

**FILED**

IN THE CIRCUIT COURT OF COLE COUNTY  
STATE OF MISSOURI

MAR 08 2022  
COLE COUNTY  
CIRCUIT COURT

PAUL BERRY III,

Division: \_\_\_\_\_

Plaintiff,

v.

Case Number: 224c-cc00103

STATE OF MISSOURI;  
MICHAEL L. PARSON,  
in his official capacity as  
Missouri Governor and  
JOHN R. (JAY) ASHCROFT,  
in his official capacity as  
Missouri Secretary of State.

Defendants.

**PETITION FOR DECLARATORY JUDGMENT, INJUNCTION AND WRIT OF  
MANDAMUS**

Plaintiff, Paul Berry III, and upon knowledge with respect to information, hereby  
allege for this Petition for Declaratory Judgment and Writ of Mandamus against  
Defendants, the State of Missouri, state as follows:

**INTRODUCTION**

US Const art I § 4 requires the State of Missouri to conduct elections for United States  
congressional representatives, specifically, to provide "(t)he Times, Places and Manner of  
holding Elections for Senators and Representatives...", which requires the State of Missouri to  
establish congressional district boundaries to conduct such United States congressional

representative elections.

The State of Missouri is required pursuant to MO Const art III § 45 to enact by statute a congressional map based upon the most recent results of the U.S. Census certified by the United States Census Bureau to the Missouri Governor, which occurred on or before September 30, 2021. To date, the State of Missouri has failed to enact by statute any congressional map based upon the most recent U.S. Census certified results, a clear violation of MO Const art III § 45.

Public comments made by several Missouri Senators, inter alia, state the reason the State of Missouri has not passed House Bill 2117, a 2022 Missouri congressional map passed by the Missouri House of Representatives on January 25 2022, is because House Bill 2117 separates St. Charles County into two separate congressional districts. Regardless of the reasoning of the State of Missouri not enacting a 2022 congressional map, such conduct by the State of Missouri violates MO Const art III § 45 and US Const art I § 4.

Further complicating the underlying controversy, the Missouri Secretary of State has the ministerial duty to accept congressional candidate filing that requires the declaration of which congressional district such candidate seeks the nomination for (which began two weeks ago, on February 22, 2022) and conduct a Primary congressional election, irrespective of whether the State of Missouri has enacted a 2022 Missouri Congressional map pursuant to MO Const art III § 45. There is no statutory or constitutional provision that permits the State of Missouri to reopen congressional candidate filing after 5:00pm on March 22, 2022, which means that congressional candidates would be forever barred from choosing a congressional district to run in without

knowledge of the actually congressional borders of such congressional districts.

Plaintiff Berry seeks judicial relief from this Court prohibiting the State of Missouri from conducting any 2022 Primary election (a) on any election day other than August 2, 2022, (b) utilizing any 2022 congressional map that divides St. Charles County into two separate congressional districts, (c) utilizing any 2022 congressional map that is enacted by the Missouri General Assembly without an emergency clause or (d) by utilizing the 2012 congressional map. Plaintiff Berry further seeks judicial relief to cure the failure of the State of Missouri to enact a 2020 congressional map by ordering the attached Missouri congressional map to serve as the 2022 Missouri congressional map.

#### **JURISDICTION AND VENUE**

1. This Court maintains original subject-matter jurisdiction over this action under §§ 526.030 and 527.010 and 529.010 of the Missouri Revised Statutes and Missouri Rule of Civil Procedure Rule 87, Rule 92 and Rule 94.

2. Venue is proper in this Court because Secretary Ashcroft and Governor Parson each maintain an office in Cole County, Missouri.

#### **PARTIES**

3. Plaintiff Paul Berry III is a registered voter of the State of Missouri, resident of Missouri Congressional District 2 and is a Primary election candidate for the Republican nomination for United States Congress during the 2022 election cycle, as reflected by both the Missouri Secretary of State and the Federal Elections Commission.

4. Defendant State of Missouri is responsible for enforcement of all state laws and the Constitution of the State of Missouri, including MO Const art III § 45.

5. Defendant Michael L. Parson is the Missouri Governor, the state's chief executive officer, who is responsible in his official capacity for executing state functions required by the Constitution of the State of Missouri and the legal respondent to constitutional violations

committed by the State of Missouri.

6. Defendant John R. (Jay) Ashcroft is the Missouri Secretary of State, the state's chief elections official, who is responsible in his official capacity for implementation of all state laws related to congressional elections.

