UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

PAUL BERRY, III, Plaintiff, v. DENNY HOSKINS, *in his official capacity as Missouri Secretary of State*, Defendant.	)	Case No. 4:26-cv-01419-JAR

ORDER

This matter is before the Court on ten motions filed by self-represented Plaintiff Paul Berry in this case seeking emergency declaratory and injunctive relief against the Missouri Secretary of State, Defendant Denny Hoskins. Berry is the Republican candidate for congress in Missouri's first congressional district. His complaint challenges the constitutionality of the 2022 district map governing the upcoming November 2026 general election.

This case was filed amidst a rapidly evolving landscape. After months of state court litigation regarding Missouri's mid-decade redistricting law known as HB1, on September 3, 2026, the Missouri Supreme Court held that the 2022 congressional district map remained in full force and effect for the November 2026 election. *von Glahn v. Hoskins*, No. SC101805 (Mo. Sept. 3, 2026). The next day, September 4, Missouri appealed that decision to the United States Supreme Court, and Berry filed the instant complaint asking the Court to (1) convene a three-judge panel, (2) declare the 2022 map unconstitutional, and (3) order the Missouri General Assembly to draft and enact a new map for the November 3 general election. Upon receipt of the complaint, this Court immediately directed Berry to show cause by September 7 why his request was procedurally impossible given that the deadline to finalize ballots was four days later

(September 8), Mo. Rev. Stat. § 115.127, and 28 U.S.C. § 2284 required Berry to give five days' notice to Missouri's Governor and Attorney General. (Doc. 5). At that time, the record did not reflect service on these officials.[1] Meanwhile, in a second federal lawsuit also filed on September 4, two other Republican congressional candidates sought emergency relief to enforce the HB1 map. *Onder v. Hoskins*, Case No. 4:26-cv-1424.

On the morning of September 8, in light of the pending litigation, this Court entered an order holding Berry's request for emergency relief in abeyance pending the U.S. Supreme Court's decision in *von Glahn*.[2] (Doc. 7). Later that day, the Supreme Court denied Missouri's application to stay the *von Glahn* decision, thus leaving the 2022 map in place. Minutes later, however, in the *Onder* case, Judge Clark enjoined the use of the 2022 map and directed Hoskins to use the HB1 map. The parties swiftly appealed and, on September 10, the Supreme Court granted a stay of that order and sent the case to the Eighth Circuit, which ordered expedited briefing by September 15 and oral argument on September 17. The deadline to mail ballots to overseas military voters was September 19. 52 U.S.C. § 20302(g).

On September 11, Berry filed an amended complaint in this case adding a seventh count challenging the use of the 2022 map under the Elections Clause based on Judge Clark's reasoning in *Onder*. (Doc. 11). Then on September 14, Berry filed a petition for writ of mandamus and prohibition in the Eighth Circuit, asking the appellate court to direct Hoskins to conduct the November 2026 election by statewide ballot without congressional districts. (Doc.

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[1] Counsel for Missouri entered appearances on September 11. (Doc. 12, 13).

[2] Berry characterizes the Court's order as holding the entire case in abeyance. Not so. The Court merely paused any consideration of Berry's requests for emergency relief pending guidance from the U.S. Supreme Court in *Onder*.

14). *Berry v. Hoskins*, No. 26-2840. The Eighth Circuit denied his petition the next day, September 15.

Since September 16, Berry has filed 16 various motions and other submissions. On September 17, he filed a motion for temporary restraining order (TRO) and a motion to expedite a hearing and trial date. (Doc. 18, 19, 21). On September 18, Defendant Hoskins filed a motion to stay proceedings pending further clarity from the U.S. Supreme Court in *Onder*. (Doc. 24). On September 21, Berry filed a petition for writ of mandamus asking the Eighth Circuit to compel this Court to convene a three-judge panel and grant Berry's TRO motion. (Doc. 25). The Circuit Court has not directed this Court to respond to the petition at this time. Also on September 21, the Circuit Court affirmed Judge Clark's injunction in *Onder* but stayed its effect until September 28, and that case is again pending before the U.S. Supreme Court.

On September 24, Berry filed seven motions in this case: (1) a motion to withdraw his original TRO motion (Doc. 29), (2) a new TRO motion seeking to enjoin Defendant Hoskins from using the 2011, 2022, or 2025 congressional district maps (Doc. 30), (3) a motion to waive the page limit (Doc. 32), (4) a motion for a hearing on his new TRO (Doc. 33), (5) a motion to shorten time for said hearing (Doc. 34), (6) a motion for a trial date on his requests for permanent injunctive and declaratory relief (Doc. 36), and (7) a motion for leave to respond out of time to Hoskin's motion to stay (Doc. 37).

The Court is not persuaded that swift action is prudent or possible here. The Supreme Court has "repeatedly emphasized that lower federal courts should ordinarily not alter the election rules on the eve of an election." *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 140 S. Ct. 1205, 1207 (2020) (per curiam) (citations omitted). Orders impacting elections can "result in voter confusion and consequent incentive to remain away from the polls." *Purcell v.*

Gonzalez, 549 U.S. 1, 4-5 (2006). This risk increases as the election approaches. *Id.* at 5. The *Purcell* principle may be overcome if a plaintiff establishes that "(i) the underlying merits are entirely clearcut in favor of the plaintiff; (ii) the plaintiff would suffer irreparable harm absent the injunction; (iii) the plaintiff has not unduly delayed bringing the complaint to court; and (iv) the changes in question are at least feasible before the election without significant cost, confusion, or hardship." *Merrill v. Milligan*, 142 S. Ct. 879, 881 (2022) (Kavanaugh, J., concurring).

Though Berry filed his complaint promptly after the *von Glahn* decision, the other factors do not weigh in his favor. As Berry is certainly aware, ballots have already been printed and mailed. Voting is underway. In this Court's view, the relief Berry seeks was already infeasible when he filed his complaint on September 4, and it is all the more impossible now notwithstanding his renewed emergency motions. The Court believes that restraint is warranted.

Berry's motions will be denied. Hoskins will be directed to respond to the complaint following the general election, and the Court will consider the merits in the ordinary course.

Accordingly,

IT IS HEREBY ORDERED that Defendants' motion to stay the case until after the November 3, 2026, election is **GRANTED**. (Doc. 24). Defendants shall file a Rule 12 responsive pleading by **December 4, 2026**.

IT IS FURTHER ORDERED that Plaintiff's motion to withdraw (Doc. 29) his original motion for temporary restraining order (Doc. 18) is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff's motions to waive the page limitation (Doc. 32) and to respond out of time (Doc. 37) are **GRANTED**.

IT IS FURTHER ORDERED that the following motions are **DENIED**:

1. Motion to set aside abeyance (Doc. 10).
2. Motion to shorten time (Doc. 21).
3. Motion for temporary restraining order (Doc. 30).
4. Motion for hearing (Doc. 33).
5. Motion to shorten time (Doc. 34)
6. Motion for trial date (Doc. 36)

Dated this 25th day of September 2026.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE