IN THE UNITED STATES COURT OF APPEALS

FOR THE EIGHTH CIRCUIT

PAUL BERRY III,

Petitioner,

v.

John A. Ross,
in his official capacity as
District Court Judge of the
United States District Court
of Eastern Missouri,

Respondent.

FILED
SEP 21 2026
U.S. Court of Appeals
Eighth Circuit

26-2902

Court of Appeals Docket #:

_____

HAND DELIVERED
RECEIVED
SEP 21 2026
U.S.COURT OF APPEALS
EIGHTH CIRCUIT

EXTRAORDINARY WRIT OF MANDAMUS

(pursuant to All Writs Act and the Inherited Powers of the Court)

HERE COMES, Plaintiff Paul Berry III with his EXTRAORDINARY WRIT OF MANDAMUS on Counts IV thru VII of the underlying Complaint against United States District Court Judge John A. Ross, states as follows:

INTRODUCTION

In what may go down as the "Kobayashi Maru" of United States congressional map controversies challenging the constitutionality of Missouri's congressional maps, Plaintiff Paul Berry III seeks this Honorable Court to enforce the provisions of 2 U.S. Code § 2a(c)(5) and

order Missouri to utilize an at-large statewide congressional election to conduct the 2026 MissouriGeneral congressional election. Since Missouri lost one congressional seat and went from nine (9) congressional seats to eight (8) congressional seats after the congressional reappropriations based upon the 2010 United States Census Bureau decennial resident canvass, Missouri has failed to enact a single congressional map that withstands the Complaint's charges of constitutional violations.

After 4:00pm on September 3, 2026, the State of Missouri by its Supreme Court issued a 7-0 decision prohibiting the use of the 2025 Missouri Congressional District Map to conduct the 2026 Missouri General congressional election after Missouri utilized the 2025 Missouri Congressional District Map to conduct the 2026 Missouri Primary congressional election. Petitioner Paul Berry III took notice that the Missouri Supreme Court ordered the 2022 Missouri Congressional District Map to conduct the 2026 Missouri General congressional election.

Petitioner Berry was the winner of the 2026 Missouri Republican Primary congressional election for Missouri Congressional District One and is the 2026 Republican nominee for Missouri Congressional District One during the 2026 Missouri General congressional election. Petitioner Berry was personally aware that the 2022 Missouri Congressional District Map was unconstitutionally racially gerrymandered and the 2011 Missouri Congressional District Map on its face is unconstitutional because its utilizes Missouri census data the is not constitutional to utilize in the year 2026.

The instant writ before the Eighth Circuit because there is ZERO time to file an appeal

before the Eighth Circuit under the notice, response to notice and evidentiary requirements to file a Federal appeal regarding the United States District Court of Eastern Missouri summarily denying the underlying Complaint and Petitioner Berry due process in the underlying matter also in violation of the Petition Clause.

STATEMENT OF VERIFIED FACTS

Parties to the Writ Application

1. Petitioner Paul Berry III ("Petitioner Berry") is an African American resident of Missouri over the age of twenty-one years old and a registered voter of Missouri Congressional District One. Petitioner Berry is the certified Missouri Congressional District One Republican nominee for the 2026 Missouri General congressional election. Petitioner Berry voted during the 2026 Missouri Primary congressional election and intends to vote during the 2026 Missouri General congressional election and is the Plaintiff on the underlying Complaint.

2. Respondent Stephen A. Clark ("Chief District Judge Clark") is the United States District Court Chief District Judge currently appointed to the underlying Complaint and is the Respondent to the instant Writ Application.

3. Respondent John A. Ross ("District Judge Ross") is the United States District Court District Judge currently appointed to the underlying Complaint and is the Respondent to the instant Writ Application.

4. Respondent Denny Hoskins ("Missouri" or "Missouri Secretary of State") is the current Secretary of State of the State of Missouri and a Defendant to the underlying Complaint. The

foundational Missouri constitutional authority establishing the election duties of the Missouri Secretary of State lies with Article IV, Section 14 of the Missouri Constitution, which states:

> "The secretary of state shall be custodian of the seal of the state, and authenticate therewith all official acts of the governor except the approval of laws. The seal shall be called the "Great Seal of the State of Missouri," and its present emblems and devices shall not be subject to change. He shall keep a register of the official acts of the governor, attest them when necessary, and when required shall lay copies thereof, and of all papers relative thereto, before either house of the general assembly. He shall be custodian of such records, and documents and perform such duties in relation thereto, and in relation to elections and corporations, as provided by law, but no duty shall be imposed on him by law which is not related to his duties as prescribed in this constitution." (underline added)

5. The Missouri Secretary of State conducted the 2026 Missouri Primary congressional election and intends on conducting the 2026 Missouri General congressional election for Missouri Congressional District One on behalf of the State of Missouri under Missouri Supreme Court Order after threat of contempt order incarceration after a Missouri Supreme Court hearing on September 10, 2026.

6. Respondent State of Missouri ("Missouri") is the 24th state to join the Union in the year 1820 and a Defendant to the underlying Complaint, and is responsible for the appointment of United States congressional legislative districts on behalf of Missouri and ultimately responsible to ensure a ballot election is conducted to select United States congressional representatives on behalf of Missouri.

Relevant Congressional Redistricting Legal Authorities

7. Article I, Section 4, Clause 1 of the United States Constitution (the "Elections Clause"), 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."

8. 2 U.S.C. § 7 states "(t)he Tuesday next after the 1st Monday in November, in every even numbered year, is established as the day for the election, in each of the States and Territories of the United States, of Representatives and Delegates to the Congress commencing on the 3d day of January next thereafter."

9. 2 U.S. Code § 2a states verbatim:

> "(a) On the first day, or within one week thereafter, of the first regular session of the Eighty-second Congress and of each fifth Congress thereafter, the President shall transmit to the Congress a statement showing the whole number of persons in each State, excluding Indians not taxed, as ascertained under the seventeenth and each subsequent decennial census of the population, and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions, no State to receive less than one Member.
>
> (b) Each State shall be entitled, in the Eighty-third Congress and in each Congress thereafter until the taking effect of a reapportionment under this section or subsequent statute, to the number of Representatives shown in the statement required by subsection (a) of this section, no State to receive less than one Member. It shall be the duty of the Clerk of the House of Representatives, within fifteen calendar days after the receipt of such statement, to send to the executive of each State a certificate of the number of Representatives to which such State is entitled under this section. In case of a vacancy in the office of Clerk, or of his absence or inability to discharge this duty, then such duty shall devolve upon the Sergeant at Arms of the House of Representatives.
> (c) Until a State is redistricted in the manner provided by the law thereof after any apportionment, the Representatives to which such State is entitled under such apportionment shall be elected in the following manner: (1) If there is no change in the number of Representatives, they shall be elected from the districts then prescribed by the law of such State, and if any of them are elected from the State at large they shall continue to be so elected; (2) if there is an increase in the number of Representatives, such additional Representative or Representatives shall be elected from the State at large and the other Representatives from the districts then prescribed by the law of such State; (3) if there is a decrease in the number of Representatives but the number of districts in such State is equal to such decreased number of Representatives, they shall be elected from the districts then prescribed by the law of such State; (4) if there is a decrease in the

> number of Representatives but the number of districts in such State is less than such number of Representatives, the number of Representatives by which such number of districts is exceeded shall be elected from the State at large and the other Representatives from the districts then prescribed by the law of such State; or (5) if there is a decrease in the number of Representatives and the number of districts in such State exceeds such decreased number of Representatives, they shall be elected from the State at large." (underline added)

10. Article III, Section 45 of the Missouri Constitution states:

> "Congressional apportionment. — 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."

US Census Bureau Decennial Congressional Appropriations Census

11. On December 21, 2010, US Census Bureau certified the detailed local redistricting data files certified from the 2010 US Census Bureau decennial census canvass (the "2010 US Census") delivered to the President of the United States and subsequently certified to the Missouri Governor and utilized to draft and enact the 2011 Missouri Congressional District Map.