**VERIFIED STATEMENT OF FACT**

7. The only Missouri legal provision establishing the procedure for congressional districting is MO Const art III § 45, which fully states:

“When the number of representatives to which the state is entitled in the House of the Congress of the United States under the census of 1950 and each census thereafter is certified to the governor, the general assembly shall by law divide the state into districts corresponding with the number of representatives to which it is entitled, which districts shall be composed of contiguous territory as compact and as nearly equal in population as may be.”

8. MO Const art III § 45 requires the State of Missouri to enact by statute a congressional map based upon the 2020 U.S. Census certified to the Governor of the State of Missouri that is “composed of contiguous territory as compact and as nearly equal in population as may be.”

9. Under reasonable belief, on or before September 30, 2021, the 2020 U.S. Census was certified to the Governor of the State of Missouri by the United States Census Bureau.

10. The State of Missouri recognizes that congressional voters of the same Missouri counties have the same economic interests pursuant to the “compactness” provision of MO Const art III § 45.

11. The Supremacy Clause of the United States Constitution requires the State of Missouri to abide by both Federal law and the United States Constitution when enacting any congressional redistricting map.

12. Federal law that may be applicable to the State of Missouri enacting any congressional redistricting map is Section 2 of the Voters Rights Act of 1965.

13. The Fourteenth Amendment of the United States Constitution is applicable to the State of Missouri enacting any congressional redistricting map.

14. Pursuant to MO Const art III § 45, the State of Missouri is prohibited from dividing any Missouri county into two separate congressional districts, except when such separation of a Missouri county is necessary to comply with other provisions of MO Const art III § 45, Section 2 of the Voters Rights Act of 1965 or the Fourteenth Amendment of the United States Constitution.

15. Plaintiff Berry contends the State of Missouri is operating under the erroneous assumption that any Missouri county may be split into two separate congressional districts for reasons exclusive of complying with MO Const art III § 45, Section 2 of the Voters Rights Act of 1965 or the Fourteenth Amendment of the United States Constitution.

16. No legal cause exists for the State of Missouri to divide St. Charles County into two separate congressional districts to comply with any legal authority, including, MO Const art III § 45, Section 2 of the Voters Rights Act of 1965 or the Fourteenth Amendment of the United States Constitution based upon the 2020 Census results certified to the Missouri Governor.

17. In the event the State of Missouri separates St. Charles County into two separate congressional districts based upon the population results of the 2020 Census, such a congressional map would violate the “compactness” provision of MO Const art III § 45.

18. Berry Congressional Map (Exhibit 1) “is composed of contiguous territory as compact and as nearly equal in population as may be” provision of MO Const art III § 45, and does not violate Section 2 of the Voters Rights Act of 1965 or the Fourteenth Amendment of the United States Constitution.

19. Berry Congressional Map does not separate St. Charles County into two separate

congressional maps and complies with MO Const art III § 45, which provides the State of Missouri is able to enact a congressional map that does not divide St. Charles County in the manner required by MO Const art III § 45.

20. Any congressional map that violates MO Const art III § 45 is void and unenforceable by the State of Missouri against Plaintiff Berry, nor may be utilized by the State of Missouri to form the congressional district voter boundaries for the 2022 Primary and General elections.

21. Plaintiff Berry seeks a Declaratory Judgment declaring the State of Missouri dividing St. Charles County into two separate congressional districts when enacting a congressional district map based upon the 2020 U.S. Census population results would violate the “compactness” requirement of MO Const art III § 45.

22. Pursuant to MO Const art III § 45, upon certification of the 2020 U.S. Census results, the current Missouri congressional map enacted in 2012 is void and unenforceable for the purpose of setting congressional voter districts for the 2022 Primary and General elections for United States Congress.

23. MO Const art III § 45 prohibits the State of Missouri from holding a Primary election for United States Congress based upon the current Missouri congressional map enacted in 2012 after certification of the results of the 2020 U.S. Census.

24. On February 26, 2022, the State of Missouri accepted candidate filing for the 2022 Primary elections for United States Congress, which require all congressional candidates to declare which congressional district such congressional candidates seek nomination for.

25. Plaintiff Berry and all congressional candidates are currently required to file as a candidate for the 2022 Primary elections for United States Congress before the State of Missouri

without a valid congressional map authorized by the State of Missouri in the manner required by MO Const art III § 45.

26. The Missouri Secretary of State has the ministerial duty to offer the opportunity and accept the filing of declaration of candidacy forms from 2022 Primary elections candidates for United States Congress, irrespective of the failure of the State of Missouri to enact a congressional map pursuant to MO Const art III § 45, to which, the Missouri Secretary of State has performed such ministerial duty by accepting the filing of declaration of candidacy forms by Plaintiff Berry and all other congressional candidates who filed declaration of candidacy forms for the 2022 Primary elections for the United States Congress.

