segregation Trends in New Orleans Pre and Post Hurricane Katrina*, PRINCETON U.: J. PUB. & INT'L AFFS. (May 5, 2021), <https://jpia.princeton.edu/news/baby-wont-you-please-come-home-studying-ethnoracial-segregation-trends-new-orleans-pre-and-post>.

<sup>53</sup> William P. Quigley, *Katrina Voting Wrongs: Aftermath of Hurricane and Weak Enforcement Dilute African American Voting Rights in New Orleans*, 14 WASH. & LEE J. C.R. & SOC. JUST. 49, 57–58 (2007).

<sup>54</sup> *Id.* at 58 (quoting Paul Rioux, *Sheriff Jack Strain is Sticking to His Guns*, NEW ORLEANS TIMES-PICAYUNE, July 16, 2006, at A1; Paul Rioux, *Group to Comb Sheriff's Files for Signs of Hiring Bias*, NEW ORLEANS TIMES-PICAYUNE, Aug. 3, 2006, at A1).

<sup>55</sup> *E.g.*, Junia Howell & James R. Elliott, *Damages Done: The Longitudinal Impacts of Natural Hazards on Wealth Inequality in the United States*, 66 SOC. PROBS. 448 (2019).

turnout actually *increased* in White areas that had been less affected by the storm, but notably decreased in Black neighborhoods, which had suffered more damage.<sup>56</sup>

Facing litigation, the state legislature adopted some limited measures to ease the burden on displaced voters ahead of the 2006 elections, but they were cumbersome and left out many displaced residents.<sup>57</sup> First-time voters were not able to vote by mail unless they had registered between October 5, 2004, and September 25, 2005 (just one month after Katrina).<sup>58</sup> Satellite voting centers were available at ten locations within the state, but excluded many voters refuging in other states.<sup>59</sup> Even these limited measures expired ahead of the 2007 elections,<sup>60</sup> despite continued displacement.<sup>61</sup> And sure enough, in 2007, for the first time in over two decades, the city council became majority-White, following an election in which more White voters participated than Black voters and voting was largely along racial lines.<sup>62</sup> Two New Orleans seats in the state legislature and a state court judgeship also flipped from Black to White elected

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<sup>56</sup> Quigley, *supra* note 53, at 71–72.

<sup>57</sup> *Id.* at 67–71.

<sup>58</sup> *Id.* at 69 & n.134.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.* at 73–74.

<sup>61</sup> *See, e.g.*, Casselman, *supra* note 51 (finding that a large number of Black residents still had not returned even by 2015).

<sup>62</sup> Adam Nossiter, *Whites Take a Majority on New Orleans's Council*, N.Y. TIMES (Nov. 20, 2007), <https://www.nytimes.com/2007/11/20/us/nationalspecial/20orleans.html> (noting that “[r]acial divisions on the Council have been sharp”).

officials.<sup>63</sup> The percentage of Black registrants who voted in the October and November 2007 races in Orleans Parish decreased by 18.22% and 31.13%, respectively, compared to those elections in 2003, whereas White percentages decreased by only 6.68% and 20.51%, respectively.<sup>64</sup>

This displacement was astoundingly welcomed by some as a political opportunity.<sup>65</sup> Following Katrina, some suggested that the electoral “margin of victory [in Louisiana] was living in the Astrodome in Houston.”<sup>66</sup> Some residents expressed a desire to see the city rebuilt “in a completely different way: demographically, geographically, and politically.”<sup>67</sup> And although Black legislators sought to facilitate ballot access for displaced Black voters, many of their efforts failed.<sup>68</sup>

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<sup>63</sup> *Id.*

<sup>64</sup> LA. SEC’Y OF STATE, *Post Election Statistics – Parish*, <https://www.sos.la.gov/ElectionsAndVoting/Pages/PostElectionStatisticsParish.aspx> (last visited Aug. 28, 2025).

<sup>65</sup> *GOP Eyes Big Easy Gains After Incumbent Lapses*, WASH. TIMES (Oct. 26, 2005), <https://www.washingtontimes.com/news/2005/oct/26/20051026-111834-1596r/>.

<sup>66</sup> Michael A. Fletcher & Spencer S. Hsu, *Storms Alter Louisiana Politics*, WASH. POST (Oct. 13, 2005), <https://www.washingtonpost.com/archive/politics/2005/10/14/storms-alter-louisiana-politics/a1a58f69-d4b0-4277-b28e-72595579d346/>.