12. On August 12, 2021, US Census Bureau certified the detailed local redistricting data files certified from the 2020 US Census Bureau decennial census canvass (the "2020 US Census") delivered to the President of the United States and subsequently certified to the Missouri Governor and utilized to draft and enact the 2022 Missouri Congressional District Map.

Missouri Congressional District Maps

Missouri 2011 Congressional District Map

13. On May 4, 2011, former Missouri House Representative Speaker John Diehl introduced House Bill 193, which ultimately enacted the "2011 Missouri Congressional District Map".

14. The 2011 Missouri Congressional District Map was required pursuant to the decrease in the number of United States congressional representatives appointed to Missouri based upon the 2010 United States Census to construct a Missouri congressional district map reducing the number of United States congressional representatives from nine (9) congressional representatives to eight (8) congressional representatives.

15. House Bill 193 was enacted by a Missouri General Assembly's legislative override of Governor Nixon's veto of House Bill 193 and went into effect on August 28, 2022.

16. Missouri utilized the Missouri congressional district map created from the enactment of House Bill 193 to conduct each Missouri Primary and General Congressional election between the years of 2012 thru 2020.

17. At no temporal period prior to or after the 2011 Missouri Congressional District Map was enacted by the Missouri General Assembly did the African American resident or voter population within the boundaries of the First Congressional District of the State of Missouri reflected on the 2011 Missouri Congressional District Map exceeded forty-nine percent (49%).

18. Missouri does not maintain any official record at any temporal period prior the 2011 Missouri Congressional District Map was enacted by the Missouri General Assembly that reflects the Missouri General Assembly conducted any pre-enactment analysis suggesting

justifiable conclusions that intentional racial voter discrimination affecting any Missourian related to the Missouri General Assembly's enactment of the 2011 Missouri Congressional District Map.

19. Missouri does not maintain any official record of the Missouri Secretary of State or the Missouri Governor that at any temporal period prior the Missouri Governor signing the 2011 Missouri Congressional District Map into law that reflects the Missouri Governor was provided any pre-enactment analysis conducted by the Missouri General Assembly suggesting justifiable conclusions that intentional racial voter discrimination affecting any Missourian related to the Missouri General Assembly's enactment of the 2011 Missouri Congressional District Map.

20. Since the Missouri General Assembly's enactment of the 2011 Missouri Congressional District Map drafted utilizing the 2011 United States Census, the United States Census Bureau has certified the 2020 United States Census to the Missouri Governor.

Missouri 2022 Congressional District Map

21. On March 1, 2022, former Missouri House of Representative Dan Shaul introduced House Bill 2909 entitled: "AN ACT To repeal sections 128.345, 128.346, and 128.348, RSMo, and to enact in lieu thereof twelve new sections relating to the composition of congressional districts, with an emergency clause."

22. On May 9, 2022, the Missouri House of Representatives passed House Bill 2909 by a vote of 101 Ayes to 47 Noes. The Emergency Clause attached to House Bill 2909 passed by the

Missouri House of Representatives by a vote of 114 Ayes to 34 Noes.

23. On May 11, 2022, the Missouri Senate passed House Bill 2909 by a vote of 22 Ayes to 11 Noes. The Emergency Clause attached to House Bill 2909 passed by the Missouri Senate by a vote of 29 Ayes to 4 Noes.

24. On May 18, 2022, House Bill 2909 was delivered to Missouri Governor Mike Parson and was signed into law by Governor Parson on the same day.

25. House Bill 2909 (the "2022 Missouri Congressional District Map") was signed into Missouri law by Governor Parson with the Emergency Clause attached and went into immediate effect on May 18, 2022.

26. Missouri utilized the 2022 Missouri Congressional District Map to conduct the 2022 and 2024 Missouri congressional election cycles.

27. At no temporal period prior to or after the 2022 Missouri Congressional District Map was enacted by the Missouri General Assembly did the African American resident or voter population within the boundaries of the First Congressional District of the State of Missouri reflected on the 2022 Missouri Congressional District Map exceeded forty-nine percent (49%).

28. Missouri does not maintain any official record at any temporal period prior the 2022 Missouri Congressional District Map was enacted by the Missouri General Assembly that reflects the Missouri General Assembly conducted any pre-enactment analysis suggesting justifiable conclusions that intentional racial voter discrimination affecting any Missourian related to the Missouri General Assembly's enactment of the 2022 Missouri Congressional

District Map.

29. Missouri does not maintain any official record of the Missouri Secretary of State or the Missouri Governor that at any temporal period prior the Missouri Governor signing the 2022 Missouri Congressional District Map into law that reflects the Missouri Governor was provided any pre-enactment analysis conducted by the Missouri General Assembly suggesting justifiable conclusions that intentional racial voter discrimination affecting any Missourian related to the Missouri General Assembly's enactment of the 2022 Missouri Congressional District Map.

Missouri 2025 Congressional District Map

30. On August 29, 2025, Missouri Governor Michael Kehoe issued a Proclamation convening an extraordinary session of the Missouri General Assembly pursuant to Article IV, Section 9 of the Missouri Constitution set to commence on September 3, 2025: "(t)o enact legislation to establish new congressional districts for the State of Missouri."

31. On September 3, 2025, former Missouri House of Representative Dirk Deaton introduced House Bill 1 entitled: "An Act To repeal sections 128.345, and 128.348, RSMo, and to enact in lieu thereof twelve new sections relating to the composition of congressional districts."

32. On September 3, 2025, the Missouri House of Representatives passed House Bill 1 by a vote of 90 Ayes to 65 Noes. No Emergency Clause was attached to House Bill 1 upon passage by the Missouri House of Representatives.

33. On September 9, 2025, the Missouri Senate passed House Bill 1 by a vote of 21 Ayes to 11 Noes. No Emergency Clause was attached to House Bill 1 upon passage by the Missouri Senate.

34. On September 9, 2025, House Bill 1 was delivered to and signed into Missouri law by Missouri Governor Kehoe without any Emergency Clause.

35. Article III, Section 29 of the Missouri Constitution establishes when an enacted Missouri law goes into effect, which states:

> "Effective date of laws — exceptions — procedure in emergencies and upon recess. — 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 odd-numbered 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."

36. House Bill 1 went into effect in Missouri on December 11, 2025.

37. As of December 11, 2025, House Bill 1 repealed the 2022 Missouri Congressional District Map enacted by House Bill 2909 by Missouri on May 18, 2022.

38. Missouri utilized the Missouri congressional district map created from the enactment of House Bill 1 to conduct the 2026 Missouri congressional Primary election on August 4, 2026.

39. At no temporal period prior to or after the 2025 Missouri Congressional District Map was enacted by the Missouri General Assembly did the African American resident or voter population within the boundaries of the First Congressional District of the State of Missouri

reflected on the 2025 Missouri Congressional District Map exceeded forty-nine percent (49%).

40. Missouri does not maintain any official record at any temporal period prior the 2025 Missouri Congressional District Map was enacted by the Missouri General Assembly that reflects the Missouri General Assembly conducted any pre-enactment analysis suggesting justifiable conclusions that intentional racial voter discrimination affecting any Missourian related to the Missouri General Assembly's enactment of the 2025 Missouri Congressional District Map.

41. Missouri does not maintain any official record of the Missouri Secretary of State or the Missouri Governor that at any temporal period prior the Missouri Governor signing the 2025 Missouri Congressional District Map into law that reflects the Missouri Governor was provided any pre-enactment analysis conducted by the Missouri General Assembly suggesting justifiable conclusions that intentional racial voter discrimination affecting any Missourian related to the Missouri General Assembly's enactment of the 2025 Missouri Congressional District Map.

42. 2011 Missouri Congressional District Map, 2022 Missouri Congressional District Map and 2025 Missouri Congressional District Map are jointly referred to as "Missouri Congressional District Maps".