27. Plaintiff Berry has a reasonable belief that the Missouri Secretary of State will follow Missouri law and perform their ministerial duty to conduct a Primary congressional elections on August 2, 2022, irrespective of the fact that the 2012 Missouri congressional map is void and unenforceable for any such election purpose.

28. Plaintiff Berry recognized the Missouri Secretary of State has no legal authority to authorize a 2022 Missouri congressional map or delay any Missouri congressional election based upon the State of Missouri failing to enact a 2022 Missouri congressional map.

29. The 2012 Missouri congressional map is a statute pursuant to MO Const art III § 45, and as such, is subject to a declaratory judgment seeking the 2012 Missouri congressional map declared void and in conflict with the Missouri Constitution.

30. Plaintiff Berry seeks a declaratory judgment declaring the 2012 Missouri congressional map is void and unenforceable for the purpose of the State of Missouri setting election boundaries for the 2022 Primary elections for the United States Congress.

31. Any 2022 Missouri congressional map that is enacted by the State of Missouri without an emergency clause does not have any legal validity to serve as a congressional map during the 2022 Primary election until the general date all newly-enacted state legislation goes into effect, specifically, August 28, 2022.

32. Plaintiff Berry seeks a declaratory judgment declaring any 2022 Missouri congressional map that is enacted by the State of Missouri without an emergency clause does not have any legal validity to serve as a congressional map during the 2022 Primary election set for August 2, 2022.

33. While MO Const art III § 45, in itself, does not provide a specific deadline date when the State of Missouri shall enact a Missouri congressional map after certification of the most recent U.S. Census results, constitutional interpretation principles provide MO Const art III § 45 intended for the State of Missouri to enact a congressional map prior to the first day of filing for the congressional election preceding the certification of the most recent U.S. Census results.

34. Plaintiff Berry and all congressional candidates are unable to effectively campaign and engage with voters of their congressional district when no legal boundaries of congressional districts have been set by the State of Missouri pursuant to MO Const art III § 45.

35. Plaintiff Berry seeks a declaratory judgment declaring the Court may enforce MO Const art III § 45 against the State of Missouri by issuing an order requiring the passage of a 2022 Missouri congressional map and may order a 2022 Missouri congressional map submitted to the Court by the Plaintiff as relief to cure the failure of the State of Missouri to enact any 2022 Missouri congressional map prior to February 22, 2022.

36. While the Missouri General Assembly has legislative discretion restricted by the terms of



MO Const art III § 45 when drafting any Missouri congressional map, the State of Missouri maintains a ministerial duty pursuant to MO Const art III § 45 to enact a Missouri congressional map based upon the US Census most recently certified to the Missouri Governor by the United States Census Bureau prior to February 22, 2022, to which, the State of Missouri has failed to produce to Plaintiff Berry any 2022 Missouri congressional map enacted by the State of Missouri.

37. Plaintiff Berry seeks a writ of mandamus against the State of Missouri ordering the 2012 Missouri congressional map vacated for future election purposes and enact by judicial order the Berry Congressional Map as the 2022 Missouri congressional map.

**Count I.**

***The State of Missouri dividing any Missouri county into two congressional districts for any cause other than complying with MO Const art III § 45 or the Supremacy Clause is a constitutional violation of MO Const art III § 45.***

1. Plaintiff Berry incorporates by reference all preceding allegations and facts.
2. The State of Missouri is prohibited from dividing any Missouri county into two separate congressional districts unless necessary to comply with MO Const art III § 45 or the Supremacy Clause.
3. As demonstrated to the Court by the Berry Congressional Map, the State of Missouri is without any cause to deviate from the requirements of MO Const art III § 45 in order to draft a 2022 congressional map that is compliant with MO Const art III § 45.
4. There is no Federal legal authority that requires the State of Missouri to divide any Missouri county (excluding St. Louis County) to comply with the Section 2 of the Voting Rights

Act of 1965 or the Fourteenth Amendment of the United States Constitution.

5. Based upon the 2020 US Census results certified to the Missouri Governor, any 2022 Missouri congressional map that divides St. Charles County (or any Missouri county, excluding St. Louis County) into two separate congressional districts will violate MO Const art III § 45.

WHEREFORE Plaintiff Berry prays this Court:

- A. Enter a declaratory judgment order that no 2022 Missouri congressional map may divide any Missouri county, excluding St. Louis County, into two separate congressional districts based upon the certified results of the 2020 United States Census;
- B. Issue preliminary and permanent injunctions orders against the Defendants, prohibiting the State of Missouri from enacting any 2022 Missouri congressional map that divides any Missouri county, excluding St. Louis County, into two separate congressional districts based upon the results of the 2020 United States Census certified to the Missouri Governor by the United States Census Bureau;
- C. Order any further relief as is proper under the circumstances or deemed proper by the Court.