<sup>67</sup> Christopher Cooper, *Old-Line Families Escape Worst of Flood and Plot the Future*, WALL ST. J. (Sept. 8, 2005), [https://www.wsj.com/articles/SB112614485840634882?gaa\\_at=eafs&gaa\\_n=ASWzDAGuwrwAbls81ohum-O90zmig-FBUEh9kalFRvh3H5n2YY4y0Dts8J9MHqhHRqM%3D&gaa\\_ts=68af1239&gaa\\_sig=Rzz2M2wTilhnuP-YvpP9cifuC9IHSmI-f\\_wi3c\\_Nq-6HC39eNUGvNm84tsvGjQB6hzIprF-Kb219nALEDhwiuw%3D%3D](https://www.wsj.com/articles/SB112614485840634882?gaa_at=eafs&gaa_n=ASWzDAGuwrwAbls81ohum-O90zmig-FBUEh9kalFRvh3H5n2YY4y0Dts8J9MHqhHRqM%3D&gaa_ts=68af1239&gaa_sig=Rzz2M2wTilhnuP-YvpP9cifuC9IHSmI-f_wi3c_Nq-6HC39eNUGvNm84tsvGjQB6hzIprF-Kb219nALEDhwiuw%3D%3D).

<sup>68</sup> William T. Houston, *Black Legislative Politics: Examining the Issue of Voting Rights in the Post-Hurricane Katrina Period*, 49 SOC. SCI. J. 476, 481, 483 (2012).



Nor was this failure strictly along partisan lines, as White Democrats were less likely to support such measures than their near-unanimous Black counterparts.<sup>69</sup>

These events are but the tip of the iceberg of challenges faced by southeastern Louisianans after Hurricane Katrina. To conclude that any dispersal resulting from these events somehow proves the Voting Rights Act is no longer needed in Louisiana is a profound misreading of this history.

### **5. State-enacted intentional discrimination.**

Federal courts and federal agencies have repeatedly determined that Louisiana’s local, parish, and state officials engaged in shocking, flagrant, and widespread intentional racial discrimination in the past decade alone.

In January 2025, the U.S. Department of Justice determined that the Louisiana State Police engage in a statewide “pattern or practice” of conduct that violates the Fourth Amendment, characterized by excessive use of force that was disproportionately directed towards Black residents. Troopers repeatedly used racially derogatory language—for example, one trooper, who was never disciplined, called a coworker a “f---ing n----.” The agency systematically “failed to meaningfully impose discipline in the face of instances of explicit racial bias.”<sup>70</sup>

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<sup>69</sup> *Id.* at 481–82.

<sup>70</sup> U.S. DEP’T OF JUST., CIVIL RIGHTS DIV. & U.S. ATT’YS OFFICES FOR E., MIDDLE, AND W. DIST. OF LA., *Investigation of the Louisiana State Police* at 1–2, 6, 23 (Jan. 16, 2025), <https://www.justice.gov/crt/media/1384626/dl>.

In 2023, the FBI opened an investigation into the East Baton Rouge Police Department’s use of an unmarked warehouse, known as the “Brave Cave,” to strip, humiliate, and torture detainees, the overwhelming majority of whom were Black and Latino. In February 2025, the Middle District of Louisiana ruled that civil claims against the officers involved may proceed.<sup>71</sup>

Higher courts, including this Court, have repeatedly reversed Louisiana convictions for violations of *Batson v. Kentucky*, 476 U.S. 79 (1986). E.g., *Snyder v. Louisiana*, 552 U.S. 472 (2008); *Louisiana v. Broussard*, 318 So. 3d 683 (La. 2018)). An empirical study of Caddo Parish felony trials found that prosecutors from the Caddo Parish District Attorney’s Office struck Black prospective jurors 46% of the time, compared with 15% for non-Black jurors; some prosecutors struck Black jurors at 4.5 to 5 times the rate of others.<sup>72</sup>

This Court has also recognized the direct line between Jim Crow-era policies and contemporary racial discrimination. In 2020, this Court struck down Louisiana’s non-unanimous (split) jury rule, holding that the Sixth Amendment requires unanimous verdicts in state criminal trials. *Ramos v. Louisiana*,

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<sup>71</sup> See generally *Brown v. Lawrence*, No. 23-1313 (M.D. La. Feb. 19, 2025). See also Livia Albeck-Ripka, *F.B.I. Investigating Charges of Abuse by Baton Rouge Police in ‘Brave Cave’*, N.Y. TIMES (Sept. 24, 2023), <https://www.nytimes.com/2023/09/24/us/louisiana-police-brave-cave-abuse.html>.