Missouri Proposition A Referendum

43. House Bill 1 enacted on September 9, 2025, was codified as Missouri law under § 128.345, 128.346, 128.348, and 128.471 through 128.479 RSMo, with an effective date of

December 11, 2025.

44. Article III, Section 49 of the Missouri Constitution states:

> "Reservation of power to enact and reject laws. — The people reserve power to propose and enact or reject laws and amendments to the constitution by the initiative, independent of the general assembly, and also reserve power to approve or reject by referendum any act of the general assembly, except as hereinafter provided."

45. Article III, Section 52 (a) of the Missouri Constitution states:

> "Referendum — exceptions — procedure. — A referendum may be ordered (except as to laws necessary for the immediate preservation of the public peace, health or safety, and laws making appropriations for the current expenses of the state government, for the maintenance of state institutions and for the support of public schools) either by petitions signed by five percent of the legal voters in each of two-thirds of the congressional districts in the state, or by the general assembly, as other bills are enacted. Referendum petitions shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the general assembly which passed the bill on which the referendum is demanded."

46. Article III, Section 52 (b) of the Missouri Constitution states:

> "The veto power of the governor shall not extend to measures referred to the people. All elections on measures referred to the people shall be had at the general state elections, except when the general assembly shall order a special election. Any measure referred to the people shall take effect when approved by a majority of the votes cast thereon, and not otherwise. This section shall not be construed to deprive any member of the general assembly of the right to introduce any measure."

47. On September 29, 2025, Richard von Glahn ("Missouri Proposition A Referendum Organizer") filed a referendum petition ("Missouri Proposition A Referendum") assigned Missouri Referendum Petition Number 2026-R004.

48. On August 4, 2026, the Missouri Secretary of State issued a certificate of insufficiency against the voter signatures attached to Missouri Proposition A Referendum pursuant to § 116.150, RSMo.

49. On August 4, 2026, Missouri Proposition A Referendum Organizer filed a declaratory judgment and injunctive relief petition before the Cole County Circuit Court of the State of Missouri (Missouri Circuit Court Case No: 26AC-CC00440 - "*VON GLAHN V HOSKINS*") pursuant to, inter alia, § 116.200.1, RSMo seeking the Cole County Circuit Court to adjudicate as to whether Missouri Proposition A Referendum is sufficient or insufficient for placement on the 2026 Missouri General election ballot pursuant to § 116.115, RSMo, which states:

> "1. After the secretary of state makes a determination on the sufficiency of the petition and if the secretary of state finds it sufficient, the secretary of state shall issue a certificate setting forth that the petition contains a sufficient number of valid signatures to comply with the Constitution of Missouri and with this chapter.
>
> 2. The secretary of state shall issue a certificate only for a petition approved pursuant to section 116.332. If the secretary of state finds the petition insufficient, the secretary of state shall issue a certificate stating the reason for the insufficiency.
>
> 3. The secretary of state shall issue a certificate pursuant to this section not later than 5:00 p.m. on the thirteenth Tuesday prior to the general election or two weeks after the date the election authority certifies the results of a petition verification pursuant to subsection 2 of section 116.130, whichever is later."

50. On August 19, 2026, the Cole County Circuit Court issued its decision in *VON GLAHN V HOSKINS*, with the following court docket text order:

> "WHEREFORE, this Court hereby issues its Judgment and Order in favor of respondent Denny Hoskins and Intervenors Republican National Committee, National Republican Congressional Committee, and Missouri Republican State Committee and against Plaintiff on Plaintiffs Petition for Declaratory Judgment and Injunctive Relief and further ORDERS, DECLARES, and ADJUDGES that: A. Missouri's referendum provisions in Article III, Sections 49 and 52 of the Missouri Constitution do not apply to congressional redistricting enacted by the General Assembly pursuant to Article III, Section 45; B. The Secretary of State's decision to not certify the referendum petition directed at HB 1 was lawful; C. HB 1 remains in full force and effect for the 2026 general election; D. The Petition is dismissed and judgment is entered for respondent; E. The parties are to bear their own costs. F. As soon as a notice of appeal is filed, if any, this Court relinquishes its jurisdiction over this matter and deems this Judgment final for purposes of appeal. See Rule 81.045. SO ORDERED, this 19th day of August 2026. DRG/ado"

51. On August 19, 2026, a notice of appeal was filed before the Cole County Circuit Court in *VON GLAHN V HOSKINS* by Missouri Proposition A Referendum Organizer, to which, on August 20, 2026, the Missouri Supreme Court issued the following court docket text order:

> "Order issued: On August 19, 2026, Appellant filed a notice of appeal to this Court. Without determining whether this appeal invokes this Court's exclusive appellate jurisdiction, this Court, on its own motion, grants transfer of this case under Rule 83.01 because of the general interest or importance of the legal issues involved in this matter. An expedited briefing schedule is set as follows: The legal file and transcript are due on or before August 24, 2026; Appellant's brief is due on or before 12:00 p.m., August 25, 2026; Respondents' briefs are due on or before 12:00 p.m., August 27, 2026; and Appellant's reply brief, if any, is due on or before 12:00 p.m., August 31, 2026. This matter will be set for oral argument on September 2, 2026."

52. On September 2, 2026, *VON GLAHN V HOSKINS* was argued before and submitted for decision by the Missouri Supreme Court.

53. On September 3, 2026, the Missouri Supreme Court issued its opinion in *VON GLAHN V HOSKINS*, which states, inter alia, that House Bill 1 (2025) that established the 2025 Missouri Congressional District Map is suspended until a statewide referendum vote is conducted by the Missouri Secretary of State during the 2026 General election and because House Bill 1 (2025) repealed House Bill House Bill 2909 (2022) that the Missouri congressional district map that was established by House Bill 2909 (2022) is in effect for the 2026 Missouri General congressional election.

Collateral Effects of Missouri Proposition A Referendum

54. Under the legislative mechanics of Article III, Sections 29, 49, 52(a) and 52 (b) of the Missouri Constitution judicially mandated by the Missouri Supreme Court's opinion in

MAGGARD V. STATE and *VON GLAHN V. HOSKINS*, House Bill 1 not being in effect during the 2026 Missouri General congressional election now immediately causes the 2022 Missouri Congressional District Map to become the statutory Missouri congressional district map during the 2026 Missouri General Congressional Election.

55. Under the legislative mechanics of the District Court striking the 2022 Missouri Congressional District Map as unconstitutional will reenact the 2011 Missouri Congressional District Map for use during the 2026 Missouri General congressional election, because the 2022 Missouri Congressional District Map enacted by House Bill 2909 specifically repeals House Bill 193, which enacted the 2011 Missouri Congressional District Map.

56. Use of the 2011 Missouri Congressional District Map or any Missouri congressional map enacted by the Missouri General Assembly prior to the certification of the 2020 Census to conduct the 2026 Missouri General congressional election is strictly prohibited by the Missouri Constitution, Federal law and the United States Constitution due to the reduction in the number of congressional single districts Missouri is permitted to construct pursuant to the results of the 2010 Census required for Missouri to conduct the 2026 Missouri General congressional Election and the deviation in Missouri population between 2010 Census and 2020 Census.

Related Third-Party Federal Litigation

57. On September 4, 2026, Missouri filed its emergency application for a stay before the Supreme Court of the United States seeking review of the Missouri Supreme Court's opinion in *VON GLAHN V HOSKINS*, which was denied by the United States Supreme Court on September

8, 2026.

58. On September 4, 2026, the 2026 Republican nominees for United States Congress in the 3rd and 5th Missouri Congressional Districts, Dr. Robert ("Bob") Onder, Richard ("Rick") Bratton, with Missouri congressional voters from the 3rd and 5th congressional districts filed a Federal complaint before the United States District Court of Eastern Missouri ("Onder/Brattin Complaint"), inter alia, seeking to declare the use of the 2022 Missouri Congressional District Map unconstitutional for using during the 2026 Missouri General congressional election proceeding under United State District Court case number 4:26-CV-01419-SAC.