**Count II.**

***The State of Missouri setting any Missouri Primary congressional election on any date other than August 2, 2022, is a statutory violation of section 115.1219(2) RSMo.***

6. Plaintiff Berry incorporates by reference all preceding allegations and facts.
7. US Const art I § 4 states, “(t)he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the

Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators”, which requires the State of Missouri to set the dates of Missouri congressional elections.

8. Pursuant to section 115.121(2) RSMo, “(t)he primary election day shall be the first Tuesday after the first Monday in August of even-numbered years.”

9. Pursuant to section 44.100 RSMo, the failure of the Missouri General Assembly to enact a Missouri congressional map prior to the first day of filing for United States Congress does not constitute an “emergency” permitting the Missouri General Assembly to pass a resolution or the Missouri Governor to issue a proclamation granting the Missouri Governor the authority to change the 2022 Primary congressional election from any date other than “the first Tuesday after the first Monday in August of even-numbered years.”

10. Pursuant to section 115.024 RSMo, the failure of the Missouri General Assembly to enact a Missouri congressional map prior to the first day of filing for United States Congress does not constitute a “disaster” permitting the “election committee” consisting of three Missouri appellate judges to consider any petition to reschedule the 2022 Primary congressional election within the Eastern District Missouri Court of Appeals from any date other than “the first Tuesday after the first Monday in August of even-numbered year” as required by section 115.121(2) RSMo.

11. The State of Missouri is without any statutory or constitutional authority to reschedule the 2022 Primary congressional election due to the failure of the Missouri General Assembly to enact a Missouri congressional map prior to the first day of filing for United States Congress

from any date other than August 2, 2022.

12. Plaintiff Berry seeks a declaratory judgment and injunctive relief from the Court against the Defendants declaring that the State of Missouri may not schedule the date of the 2022 Primary congressional election due to the Missouri General Assembly falling to enact a 2022 Missouri congressional map on any date other than “the first Tuesday after the first Monday in August of even-numbered years” or August 2, 2022.

WHEREFORE Plaintiff Berry prays this Court:

- A. Enter a declaratory judgment order declaring that the State of Missouri may not schedule the 2022 Primary congressional election to occur on any date other than August 2, 2022, unless (i) ordered by the Missouri Appellate Court pursuant to section 115.024 RSMo or (ii) authorized by section 44.100 RSMo for a cause unrelated to the passage, enactment or challenge of any Missouri congressional map.
- B. Issue preliminary and permanent injunction orders against the Defendants, prohibiting the State of Missouri from scheduling the 2022 Primary congressional election to occur on any date other than August 2, 2022, unless (i) ordered by the Missouri Appellate Court pursuant to section 115.024 RSMo or (ii) authorized by section 44.100 RSMo for a cause unrelated to the passage, enactment or challenge of any Missouri congressional map;
- C. Order any further relief as is proper under the circumstances or deemed proper by the Court.

**Count III.**

***The State of Missouri conducting any Missouri Primary congressional election by utilizing any 2022 Missouri congressional map passed by the Missouri General Assembly without an emergency clause is a constitutional violation of MO Const art III § 29.***

13. Plaintiff Berry incorporates by reference all preceding allegations and facts.

14. MO Const art III § 45 states “the general assembly shall by law divide the state into districts corresponding with the number of representatives to which it is entitled”, which clearly declares that any Missouri congressional map enacted by the Missouri General Assembly constitutes a Missouri statute.

15. MO Const art III § 29 provides on what date any statute enacted by the Missouri General Assembly goes into effect, which states:

“No law passed by the general assembly, except an appropriation act, shall take effect until ninety days after the adjournment of the session in either oddnumbered or even-numbered years at which it was enacted. However, in case of an emergency which must be expressed in the preamble or in the body of the act, the general assembly by a two-thirds vote of the members elected to each house, taken by yeas and nays may otherwise direct; and further except that, if the general assembly recesses for thirty days or more it may prescribe by joint resolution that laws previously passed and not effective shall take effect ninety days from the beginning of the recess.”

16. MO Const art III § 29 provides when any Missouri congressional map enacted by the Missouri General Assembly without an emergency clause will not go in effect until August 28, 2021, which is ninety (90) days after the adjournment of the 2022 Missouri General Assembly set pursuant to MO Const art III § 20(a) to “adjourn at midnight on May thirteenth” 2022.

17. Pursuant to section 115.1219(2) RSMo, the Missouri Secretary of State has a ministerial duty to conduct a 2022 Primary election for United States Congress on August 2, 2022, which states:

“The primary election day shall be the first Tuesday after the first Monday in August of even-numbered years.”