<sup>72</sup> Ursula Noye, *Blackstrikes: A Study of the Racially Disparate Use of Peremptory Challenges by the Caddo Parish District Attorney’s Office*, REPRIEVE AUSTRALIA, 2, 7–11 (Aug. 2015), [https://www.prisonpolicy.org/scans/reprive\\_australia/Blackstrikes\\_Caddo\\_Parish\\_August\\_2015.pdf](https://www.prisonpolicy.org/scans/reprive_australia/Blackstrikes_Caddo_Parish_August_2015.pdf) (last visited Aug. 28, 2025).

590 U.S. 83 (2020). In its opinion, the Court attributed the origins of the rule to Louisiana’s 1898 constitutional convention, whose stated aim was to “establish the supremacy of the white race.” *Id.* at 87.

Louisiana’s overall incarceration rate is among the highest in the nation, and Black Louisianans are vastly overrepresented within the state’s prisons.<sup>73</sup> Roughly 75% of people serving life sentences without parole are Black; a staggering 81% of those who were 26 and younger when sentenced to life without parole are Black.<sup>74</sup> The state’s largest penitentiary—Louisiana State Penitentiary at Angola—is a former slave plantation developed by one of the nation’s largest slave traders, Isaac Franklin.<sup>75</sup> It remains a place where prisoners, overwhelmingly Black, are coerced to perform unpaid field labor by hand. Former inmates routinely liken conditions at Angola to chattel slavery: “You can’t call it anything else. It’s just slavery,” stated Calvin Thomas, a former detainee, in 2024.<sup>76</sup> Courts have repeatedly found that living and

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<sup>73</sup> *Louisiana*, PRISON POL’Y INITIATIVE, <https://www.prisonpolicy.org/profiles/LA.html> (last visited Aug. 28, 2025).

<sup>74</sup> *Life in Prison Without Parole in Louisiana*, SENT’G PROJECT (Jan. 23, 2024), <https://www.sentencingproject.org/fact-sheet/life-in-prison-without-parole-in-louisiana>.

<sup>75</sup> Joanne Ryan & Stephanie L. Perrault, *Angola: Plantation to Penitentiary*, U.S. ARMY CORPS OF ENG’RS, NEW ORLEANS DIST., 1 (2007), [https://www.crt.state.la.us/Assets/OCD/archaeology/discover/archaeology/virtual-books/PDFs/Angola\\_Pop.pdf](https://www.crt.state.la.us/Assets/OCD/archaeology/discover/archaeology/virtual-books/PDFs/Angola_Pop.pdf) (last visited Aug. 28, 2025). *See generally* JOSHUA D. ROTHMAN, *THE LEDGER AND THE CHAIN: HOW DOMESTIC SLAVE TRADERS SHAPED AMERICA* (2021).

<sup>76</sup> Robin McDowell & Margie Mason, *Prisoners in the US are part of a hidden workforce linked to hundreds of popular food brands*, AP NEWS (Jan. 29, 2024), <https://apnews.com/article/>

labor conditions at Angola violate detainees’ Eighth Amendment rights.<sup>77</sup> In May 2025, a federal court ordered enhanced heat protections for prisoners working on the “field line,” where summer temperatures routinely exceed 90 degrees and often top 100 degrees.<sup>78</sup> About 65% of Angola’s incarcerated population is Black.<sup>79</sup>

In Louisiana housing and zoning cases, federal courts have repeatedly found racial discrimination. After Hurricane Katrina, St. Bernard Parish passed a series of parish ordinances and zoning measures aimed at excluding Black New Orleanians from moving into the parish, including a “blood relative rule” that restricted rental housing to an owner’s blood relative. In 2009, the U.S. District Court for the Eastern District of Louisiana held that the Parish’s actions violated the Fair Housing Act and were undertaken with racially discriminatory intent.<sup>80</sup> The state’s post-Katrina “Road Home” grant formula also disproportionately disfavored poor, predominantly Black homeowners, prompting litigation that culminated in a 2011 HUD–Louisiana settlement

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prison-to-plate-inmate-labor-investigation-c6f0eb4747963283316e494eadf08c4e.

<sup>77</sup> See, e.g., *Lewis v. Cain*, No. 15-CV-318 (M.D. La.); *Alex A. v. Edwards*, No. 22-CV-573 (M.D. La).

<sup>78</sup> *Voice of the Experienced v. LeBlanc*, No. 23-CV-01304, 2025 U.S. Dist. LEXIS 163943, at \*11 (M.D. La. Aug. 22, 2025).

<sup>79</sup> McDowell & Mason, *supra* note 76.