59. On September 8, 2026, Chief District Judge Clark issued a temporary restraining order ("Onder/Brattin TRO") against the Missouri Secretary of State based upon Chief District Judge Clark's judicial determination that the 2022 Missouri Congressional District Map is likely unconstitutional to conduct the 2026 Missouri General congressional election.

60. After being affirmed by the Eighth Circuit, the Onder/Brattin TRO was appealed by intervenors to the Onder/Brattin Complaint before the United States Supreme Court, who stayed the Onder/Brattin TRO until further consideration by the Eighth Circuit.

61. As of the date and time of this Writ Application, the Onder/Brattin Complaint has not reached a final determination from the Federal court system.

Racial Gerrymandering of Missouri Congressional District One

62. Missouri substantially violated Section One of the Fifteenth Amendment of the United States Constitution when Missoui drafted and enacted the Missouri Congressional District Maps,

because Missouri considered and utilized the race of African Americans in Eastern Missouri as a primary factor when drafting the jurisdictional boundaries of Missouri Congressional District One provided by the Missouri Congressional District Maps, purportedly, incorrectly and unconstitutionally to comply with the Voting Rights Act, without taking any official action by legislative vote or in fact that provides any preenactment analysis was conducted or voted upon that suggests that any Missourian suffered from intentional voter discrimination related to United States congressional voting in any manner whatsoever and Missouri's use of race to construct the Missouri Congressional District Maps, specifically, utilizing the race of Missourians to create Missouri Congressional District One as a "race influence district", which is expressly forbidden by the Voting Rights Act of 2006, and Section One of both the Fourteenth and Fifteenth Amendments of the United States Constitution.

63. When drafting the Missouri Congressional District Maps enacted by the Missouri General Assembly, the Missouri General Assembly unconstitutionally utilized the racial demographic information provided by the 2010 United Census and 2020 United Census certified to the Missouri Governor to construct the congressional boundaries of Missouri Congressional District One in the manner currently presented by each Missouri Congressional District Map.

64. Missouri's Black population often seeks to migrate outside of the boundaries of the First Congressional District seeking different community interests than provided within the First Congressional District related to seeking better government services, employment

opportunities, housing opportunities, educational opportunities and criminal justice services, all influenceable by Federal congressional appropriations and representation.

65. Missouri Congressional District One has been represented by an African American United States congressional representative for the last 58 years, since 1968 until the date of this Complaint and both Democrat and Republican voters have consistently nominated African American nominees for the First Congressional District of Missouri.

66. During the 21st Century, there has not been a single claim involving any local or state legislative district within or adjacent to Missouri Congressional District One that international racial discrimination caused any African American the inability to elect the political candidate of their choice or otherwise abridged the vote of African Americans within or adjacent to Missouri Congressional District One.

67. At all relevant temporal periods, St. Louis County's African American population is approximately twenty-five percent (25%) of St. Louis County's population; an analysis of voting trends in St. Louis County of African American countywide political candidates Charlie Dooley, Wesley Bell and Paul Berry III with White countywide political candidates Steve Stegner, Sam Page and Melissa Price receiving the majority of votes from Black voters, which establishes an extraordinary number of White voters voted for African American political candidates and White candidates received more votes from African American voters than White voters in other instances.

68. Evidence that African Americans do not vote as a racial voter block in Missouri

Congressional District One is evident from the 2025 Democrat Primary results for City of St. Louis Mayor and 2026 Democrat Primary election results for St. Louis County Executive. African American voters in St. Louis County failed to consolidate a St. Louis County Executive candidate and split large percentages of African American voters for St. Louis County Executive between one White and two African American candidates.

69. In fact, the Missouri Secretary of State, himself, has publicly discussed the exact same personal disdain Petitioner Berry shares and in the instant seeks relief from during a press statement related to Missouri's construction of Missouri's Congressional District One by utilizing the race of Missourians as published by Missouri Independent on May 12, 2026; Missouri Secretary of State Denny Hoskins states as published by Missouri Independent:

> "While he was speaking to reporters, Hoskins said he would be interested in another round of redistricting in 2027.
>
> Missouri's 1st District is the only one in the state that was drawn to meet the requirements of the Voting Rights Act. Hoskins said lawmakers should revise Missouri's map to eliminate the Black-majority district.
>
> **"The definition of racism," Hoskins said, "is drawing districts based on the color of one's skin. We don't want that in this state.""** (bold added)
>
> [https://missouriindependent.com/2026/05/12/no-perfect-map-missouri-ags-office-defends-gerrymandered-congressional-districts/]

70. Denny Hoskins as a Missouri Senator in 2022 voted on the 2022 Missouri Congressional District Map and as Missouri Secretary of State is well-qualified on behalf of Missouri to declare whether the Missouri congressional district maps enacted in the years 2022 and 2025 constructed and enacted Missouri Congressional District One utilizing the race of Missourians, to which,

under a purported and unqualified assumption that Missouri was required to construct Missouri Congressional District One utilizing the race of Missourians as a mandatory obligation for compliance with the Voting Rights Act of 2006.

71. The Missouri Solicitor General in a Missouri court case argued without a factual determination or resolution by the Court in such Missouri court case that the 2022 Missouri Congressional District Map was illegally racially gerrymandered. (see "Missouri AG argues St. Louis congressional district is an unconstitutional racial gerrymander" by Jason Rosenbaum-St. Louis Public Radio.)

[https://www.stlpr.org/government-politics-issues/2025-11-18/missouri-attorney-general-hanaway-1st-congressional-district-unconstitutional-racial-gerrymander]

72. Further, in *State of Missouri v. United States Department of Commerce*, before the United States District Court of Eastern Missouri, Missouri challenges the constitutionality of the 2022 Missouri Congressional District Map and before the 8th Circuit, admittedly based upon different legal theories, although a party can not claim a congressional district map is both constitutional and unconstitutional in the same breath before multiple courts, which Petitioner Berry summarizes Missouri has no intention to do so before the 8th Circuit. (see Counts I-VI at):

[https://ago.mo.gov/wp-content/uploads/Missouri-v.-DOC-Complaint-1-30-2026-final.pdf]

73. In fact, you don't have to go any further than Missouri Governor Kehoe's special legislative session proclamation, signed as a matter of law by both Hoskins and Kehoe, to understand Missouri's position on whether race was utilized improperly to construct Missouri

Congressional District One upon the 2022 Missouri General Congressional District Map in violation of the Voting Rights Act of 2006, which states in part:

> "The State of Missouri's current congressional district map may be vulnerable to a legal challenge under the Voting Rights Act and the Fourteenth Amendment, due to a lack of compactness in certain districts."

[https://governor.mo.gov/proclamations/governor-kehoe-convenes-second-extraordinary-session-first-regular-session-one]

74. Any involvement by the Missouri General Assembly related to a special legislative session called for the specific purpose of constructing any Missouri congressional district as a legislative response to a "legal challenge under the Voting Rights Act" is absolutely being called to consider race under the Voting Rights Act when drafting such Missouri congressional district boundaries, and to address the Voting Rights Act violations that Petitioner Berry has complained against since the original enactment of the 2022 Missouri Congressional District Map.

75. Further, the only region of Missouri that can be remotely subject to the Voting Rights Act of 2006 related to any Federal congressional district map is the Missouri region that at all relevant temporal periods maintained territory currently and formerly comprised of the Missouri Congressional District One.

76. Because both the Democrat Party and Republican Party nominee for the 2026 Missouri General congressional elections are each African American, African Americans in the St. Louis region are not in jeopardy of being represented by a Congressman who is not African American.

77. Missouri does not maintain a compelling state interest to segregate African Americans

within one Missouri Congressional District One based upon race or ancestral bondage under slavery.

Violations of the Equal Protection Clause

78. Subject to this Court's determination adjudicating the underlying Complaint, the *VON GLAHN V HOSKINS* Missouri Supreme Court decision orders the Missouri Secretary of State to conduct the 2026 Missouri General congressional election utilizing the unconstitutional 2022 Missouri Congressional District Map, which will disenfranchise the vote of a sizable number of Missourians who voted during the 2026 Missouri Primary congressional election.