18. Because MO Const art III § 45 clearly declares that any Missouri congressional map shall be enacted as a law passed by the General Assembly and MO Const art III § 29 provides that any Missouri statute passed by the General Assembly shall not take effect until August 28, 2022, which is ninety days after the adjournment of the 2022 Missouri General Assembly Legislative Session, there is no question that any Missouri congressional map enacted without an emergency clause will not go into legal effect until after August 2, 2022, the election date for the 2022 Primary election for United States Congress in the State of Missouri.

19. Plaintiff Berry seeks a declaratory judgment and injunctive relief from the Court against the Defendants declaring that no 2022 Missouri congressional map enacted by the State of Missouri without an emergency clause may be utilized by the Defendants to conduct the 2022 Primary congressional election set for August 2, 2022.

WHEREFORE Plaintiff Berry prays this Court:

- A. Enter a declaratory judgment order that no 2022 Missouri congressional map enacted by the Missouri General Assembly without an emergency clause may be utilized by the State of Missouri to conduct the Primary congressional election set for August 2, 2022;
- B. Issue preliminary and permanent injunction orders against the Defendants, prohibiting the State of Missouri from utilizing any 2022 Missouri congressional map enacted by the Missouri General Assembly without an emergency clause when conducting the Primary congressional election set for August 2, 2022.

C. Order any further relief as is proper under the circumstances or deemed proper by the Court.

**Count IV.**

***The State of Missouri utilizing the 2012 Missouri congressional map to conduct the 2022 Missouri Primary or General election constitutes a constitutional violation of MO Const art III § 45.***

20. Plaintiff Berry incorporates by reference all preceding allegations and facts.

21. The State of Missouri is required pursuant to MO Const art III § 45 to enact by state law a new Missouri congressional map to replace the 2012 Missouri congressional map based upon the 2020 US Census results certified to the Missouri Governor by the United States Census Bureau.

22. The State of Missouri has failed to enacted any new Missouri congressional map to replace the 2012 Missouri congressional map based upon the 2020 US Census results certified to the Missouri Governor by the United States Census Bureau on or before September 30, 2021.

23. On February 22, 2022, the Missouri Secretary of State began performing the ministerial duty of accepting and filing declaration of candidacy forms from Plaintiff Berry and all other Primary candidates for United States Congress for the 2022 Primary election set for August 2, 2022, without the State of Missouri enacting any 2022 Missouri congressional map based upon the 2020 US Census results certified to the Missouri Governor by the United States Census Bureau as required by MO Const art III § 45.

24. Pursuant to section 115.1219(2) RSMo, the State of Missouri is required to conduct a Primary congressional election on August 2, 2022, and without any 2022 Missouri congressional

Map enacted and in effect, the State of Missouri is statutorily-required to conduct the 2022 Primary congressional election utilizing the 2012 Missouri congressional map.

25. The 2012 Missouri congressional map being utilized by the State of Missouri for any congressional election succeeding the 2020 US Census results, specifically, the 2022 Primary congressional election, renders the 2012 Missouri congressional map in violation of MO Const art III § 45 and the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution because the 2012 Missouri congressional map provides a substantial decrease in the resident population of Missouri Congressional District 1 and a substantial increase in the resident population of St. Charles County certified by the 2020 US Census results, which renders the 2012 Missouri congressional map being utilized by the State of Missouri during the 2022 Primary congressional election in violation of both the “equal population as may be” provision of MO Const art III § 45 and the “one man, one vote” doctrine of the Equal Protection Clause of the United States Constitution.

26. The 2012 Missouri congressional map separates St. Charles County in violation of MO Const art III § 45, and as such, the use of the 2012 Missouri congressional map by the State of Missouri during the 2022 Primary congressional election is in violation of both the Missouri Constitution.

27. The 2012 Missouri congressional map is void and enforceable pursuant to MO Const art III § 45 for the purpose of the Missouri Secretary of State conducting any congressional election after the United States Census Bureau certified the 2020 Census results to the Missouri Governor



on or before September 30, 2021, which includes the 2022 Primary congressional election.

28. Plaintiff Berry contends that the Missouri Secretary of State is required to perform the ministerial duty of conducting a Primary election for United States Congress on August 2, 2022, irrespective of the State of Missouri failing to enact any 2022 Missouri congressional map based upon the 2020 US Census results certified to the Missouri Governor by the United States Census Bureau, which will result in the State of Missouri utilizing the 2012 Missouri congressional map to conduct the 2022 Primary congressional election, which is a violation of MO Const art III § 45 and the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.

29. Plaintiff Berry seeks a declaratory judgment and injunctive relief from the Court against the Defendants declaring that the 2012 Missouri congressional map may not be utilized by the State of Missouri to conduct any 2022 Primary congressional election.