<sup>80</sup> *Greater New Orleans Fair Hous. Action Ctr. v. St. Bernard Parish*, 641 F. Supp. 2d 563 (E.D. La. 2009).

delivering an additional \$62 million in compensation to affected owners.<sup>81</sup>

The Environmental Protection Agency and the Department of Justice have also repeatedly found strong evidence that Black residents have been subjected to discrimination through the state's failure to enforce environmental regulations, particularly in the majority-Black Mississippi River corridor known as "Cancer Alley." Home to more than 200 petrochemical plants and refineries, the region's estimated cancer risks from air pollution exceed federal thresholds. In 2022, the EPA found strong evidence that Black residents and schoolchildren near Denka's LaPlace plant have been subjected to racial discrimination via state permitting and enforcement patterns.<sup>82</sup> In February 2023, the Department of Justice, on behalf of the EPA, filed a complaint alleging that emissions

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<sup>81</sup> Jeff Adelson et al., *The Road Home program shortchanged low-income homeowners in Louisiana. New data proves it*, NOLA.COM (Dec. 11, 2022), [https://www.nola.com/news/katrina/how-louisianas-road-home-program-shortchanged-the-poor/article\\_b61193f0-773e-11ed-b339-1fb6f4dbaa42.amp.html](https://www.nola.com/news/katrina/how-louisianas-road-home-program-shortchanged-the-poor/article_b61193f0-773e-11ed-b339-1fb6f4dbaa42.amp.html); David Hammer, *Behind the Key Decision That Left Many Poor Homeowners Without Enough Money to Rebuild After Katrina*, PROPUBLICA (Dec. 13, 2022), <https://www.propublica.org/article/why-louisiana-road-home-program-based-grants-on-home-values>; *HUD and Louisiana Announce Settlement Agreement to End Legal Challenge to Road Home Program*, U.S. DEP'T OF HOUS. & URB. DEV. (July 6, 2011), <https://archives.hud.gov/news/2011/pr11-138.cfm>.

<sup>82</sup> Letter from U.S. Env't Prot. Agency, Off. of Env't Just. & External C.R., to La. Dep't of Env't Quality & La. Dep't of Health (Oct. 12, 2022), <https://www.epa.gov/system/files/documents/2022-10/2022%2010%2012%20Final%20Letter%20LDEQ%20LDH%2001R-22-R6%2C%2002R-22-R6%2C%2004R-22-R6.pdf>. See also *Environmental racism in Louisiana's 'Cancer Alley', must end, say UN human rights experts*, UN NEWS (Mar. 2, 2021), <https://news.un.org/en/story/2021/03/1086172>.

from Denka’s LaPlace facility created unsafe concentrations around homes and schools in predominantly Black St. John the Baptist Parish.<sup>83</sup> In March 2025, the Justice Department voluntarily dismissed that lawsuit; that dismissal, however, did not alter the EPA’s underlying risk assessments or findings that Louisiana’s environmental permitting and enforcement practices impose disproportionate pollution burdens on Black communities and may violate federal civil rights law.<sup>84</sup>

These formal findings, court orders, data, and lived conditions all demonstrate that present-day discrimination in Louisiana is systemic and state-enabled. The recurrence of the same harms reflects institutional choices traceable to Jim Crow and reproduced through contemporary practices, ongoing and mutually reinforcing. Black Louisianans, and through them Louisiana as a whole, therefore have a compelling interest in the continued strength and vigorous enforcement of Section 2, and in robust remedies that secure equal access to the political process.

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Every patriotic American looks forward to the day when enforcement under the Voting Rights Act is no longer necessary. Yet aspiration cannot substitute for

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<sup>83</sup> U.S. DEPT OF JUST., *Justice Department Files Complaint Alleging Public Health Endangerment Caused by Denka Performance Elastomer’s Carcinogenic Air Pollution* (Feb. 28, 2025), <https://www.justice.gov/archives/opa/pr/justice-department-files-complaint-alleging-public-health-endangerment-caused-denka>.

<sup>84</sup> U.S. DEPT OF JUST., *Justice Department Dismisses Suit Against Denka, Delivering on President Trump’s Mandate to End Radical DEI Programs* (Mar. 7, 2025), <https://www.justice.gov/opa/pr/justice-department-dismisses-suit-against-denka-delivering-president-trumps-mandate-end>.

evidence. Until discriminatory practices by government institutions are truly relegated to the past, the Voting Rights Act remains an essential safeguard to prevent current harm. The totality of the circumstances analysis ensures that Section 2 remains available where needed and operates only when discriminatory harm is present. The history and current conditions—of Louisiana, the Voting Rights Act, and our nation—demand nothing less.

\* \* \*

### CONCLUSION

The judgement of the three-judge district court should be reversed.

Respectfully submitted,

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