79. In the event this Court permits the Missouri Secretary of State to conduct the 2026 Missouri General congressional election utilizing the unconstitutional 2022 Missouri Congressional District Map and the Missouri Proposition A Referendum fails voter approval during the 2026 Missouri General congressional election, such an instance shall cause a clear unconstitutional election result in violation of the Elections Clause and the Equal Protection of the United States Constitution.

Federal Court Complaint Litigation

Federal Court Complaint Initiation

80. On September 4, 2026, Petitioner Berry filed the underlying Complaint before the United States District Court of Eastern Missouri, was assigned a Federal District Court civil complaint number, issued a summon in the underlying Complaint and assigned United States District Court Judge Honorable Zachary M. Bluestone ("District Judge Bluestone").

81. On September 4, 2026, Petitioner Berry effectuated service of Defendant Missouri Secretary of State Denny Hoskins by Federal special process server and provided emergency notice to the Missouri Solicitor General of the underlying Complaint, who personally confirmed their notice and tracking of the underlying Complaint before the District Court; the Missouri Solicitor General is employed by the Missouri Attorney General as civil litigation general counsel on behalf of the State of Missouri.

82. At 3:17 pm on September 4, 2026, Petitioner Berry filed before the District Court the return of service certification regarding personal service of the underlying Complaint to Missouri Secretary of State Denny Hoskins, thus effectuating notice to the Defendants of the underlying Complaint and presentation of the Complaint's request for the empanelment of a Three-Judge District Court to District Judge Bluestone pursuant to 28 U.S.C. § 2284(b)(1).

Chief District Judge Assignment Order

83. At 4:37 pm on September 4, 2026, Chief District Judge Clark issued the following order:

> "ORDER: Upon review of the Complaint, the Court finds that this case is substantially related to a previously filed case, Berry III v. Ashcroft, et al., No. 4:22-cv-465, which was originally assigned to the Honorable John A. Ross. To maintain the random assignment of cases pursuant to Local Rule 2.08(A), and under the authority of 28 U.S.C. § 137(a), the undersigned directs the Clerk of Court to reassign this case to the Honorable John A. Ross. Signed by Chief District Judge Stephen R. Clark on 9/4/2026. (KXS) (Entered: 09/04/2026)"

84. Under reasonable belief and acknowledging the judicial procedure required pursuant to 28 U.S.C. § 2284, Petitioner Berry states that after District Judge Bluestone was originally assigned the Complaint, District Judge Bluestone reviewed the Complaint pursuant to 28 U.S.C. § 2284(b)(1), and District Judge Bluestone referred the Complaint to Chief District Judge Clark,

who is required pursuant to 28 U.S.C. § 2284(b)(1):

> "**Upon the filing of a request** for three judges, **the judge to whom the request is presented** shall, unless he determines that three judges are not required, **immediately notify the chief judge of the circuit**, who **shall designate two other judges**, at least one of whom shall be a circuit judge. The judges so designated, and the judge to whom the request was presented, shall serve as members of the court to hear and determine the action or proceeding."

85. Petitioner Berry charges that Chief District Judge Clark has zero statutory authority to review as a de facto appellate authority the judicial decision of whether "three judges are not required", which is the singular requirement of District Judge Bluestone to refer the Complaint to Chief District Judge Clark in the underlying matter, and such decision regarding whether "three judges are not required" may only be conducted by the District Judge to "whom the request is Presented", and not Chief District Judge Clark in the instant.

86. 28 U.S.C. § 2284(b)(1) specifically prohibits Chief District Judge Clark from designating the District Judge of Petitioner Berry's Complaint (unless there is cause to do so, or the provisions established by Congress creating a difference between the appointment of District Judges and Three-Judge District Court as judicial court procedure is either ignored or simply meaningless) in the manner as provided by Chief District Judge Clark's duty to "designate two other judges" to the Three-Judge District Court.

87. "The judge to whom the request is presented" is the District Court Judge to whom the Complaint seeking a three-court District Court is assigned to by the District Court Clerk by the random judge selection process established by Local Rule 2.08(A).

88. Petitioner Berry **presented** his demand for a three-judge District Court to District Court

Judge Bluestone by filing the Complaint before the United States District Court of Eastern Missouri and the District Court Clerk randomly assigning District Judge Bluestone as District Judge of the Complaint as defined by 8 U.S.C. § 2284(b)(1).

89. 28 U.S.C. § 2284(b)(1) clearly establishes the "judges so designated" and the "judge to whom the request was presented" as two separate three-judge appointment processes, with the "judge to whom the request was presented" shall be appointed in the instant by Local Rule 2.08(A).

90. Chief District Judge Clark states by his Judge Assignment Order "to maintain the random assignment of cases pursuant to Local Rule 2.08(A), and under the authority of 28 U.S.C. § 137(a)" that District Judge Ross would be assigned as the District Judge of the Complaint without mention of the two other judges who would be appointed by Chief District Judge Clark to the Complaint's Three-Judge District Court.

91. The Judge Assignment Order states as the reasoning of District Judge Ross' appointment as "the judge whom the request is presented" was "(t)o maintain the random assignment of cases pursuant to Local Rule 2.08(A), and under the authority of 28 U.S.C. § 137(a).

92. Local Rule 2.08(A) of the United States Court of Eastern Missouri states in regards to all civil court complaints as follows:

> "(A) Assignment of Civil Actions. **Unless otherwise ordered by the Court, the Clerk will assign each civil action to a district judge** or a magistrate judge **by automated random selection**, except that when preliminary injunctive relief is requested by motion, the Clerk will assign the action to a district judge. In the event the action is assigned to a magistrate judge, each party must execute and file within 21 days of its appearance either a written consent to the exercise of authority by the magistrate judge under 28 U.S.C. §

> 636(c), or a written election to have the action reassigned toa district judge. Each party must indicate its consent or election on a form provided by the Court, which must be submitted in the manner directed by the Court. Consent to a magistrate judge's authority does not constitute a waiver of any jurisdictional defense unrelated to the grant of authority under 28 U.S.C. § 636(c)."

93. District Judge Bluestone is a "district judge" and not subject to any provision of Local Rule 2.08(A) related to "magistrate judge" as defined by Local Rule 2.08(A).

94. Petitioner Berry has no memory of ever meeting or in any way interacting with District Judge Bluestone.

95. Local Rule 2.08(A) provides that "otherwise ordered by the Court", Petitioner Berry is entitled to Federal judge selection "by automated random selection", unless as occurred Chief District Judge Clark revoked Petitioner Berry's right to automated random selection pursuant to Local Rule 2.08(A) as in the instant "otherwise ordered by the Court".

96. Because Local Rule 2.08(A) does not directly establish any cause for Chief District Judge Clark to sua sponte revoke Petitioner Berry's right to automated random selection pursuant to Local Rule 2.08(A) other than as "otherwise ordered by the Court", Chief District Judge Clark is wholly dependent by his Judge Assignment Order upon his authority pursuant to 28 U.S.C. § 137(a), which states:

> "(a) In General.—
>
> The business of a court having more than one judge shall be divided among the judges as provided by the rules and orders of the court.
>
> The chief judge of the district court shall be responsible for the observance of such rules and orders, **and shall divide the business and assign the cases so far as such rules and orders do not otherwise prescribe**.

> If the district judges in any district are unable to agree upon the adoption of rules or orders for that purpose the judicial council of the circuit shall make the necessary orders."

97. Local Rule 2.08(A) and 28 U.S.C. § 137(a) specifically provides Chief District Judge Clark both carte blanche and a duty to "designate two other judges" to a three-judge panel to hear Petitioner Berry's Complaint pursuant to 8 U.S.C. § 2284(b)(1) (**which still has not occurred 17 DAYS after Petitioner Berry filed the underlying Complaint**) and to manage judicial assignments based upon death, disability, recusal or otherwise unavailability of any district judge due to scheduling conflicts or vacation from the District Court, to which, the underlying record of the District Court is void of any cause whatsoever as to why Chief District Judge Clark sua sponte ordered the removal of District Judge Bluestone as District Judge of the Complaint pursuant to 8 U.S.C. § 2284(b)(1).