WHEREFORE Plaintiff Berry prays this Court:

- A. Enter a declaratory judgment order that the State of Missouri may not utilize the 2012 Missouri congressional map as the congressional map for any future congressional election, including the 2022 Primary and General elections for United States Congress;
- B. Issue preliminary and permanent injunction orders against the Defendants, prohibiting the State of Missouri from utilizing the 2012 Missouri congressional map as the congressional map for any future congressional election, including the 2022 Primary and General elections for United States Congress;

C. Order any further relief as is proper under the circumstances or deemed proper by the Court.

**Count V.**

***Plaintiff Berry is entitled to cure the failure by the State of Missouri to enact a Missouri congressional map to replace the 2012 Missouri congressional map by seeking the Court to issue a declaratory judgment, injunction and extraordinary writ enacting a 2022 Missouri Congressional Map.***

30. The State of Missouri is required pursuant to MO Const art III § 45 to enact by state law a new Missouri congressional map to replace the 2012 Missouri congressional map based upon the 2020 US Census results certified to the Missouri Governor by the United States Census Bureau.

31. The State of Missouri has failed to enacted any new Missouri congressional map to replace the 2012 Missouri congressional map based upon the 2020 US Census results certified to the Missouri Governor by the United States Census Bureau on or before September 30, 2021.

32. US Const art I § 4 states, “(t)he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators”, which requires the State of Missouri to set the dates of Missouri congressional elections and establish congressional district boundaries.

33. Pursuant to section 115.121(2) RSMo, “(t)he primary election day shall be the first Tuesday after the first Monday in August of even-numbered years.”

34. On February 22, 2022, the Missouri Secretary of State began performing the ministerial

duty of accepting and filing declaration of candidacy forms from Plaintiff Berry and all other Primary candidates for United States Congress for the 2022 Primary election set for August 2, 2022, without the State of Missouri enacting any 2022 Missouri congressional map based upon the 2020 US Census results certified to the Missouri Governor by the United States Census Bureau as required by MO Const art III § 45.

35. Pursuant to section 115.1219(2) RSMo, the State of Missouri is required to conduct a Primary congressional election on August 2, 2022, and without any 2022 Missouri congressional Map enacted and in effect, the State of Missouri is statutorily-required to conduct the 2022 Primary congressional election utilizing the 2012 Missouri congressional map.

36. The State of Missouri is prohibited from dividing any Missouri county into two separate congressional districts unless necessary to comply with MO Const art III § 45 or the Supremacy Clause.

37. As demonstrated to the Court by the Berry Congressional Map, the State of Missouri is without any cause to deviate from the requirements of MO Const art III § 45 in order to draft a 2022 Missouri congressional map that is compliant with MO Const art III § 45.

38. There is no Federal legal authority that requires the State of Missouri to divide any Missouri county (excluding St. Louis County) to comply with the Section 2 of the Voting Rights Act of 1965 or the Fourteenth Amendment of the United States Constitution when drafting a 2022 Missouri congressional map.

39. Based upon the 2020 US Census results certified to the Missouri Governor, any 2022

Missouri congressional map that divides St. Charles County (or any Missouri county, excluding St. Louis County) into two separate congressional districts will violate MO Const art III § 45.

40. The 2012 Missouri congressional map separates St. Charles County in violation of MO Const art III § 45, and as such, the use of the 2012 Missouri congressional map by the State of Missouri during the 2022 Primary congressional election also violates MO Const art III § 45.

41. The 2012 Missouri congressional map being utilized by the State of Missouri for any congressional election succeeding the 2020 US Census results, specifically, the 2022 Primary congressional election, renders the 2012 Missouri congressional map in violation of MO Const art III § 45 and the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution because the 2012 Missouri congressional map provides a substantial decrease in the resident population of Missouri Congressional District 1 and a substantial increase in the resident population of St. Charles County certified by the 2020 US Census results, which renders the 2012 Missouri congressional map being utilized by the State of Missouri during the 2022 Primary congressional election in violation of both the “equal population as may be” provision of MO Const art III § 45 and the “one man, one vote” doctrine of the Equal Protection Clause of the United States Constitution.

42. The 2012 Missouri congressional map is void and enforceable pursuant to MO Const art III § 45 for the purpose of the Missouri Secretary of State conducting any congressional election after the United States Census Bureau certified the 2020 Census results to the Missouri Governor on or before September 30, 2021, which includes the 2022 Primary congressional election.

43. Plaintiff Berry is entitled to seek relief from the Court to cure the State of Missouri failing to enact any 2022 Missouri congressional map that is in enforce during the 2022 Primary congressional election cycle, in violation of MO Const art III § 45 by declaratory judgment, injunction and writ of mandamus.