98. While Petitioner Berry wholly agrees that he has no right outside of Federal statutory rights or when cause exists for judicial recusal regarding the appointment of a District Court Judge to adjudicate the Complaint, Petitioner Berry should not be robbed of his right by Federal Local Rule to random judicial selection of the District Judge selected to adjudicate his Complaint as mandated pursuant to Local Rule 2.08(A) and in the instant enforceable by Petitioner Berry against Chief District Judge Clark pursuant to 28 U.S.C. § 137(a).

99. The Judge Assignment Order acknowledges that District Judge Ross was already Plaintiff Berry's District Judge in a previous congressional map litigation in 2022, and specifically states the cause of the appointment of District Judge Ross was "(t)o maintain the random assignment of cases pursuant to Local Rule 2.08(A)", although the Judge Assignment Order does not state the

fact that District Judge Ross very recently served as the District Judge on another Federal court lawsuit involving a litany of injunctive relief and time sensitive litigant responses involving Petitioner Berry's minor daughter; under the random judicial selection odds the Court's Judge Assignment Order placed Petitioner Berry in by assigning District Judge Ross as District Judge now places District Judge Ross three (3) times upon Petitioner Berry's last three (3) Federal plaintiff civil complaints before the United States District Court of Eastern Missouri over a four-year period at 1 to 381 odds, or 0.09%.

100. The Chief District Judge Clark has voluminous authority to control the District Court's administration, except such judicial authority is limited to Chief District Judge Clark following the District Court's Local Rule, which carries the force of Federal law (see *United States v. Hvass, 355 U.S. 570* (1958)), and in instant provides Petitioner Berry a right to random juridical selection of a District Judge to hear the instant Complaint pursuant to Local Rule 2.08(A), unless the administrative duties of the Chief District Judge Clark actually require otherwise.

101. While District Court Rule and Federal law declare otherwise, the only conceivable action that Chief District Judge Clark may have given cause to reassign any District Court Judge initially assigned to the Complaint would have been Chief District Judge Clark to order for efficiency and judicial economy to consolidate the Complaint with the District Court's adjudication of the Onder/Brattin Complaint seeking similar judicial relief based upon completely different legal theories and the two Federal complaint, more specifically, the

requested relief related to the 2026 Missouri congressional district map that would be utilized to conduct the Missouri General congressional election; Chief District Judge Clark, is the District Judge of the Onder/Brattin Complaint currently on appeal before the Eight Circuit proceeding under Eighth Circuit docket numbers 26-2797 and 26-2827.

District Judge Ross Order to Show Cause

102. At 5:14 pm on September 4, 2026, District Judge John A. Ross ("District Judge Ross") of the United States District Court of Eastern Missouri issued sua sponte the following order (the "Order to Show Cause"):

> "ORDER TO SHOW CAUSE: IT IS HEREBY ORDERED that Plaintiff Paul Berry III must show cause in writing no later than 12:00 p.m. CT on September 7, 2026 as to why his requests to convene a three-judge panel and obtain the equitable relief he seeks should not be denied in light of the procedural impossibility of complying with 28 U.S.C. § 2284(b)(2). **Plaintiff is advised that he must respond to this order before the Court will entertain any further request for relief.** (Show Cause Response due by 9/7/2026.) Signed by Sr. District Judge John A. Ross on 9/4/2026. (KXS) (Entered: 09/04/2026)" (bold added)

103. The temporal period between Chief District Judge Clark issuing his Judge Assignment Order at 4:37 pm on September 4, 2026, and District Judge Ross entering his Order to Show Cause at 5:14 pm on September 4, 2026, is 41 minutes.

104. The District Court Clerk and the 8th Circuit Clerk offices were closed after 4:30pm on September 4, 2026.

105. Under objection, Petitioner Berry squarely and fully addressed the Order to Show Cause issued by District Judge Ross on September 7, 2026.

106. Petitioner Berry charged by his Response to Order to Show Cause that District Judge

Ross was utilizing the wrong judicial review standard set by the United States Supreme Court to determine whether the Complaint required the appointment of a Three-Judge District Court.

107. The provision of the Order to Show Cause issued on September 4, 2026, the exact same day the underlying Complaint was filed before the District Court, until the date and time of this Writ Application, the portion of the Order to Show Cause stating: "Plaintiff is advised that he must respond to this order before the Court will entertain any further request for relief" has not been relieved by District Judge Ross simply by Petitioner Berry executing the filing of his Response to Order to Show Cause under a Federal show cause action until District Judge Ross by a judicial order relieves Petitioner Berry from the aforementioned prohibition from receiving entertainment of relief declared by District Judge Ross and his Order to Show Cause, which still has not been ordered by District Judge Ross over the **LAST SIXTEEN DAYS**, thus prejudicing Petitioner Berry from requesting District Judge Ross to adjudicate the underlying emergency relief sought by the Complaint.

District Court Judge Abeyance Order and Petitioner Berry Motion to Set Aside Abeyance

108. At 11:26 am on September 8, 2026, District Judge Ross issued the following order (the "Judge Ross Abeyance Order"):

> "ORDER: Ultimately, this Court cannot determine a proper path forward until the United States Supreme Court has ruled on Missouri's application for a stay of von Glahn. **The Court therefore finds it necessary and appropriate to hold Plaintiff's requests for emergency relief in abeyance pending such a ruling. The Court will determine next steps as appropriate after that ruling.** SEE ORDER FOR DETAILS. Signed by Sr. District Judge John A. Ross on 9/8/2026. (CLT) (Entered: 09/08/2026)"

109. The Judge Ross Abeyance Order states "this Court cannot determine a proper path

forward until the United States Supreme Court has ruled on Missouri's application for a stay of von Glahn", when the approval or denial of any application for a stay by the United States Supreme Court in the underlying matter as a matter of Federal law can not produce any evidentiary decision or appellate precedent, because any stay application decision before the United States Supreme Court does not produce any final judicial decision relevant to the underlying Complaint, or more specifically, no emergency relief sought by the Complaint as stated by the Judge Ross Abeyance Order.

110. On September 8, 2026, the United States Supreme denied "Missouri's application for a stay of von Glahn" stated as the sole cause of abeyance of "Plaintiff's requests for emergency relief" in Judge Ross Abeyance Order.

111. Despite Petitioner Berry being well-aware that the sole condition of the Judge Ross Abeyance Order, specifically, the United States Supreme Court ruling "on Missouri's application for a stay of von Glah", which was denied on September 8, 2026, Petitioner Berry took one day to see if District Judge Ross would sua sponte discharge his Judge Ross Abeyance Order against the Complaint.

112. On September 10, 2026, Petitioner Berry filed before District Judge Ross his Motion to Set Aside Abayonce Order, to which, District Judge Ross has to this date refused to answer or even acknowledge **over an eleven (11) day period** Petitioner Berry's demand to discharge the Judge Ross Abeyance Order and after District Judge Ross acknowledged from the first day the Complaint was filed on September 10, 2026, that the Complaint sought "requests for emergency

relief" and questioned sua sponte the five-day service rule being dispositive of Petitioner Berry's seeking the relief requested by the Complaint.

113. Petitioner Berry clearly articulated to District Judge Ross by his Motion to Set Aside Abeyance Order why any continuation of the Judge Ross Abeyance Order was not only improper as a matter of the conditions set in the four corners of the Judge Ross Abeyance Order being relieved by the United States Supreme Court's stay against the Missouri Supreme Court the exact same day the Judge Ross Abeyance Order was issued by the Court, that continuing the Judge Ross Abeyance Order in the instant was tantamount to District Judge Ross violating the Petition Clause of the United States Constitution.

Missouri Attorney General Entry of Appearances and 8th Circuit Writ of Mandamus

114. On September 10, 2026, the Missouri Attorney General entered their entry of appearance on behalf of the Missouri Secretary of State, and on September 11, 2026, the Missouri Attorney General entered their entry of appearance on behalf of the State of Missouri.

115. Under the legal theory of there is no other legal method to seek the underlying judicial relief sought before District Judge Ross, on September 14, 2026, Petitioner Berry filed his Writ of Mandamus and Writ of Prohibition against Defendant Denny Hoskins seeking the 8th Circuit to order the Missouri Secretary of State to conduct at-large statewide congressional elections because Missouri has not enacted a constitutional map on the eve of the 2026 Missouri General congressional election, which was discretionarily denied by this Court without a judicial decision.

Petitioner Berry TRO Application and Defendant Motion to Stay Proceedings

116. At 8:24 am on Thursday September 17, 2026, Petitioner Berry filed a verified motion for temporary restraining order and attached memorandum of support ("Berry TRO Application") before the District Court, with the plan that in the event the District Court refused to acknowledge or respond to Berry TRO Application by the end of Thursday September 17, 2026, that Petitioner Berry would seek immediate relief from the Eighth Circuit to remedy the District Court's refusal to hear Berry TRO Application and other conduct while adjudicating the underlying Complaint.

117. Berry TRO Application seeks an ex parte temporary restraining order pursuant to Rule 65(b) under the basis of Petitioner Berry's advanced notice provided to the Defendants of Berry TRO Application and there was no time to provide the opportunity for the Defendants to respond to the notice generally required any Federal temporary restraining order prior to the harm Petitioner Berry will incur, addressed the District Court's consideration of setting a temporary restraining order bond, and plead in the alternative, Petitioner Berry sought in conjunction with his Motion to Shorten Time a reduced response time for Defendants to respond to Berry TRO Application.

118. On Friday September 18, District Judge Ross denied Berry TRO Application pursuant to Rule 65(b) and ordered the Defendants to respond to Berry TRO Application no later than September 22, 2026, the first day Missouri law provides votes may be cast in the 2026 Missouri General congressional election, which may cause the underlying relief requested by Berry TRO Application before District Judge Ross to simply expire.

119. Petitioner Berry pleads to the Court that it was the intention of District Judge Ross to prohibit Petitioner Berry from engaging the District Court in a meaningful manner to adjudicate the underlying Complaint, seeking to challenge the constitutionality of a United States congressional district map literally hours after Missouri enacted the same United States congressional district map into Missouri law one month AFTER a different MIssouri congressional district map was utilized to conduct Petitioner Berry's 2026 Primary congressional election.

Failure to Enact a Constitutional Missouri Congressional Map

120. The 2011 Missouri Congressional District Map was required pursuant to the decrease in the number of United States congressional representatives appointed to Missouri based upon the 2010 United States Census to construct a Missouri congressional district map reducing the number of United States congressional representatives from nine (9) congressional representatives to eight (8) congressional representatives.

121. The 2011 Missouri Congressional District Map is unconstitutional for use during the 2026 Missouri General congressional election because:

a. The 2011 Missouri Congressional District Map is constitutionally defective, because the 2011 Missouri Congressional District Map was not enacted with the most recent Missouri voter resident population data provided by the 2020 United States Census.

b. The 2011 Missouri Congressional District Map provides a malappropriate resident population for to conduct the 2026 Missouri General congressional election established by the

2010 United States Census decennial canvas results certified to the Missouri Governor for use to construct and enact Missouri congressional districts provided by the 2011 Missouri Congressional District Map, in violation of the Equal Protection Clause of the United States Constitution.

c. Missouri drafted and enacted the 2011 Missouri Congressional District Map utilizing the race of Missourians without strict adherence to the Voting Rights Act of 2006 in violation of Section One of the Fourteenth of the United States Constitution and the Fifteenth Amendment of the United States Constitution.

122. The 2022 Missouri Congressional District Map is unconstitutional for use during the 2026 Missouri General congressional election because:

a. Use of the 2022 Missouri Congressional District Map to conduct the 2026 Missouri General congressional election violates the Equal Protection Clause of the United States Constitution because by Missouri utilizing the 2022 Missouri Congressional District Map to conduct the 2026 Missouri Primary congressional election would posthumously cause a large percentage of Missouri Primary congressional election voters were clearly not provided equal weight towards their 2026 Missouri Primary congressional election vote as other similarly situated Missouri Missouri Primary congressional election voters.

b. In the event Missouri Proposition A Referendum fails enactment by Missouri statewide voters during the 2026 Missouri General congressional election, Missouri will be faced with an unprecedented situation of violating the Equal Protection Clause of the United States

Constitution and potentially displacing all eight (8) United States congressional district seats entitled to Missouri as void until the Missouri Governor calls and conducts a special election to fill all eight (8) Missouri congressional district constitutionally vacated seats.

c. Missouri drafted and enacted the 2022 Missouri Congressional District Map utilizing the race of Missourians without strict adherence to the Voting Rights Act of 2006 in violation of Section One of the Fourteenth of the United States Constitution and the Fifteenth Amendment of the United States Constitution.

123. The 2025 Missouri Congressional District Map is unconstitutional for use during the 2026 Missouri General congressional election because:

a. Article III, Sections 49, 52(a) and 52(b) of the Missouri Constitution prohibits Missouri from utilizing the 2025 Missouri Congressional District Map to conduct the 2026 Missouri General congressional election by order of the Missouri Supreme Court in *VON GLAHN V HOSKINS*.

b. Missouri drafted and enacted the 2025 Missouri Congressional District Map utilizing the race of Missourians without strict adherence to the Voting Rights Act of 2006 in violation of Section One of the Fourteenth of the United States Constitution and the Fifteenth Amendment of the United States Constitution.

124. Since Missoui does not have a constitutional congressional map to conduct the 2026 Missouri General congressional election after the was required pursuant to the decrease in the number of United States congressional representatives appointed to Missouri based upon

the 2010 United States Census to construct a Missouri congressional district map reducing the number of United States congressional representatives from nine (9) congressional representatives to eight (8) congressional representatives to conduct the 2026 Missouri congressional district election, the Court is commanded by the United States Congress, to conduct the 2026 Missouri General congressional election by the procedure set pursuant to by 2 U.S.C. § 2a(c)(5), which states:

> "**(c) Until a State is redistricted in the manner provided by the law thereof after any apportionment, the Representatives to which such State is entitled under such apportionment shall be elected in the following manner:** (1) If there is no change in the number of Representatives, they shall be elected from the districts then prescribed by the law of such State, and if any of them are elected from the State at large they shall continue to be so elected; (2) if there is an increase in the number of Representatives, such additional Representative or Representatives shall be elected from the State at large and the other Representatives from the districts then prescribed by the law of such State; (3) if there is a decrease in the number of Representatives but the number of districts in such State is equal to such decreased number of Representatives, they shall be elected from the districts then prescribed by the law of such State; (4) if there is a decrease in the number of Representatives but the number of districts in such State is less than such number of Representatives, the number of Representatives by which such number of districts is exceeded shall be elected from the State at large and the other Representatives from the districts then prescribed by the law of such State; or (5) **if there is a decrease in the number of Representatives and the number of districts in such State exceeds such decreased number of Representatives, they shall be elected from the State at large.**"

125. 2 U.S.C. § 2a(c)(5) is a self-executing ministerial Federal elections statute that commands Missouri to "until a State is redistricted in the manner provided by the law thereof after any apportionment, the Representatives to which such State is entitled under such apportionment shall be elected in the following manner… if there is a decrease in the number of Representatives and the number of districts in such State exceeds such decreased number of

Representatives, they shall be elected from the State at large."