44. The Berry Congressional Map is constitutional pursuant to MO Const art III § 45 and the Supremacy Clause, inter alia, Section 2 of the Voting Rights Act of 1965 and the Fourteenth Amendment of the United States Constitution.

45. Plaintiff Berry is without other legal remedy to cure the failure of the State of Missouri to abide by MO Const art III § 45 and US Const art I § 4 and enact a constitutional congressional map based upon the 2020 US Census results certified to the Missouri Governor prior to the 2022 Primary congressional election, thus injunctive and extraordinary relief requested by this Petition is timely, just and absolutely necessary to protect the right to suffrage for Missourians who wish to cast votes for eight (8) congressional seats during the 2022 Primary congressional election.

WHEREFORE Plaintiff Berry prays this Court:

- A. Enter a declaratory judgment order declaring the failure of the State of Missouri to enact a congressional map to replace the 2012 Missouri congressional map pursuant to MO Const art III § 45 in order to conduct the 2022 primary congressional election is cause for the Court to issue an injunction and a writ of mandamus ordering a 2022 Missouri congressional map to replace the 2012 congressional map that is void and unenforceable.
- B. Issue preliminary and permanent injunction orders against the Defendants, (i) ordering

the 2012 Missouri congressional map void and unenforceable and (ii) ordering Berry Congressional Map as the 2022 Missouri congressional map;

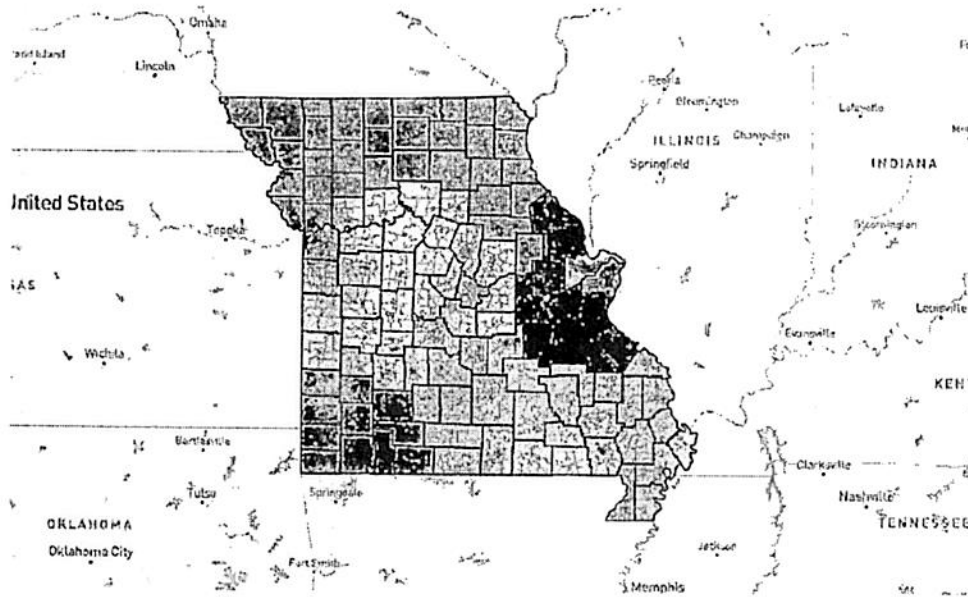
- C. Issue a writ of mandamus against the Defendants, (i) ordering the 2012 Missouri congressional map void and unenforceable and (ii) ordering Berry Congressional Map as the 2022 Missouri congressional map.
- D. Order any further relief as is proper under the circumstances or deemed proper by the Court.

~~Respectfully Submitted,~~

A handwritten signature in black ink, appearing to read "Paul Berry III", written over a horizontal line.

Paul Berry III  
Plaintiff, Pro Se  
11932 Barbara  
Maryland Heights, MO 63043  
PBIIIUSA@gmail.com

**Berry Proposed Congressional Redistricting Map**  
**2020 U.S. Census Congressional Redistricting**  
6,154,913 Total Missouri Resident Population



**Berry Proposed Congressional Redistricting Map**  
**2020 U.S. Census Congressional Redistricting Populations**

- MO CD 1: 766,278 Missouri Residents.
- MO CD 2: 769,199 Missouri Residents.
- MO CD 3: 766,394 Missouri Residents.
- MO CD 4: 772,604 Missouri Residents.
- MO CD 5: 771,217 Missouri Residents.
- MO CD 6: 769,571 Missouri Residents.
- MO CD 7: 771,352 Missouri Residents.
- MO CD 8: 768,325 Missouri Residents.
- Target CD: 769,365 Missouri Residents per Congressional District.