126. Because 2 U.S.C. § 2a(c)(5) is a self-executing ministerial Federal elections statute, Missouri maintains an internal duty to enforce during the provisions of 2 U.S.C. § 2a(c)(5) prior to and without a court order demanding such compliance and execution with 2 U.S.C. § 2a(c)(5) and Missouri's compliance with any self-executing ministerial Federal elections statute required by the Elections Clause may be enforced against Missouri by Federal writ application or injunctive relief independent (although very rarely necessary) of the appointment of any three-judge court, provided such writ petitioner or injunctive plaintiff is alleging that the legality of or the redistricting process itself broke down and at a late date unavailable for the drafting a new constitutional congressional map prior to the eve of a United States congressional election

127. Solely in the instant circumstances before the Court, Missouri Courts system is statutorily prohibited by various Missouri election laws from enforcing 2 U.S.C. § 2a(c)(5) after September 8, 2026.

128. The Missouri General Assembly is NOT prohibited from enforcing 2 U.S.C. § 2a(c)(5) at any time pursuant to Missouri law.

129. The Missouri General Assembly is currently in veto session until Friday September 25, 206.

130. Petitioner Berry seeks this Court (or after due process by the underlying Complaint) to order the Missouri General Assembly to enact provisions into Missouri providing for the 2026 Missouri General congressional election to be conducted pursuant to 2 U.S.C. § 2a(c)(5).

131. Enforcement of 2 U.S.C. § 2a(c)(5) is reserved for when as applied a constitutional United States congressional map is not enacted by Missouri since the last reduction of congressional seats on the eve of the election, which can be provided by a single-judge district court independent or for a three-judge district court in the instance.

132. The date of the eve of the 2026 Missouri General congressional election is Monday September 21, 2026, because Missouri election law provides the first day of early voting is statutorily scheduled to begin on Tuesday September 22, 2026, and as of the date of the submission of the instant Writ Application, there is no more time on the eve of the 2026 Missouri General congressional election to enact a constitutional Missouri single district congressional district map prior to Tuesday September 22, 2026, the first day of early voting for the 2026 Missouri General congressional election.

REASONS TO GRANT WRIT

I. LEGAL STANDARD FOR ISSUANCE OF A WRIT OF MANDAMUS

The All Writs Act provides that federal courts "may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). To obtain the extraordinary relief of mandamus, Petitioner Berry must satisfy three conditions:

- Petitioner Berry must have no other adequate means to attain the desired relief.
- Petitioner Berry must demonstrate a "clear and indisputable" right to the writ.
- The Eight Circuit, in the exercise of its discretion, must be satisfied that the writ is appropriate under the circumstances.

Cheney v. U.S. Dist. Court for D.C., 542 U.S. 367, 380-81 (2004).

Petitioner Berry contends that the imminent nature of the 2026 Missouri General Election, combined with the failure of the District Court to act, satisfies these criteria.

II. MISSOURI'S OBLIGATION UNDER 2 U.S.C. § 2a(c)(5)

Under 2 U.S.C. § 2a(c)(5), when a state has not been redistricted in the manner provided by law following an apportionment—and the number of districts in the state exceeds the number of representatives to which the state is entitled—the representatives "shall be elected from the State at large." 2 U.S.C. § 2a(c)(5).

Petitioner Berry argues that this statute is a self-executing, ministerial command. The facts indicate that Missouri is currently without a constitutional map and faces a time-sensitive crisis as the 2026 election approaches. Because the state has failed to enact a map that withstands constitutional scrutiny, the duty to conduct the election at-large is mandatory and requires no further legislative action by Missouri.

III. THE DISTRICT COURT'S FAILURE TO CONVENE A THREE-JUDGE COURT

Petitioner Berry filed a request for the empanelment of a three-judge district court pursuant to 28 U.S.C. § 2284(b)(1). The District Court has not fulfilled this mandatory statutory obligation.Under *Shapiro v. McManus*, 577 U.S. 39 (2015), a single district judge may only deny a request for a three-judge court if the constitutional claims are "insubstantial." The Supreme Court has defined "insubstantiality" narrowly, equating it with claims that are "obviously frivolous" or "essentially fictitious." *Goosby v. Osser*, 409 U.S. 512, 518 (1973) .

Petitioner Berry asserts that his claims, which involve complex constitutional questions regarding the validity of Missouri's congressional maps and racial gerrymandering, cannot be deemed "insubstantial" under the Goosby standard. Therefore, the District Court's refusal to notify the Chief Judge of the circuit to designate a three-judge panel constitutes a failure to perform a non-discretionary duty.

IV. CONCLUSION

Because Petitioner Berry has no other adequate means to obtain relief or appeal before the 2026 Missouri General congressional election proceeds, and because his right to the requested relief is clear and indisputable based on the statutory requirements of 2 U.S.C. § 2a(c)(5) and 28 U.S.C. § 2284, this Court should grant the petition for a Writ of Mandamus and order appropriate relief to ensure the integrity of the 2026 Missouri General Election.

PRAYER FOR RELIEF

Plaintiff Berry seeks this Honorable Court to issue a writ of mandamus against United States District Court Judge John A. Ross to referred the Complaint filed by Petitioner Berry in the underlying matter to the Chief District Judge of the United States District Court of Eastern Missouri for the empanelment of a three-judge district court panel pursuant to 28 U.S.C. § 2284 and to grant Petitioner Berry's motion for temporary restraining order filed before the District Court on September 17, 2026, which shall stay in effect until the District Court resolves Counts IV thru VII of the underlying Complaint, either pursuant to 2 U.S. Code § 2a(c)(5) and/or 8 U.S.C. § 2284.

Respectfully Submitted,

Paul Berry III
Plaintiff, Pro Se
1200 S. Big Bend Blvd.
St. Louis, Missouri 63117

VERIFICATION

I have reviewed each fact and allegation of this Complaint and attest to personal knowledge of each fact and allegation as being correct and true to the best of my belief, knowledge and understanding.

Paul Berry III
Plaintiff Pro Se

Sworn and subscribed before me on September 21, 2026, executed by Paul Berry III.



Notary Public

United States Court of Appeals
For The Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329
St. Louis, Missouri 63102

Susan E. Bindler
Clerk of Court

VOICE (314) 244-2400
FAX (314) 244-2780
www.ca8.uscourts.gov

September 21, 2026

Paul Berry III
1200 Big Bend Boulevard
Saint Louis, MO 63117

RE: 26-2902 In re: Paul Berry, III

Dear Petitioner:

A petition for a writ has been filed under the above referenced number. Your case will be referred to a panel of judges, and you will be advised of the Court's ruling.

Please note that service by pro se parties is governed by Eighth Circuit Rule 25B. A copy of the rule and additional information is attached to the pro se party's copy of this notice.

On June 1, 2007, the Eighth Circuit implemented the appellate version of CM/ECF. Electronic filing is now mandatory for attorneys and voluntary for pro se litigants proceeding without an attorney. Information about electronic filing can be found at the court's web site www.ca8.uscourts.gov. In order to become an authorized Eighth Circuit filer, you must register with the PACER Service Center at https://pacer.psc.uscourts.gov/pscof/login.xhtml. Questions about CM/ECF may be addressed to the Clerk's office.

Susan E. Bindler
Clerk of Court

CMH

Enclosure(s)

cc: Clerk, U.S. District Court, Eastern District of Missouri
Kathleen T. Hunker
Madeline Sparks Lansdell

District Court/Agency Case Number(s): 4:26-cv-01419-JAR

Caption For Case Number: 26-2902

In re: Paul Berry, III

Petitioner

Addresses For Case Participants: 26-2902

Paul Berry III
1200 Big Bend Boulevard
Saint Louis, MO 63117

Clerk, U.S. District Court, Eastern District of Missouri
U.S. DISTRICT COURT
Eastern District of Missouri
111 S. Tenth Street
Saint Louis, MO 63102-0000

Kathleen T. Hunker
ATTORNEY GENERAL'S OFFICE
Suite 200
815 Olive Street
Saint Louis, MO 63101

Madeline Sparks Lansdell
ATTORNEY GENERAL'S OFFICE
Suite 200
815 Olive Street
Saint Louis, MO 63101