Maximum Congressional District Population Deviation Percentage: 0.42%

Exb1

**Berry Proposed Congressional Redistricting Map  
2020 U.S. Census Congressional Redistricting County Jurisdiction Assignment**

The Berry Proposed Congressional Redistricting Map does not split any county jurisdiction in the State of Missouri into the boundaries of more than one congressional district, except St. Louis County is statistically required to be divided into at least two congressional districts due to the population of St. Louis County being greater than the population of any congressional district that may be formed in the State of Missouri based upon the 2020 U.S. Census results.

- MO CD 1: City of St. Louis and part of St. Louis County.
- MO CD 2: St. Charles County and part of St. Louis County.
- MO CD 3: Counties of Crawford, Franklin, Gasconade, Jefferson, Lincoln, Pike, St. Francis, St. Genevieve, Warren, Washington and part of St. Louis County.
- MO CD 4: Counties of Bates, Benton, Boone, Calloway, Carroll, Cass, Chariton, Cole, Cooper, Henry, Howard, Layaffete, Maris, Miller, Moniteau, Morgan, Osage, Ray, St. Clair, Saline, Pettis and Vernon.
- MO CD 5: Jackson County and Johnson County.
- MO CD 6: Counties of Adair, Andrew, Atchison, Audrain, Buchanan, Caldwell, Clark, Clay, Clinton, DeKalb, Daviess, Gentry, Grundy, Harrison, Holt, Knox, Lewis, Linn, Livingston, Macon, Marion, Mercer, Monroe, Montgomery, Nodaway, Platte, Putnam, Ralls, Schuyler, Scotland, Shelby, Sullivan and Worth.
- MO CD 7: Counties of Barry, Barton, Christian, Dade, Greene, Jasper, Lawrence, McDonald, Newton, Stone and Taney.
- MO CD 8: Counties of Bollinger, Butler, Camden, Cape Girardeau, Carter, Cedar, Dallas, Dent, Douglas, Dunklin, Hickory, Howell, Iron, Laclede, Madison, Mississippi, New Madrid, Oregon, Ozark, Pemiscot, Perry, Phelps, Polk, Pulaski, Reynolds, Scott, Shannon, Stoddard, Texas, Wayne, Webster and Wright.

The population of St. Louis County shall be divided into the following Missouri Congressional Districts:

- MO CD 1: 464,700 St. Louis County residents w/ 301,578 City of St. Louis residents.
- MO CD 2: 360,937 St. Louis County residents w/ 405,262 St. Charles County residents.
- MO CD 3: 178,448 St. Louis County residents w/ 590,843 residents from the counties of Crawford, Franklin, Gasconade, Jefferson, Lincoln, Pike, St. Francis, St. Genevieve, Warren and Washington.

The boundaries for MO Congressional Districts 1, 2 and 3 can be found at <https://districtr.org/plan/75338>.



### Factors Considered When Drafting Berry Proposed Missouri Congressional Map

The following redistricting factors were considered when drafting the Berry Proposed Missouri Congressional Map, with weight given to each redistricting factor in the order listed below:

- The statistical population results of the 2020 U.S. Census;
- The maximum population deviation percentage between each congressional district drafted by Berry Proposed Missouri Congressional Map and the target population of each Missouri congressional district pursuant to the results of the 2020 U.S. Census;
- The compactness and contagiousness of each congressional district drafted by Berry Proposed Missouri Congressional Map;
- Establishment of congressional districts that incorporate all voters of a Missouri county within the same congressional district, when statistically possible; and
- Establishment of congressional districts that provide for the continuation of representation by the same congressional district.

### Analysis of Berry Proposed Missouri Congressional Map-Race Population Breakdown\*

District	White	Black	Latino	Asian	2 or More Races
MO CD 1:	41.5%	45.8%	4.4%	3.2%	5.1%
MO CD 2:	80.7%	5.1%	3.8%	5.4%	5.0%
MO CD 3:	89%	1.9%	2.5%	1.2%	5.4%
MO CD 4:	83.4%	5.2%	4.0%	1.4%	6.0%
MO CD 5:	60.2%	20.6%	10.4%	2.0%	6.8%
MO CD 6:	82.8%	4.9%	5.1%	1.6%	5.6%
MO CD 7:	82.8%	1.9%	6.1%	1.5%	7.7%
MO CD 8:	85.7%	4.8%	3.1%	0.9%	5.5%

\* "2 and More" race percentage breakdown also includes any group not listed who composes 1% or less of the congressional district population. Race was not utilized as a factor when drafting the Berry Proposed Missouri Congressional Map.

The boundaries for MO Congressional Districts 1, 2 and 3 can be found at <https://districtr.org/plan/75338>.