

IN THE MISSOURI SUPREME COURT

**NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF
COLORED PEOPLE
MISSOURI STATE CONFERENCE,**

PATRICIA A. JONES

TRACI L. WILSON-KLEEKAMP

Relator,

v.

Case No.

**HONORABLE CHRISTOPHER
LIMBAUGH, CIRCUIT JUDGE**

Respondent

**SUGGESTIONS IN SUPPORT OF RELATORS'
PETITION IN MANDAMUS**

COMES NOW Relators National Association for the Advancement of Colored People Missouri State Conference, Patricia A. Jones and Traci L. Wilson-Leekamp (“Relators”), by and through counsel, and pursuant to Rule 94.03, 84.24(e), and offers the following suggestions in support of their Petition in Mandamus, and Motion for Expedited Ruling, in this case of first impression. Because this matter concerns important matters of public interest, and there is a pressing need for an expedited decision, Relators pray that this Court exercise original jurisdiction over this matter, which involves issues over which it ultimately has exclusive jurisdiction.

INTRODUCTION

This Court should enter a writ of mandamus, ordering Respondent to immediately grant Respondents' request for a Temporary Restraining Order and Preliminary Injunction enjoining the implementation of HB1 and HJR3 as passed, and signed by the Governor, pursuant to the Governor's Proclamation.

MANDAMUS IS APPROPRIATE

The Supreme Court and Court of Appeals have jurisdiction to "determine original remedial writs." MO. CONST. art. V, §4.1. The Missouri Supreme Court shall have exclusive appellate jurisdiction in all cases involving the validity of a statute or provision of the constitution of Missouri. Mo. Const. art. V, § 3. "[I]t is emphatically the province and duty of the judicial department to say what the law is," *Mo. Coal. for Env't v. Joint Comm. on Admin. Rules*, 948 S.W.2nd 125, 132 (Mo. 1997), quoting *Marbury v. Madison*, 1 Cranch 137, 5 U.S. 137, 2 L.Ed. 60 (1803); and *State ex rel. Praxair, Inc. v. Mo. Pub. Serv. Comm'n*, 344 S.W.3d 178, 186 (Mo. banc 2011), citing *Marbury*. "This power is a non-delegable power resting exclusively with the judiciary." *Praxair, supra*.

Applying these constitutional principles, the judiciary has exclusive jurisdiction and authority to determine whether a Branch of Government has exceeded its constitutional authority. *See Mo. Coal., supra*, 133-134 (holding that legislature improperly exercised executive rulemaking power). Consistent with these principles, the Legislature has granted authority to circuit courts to make determinations regarding rights and remedies, and to restrain action pending such a determination on the merits. Sections 527.010, 526.050 RSMo. Constitutional challenges are reviewed de novo. *Legends Bank v. State*, 361 S.W.3d

382, 386 (Mo. 2012) (regarding constitutionality of a statute). “[I]f an act of the legislature clearly and undoubtedly violates a constitutional procedural limitation, this Court will hold it unconstitutional.” *Id.*

Article V, Section 4, of the Missouri Constitution vests the Missouri Supreme Court with concurrent jurisdiction, which provides in part, “The supreme court shall have general superintending control over all courts and tribunals,” and “Supervisory authority overall courts is vested in the supreme court which may appropriate delegations of this power.” Because of the public importance of this matter, and the urgency of the circumstances, this Court should accept jurisdiction and waive any procedural requirements to bring this Petition and Writ and for this Court to rule and issue and order.

See State ex inf. Peach. V. Goins, 575 S.W.2nd 175, 178 (Mo. banc. 1978) (procedural requirements of Rule 84.22 waived “[b]ecause of the importance of the issues”), citing *State ex. inf. Roberts v. Buckley*, 533 S.W.2d 551, 553 (Mo. banc. 1976) (“In most instances where an extraordinary writ is sought, this court does decline to consider the application if not previously made to a lower court in accordance with Rule 84.22. ... The rule is procedural and does not go to the court's jurisdiction.”); and see *Oklahoma Call for Reproductive Justice v. Drummond*, 526 P.3d 1123, 1128 (Okla. 2023) (state supreme court has discretion in determining whether to assume jurisdiction over a controversy in which the supreme court and trial court have concurrent jurisdiction, when 1) the matter concerns public interest, and 2) there is some urgency or pressing need for an early decision).

Here, this Court has exclusive jurisdiction over the interpretation of Article IV, section 9, which is central to the basis of Plaintiffs’ claims and this Petition. This Court has

concurrent jurisdiction, and jurisdiction over the Respondent. On August 29, 2025, the Governor signed the subject Proclamation. on Wednesday, September 3, 2025, the Missouri House convened pursuant to the Governor's Proclamation. On September 3, 2025, Relators filed their Petition in circuit court, seeking an expedited hearing on its motion for temporary and request for a preliminary restraining order. On September 12, 2025, the General Assembly passed the Missouri First Map in HB 1. On September 15, 2025, Respondent held a hearing on Respondents' motion for temporary restraining order, did not rule at that time, and to date, has not rule. In the interrum, the Missouri legislature has taken up the special session, passed legislation regarding redistricting and presented it to the Governor. On September 28, 2025, the Governor signed HB1 into law, creating provisions for redistricting federal congressional seats. Given the speed with which legislation has been passed pursuant to the Governor's Proclamation, the public importance of this matter regarding voting rights and the further confusion, cost and expense that could be caused, and the urgency, this Court should waive any procedural requirements, and assume original and exclusive jurisdiction over this matter.

In order to obtain relief by mandamus, Relators must "allege and prove that [they] have a clear, unequivocal, specific right to a thing claimed." *State ex rel. Hewitt v. Kerr*, 461 S.W.3d 798, 805 (Mo. 2015). The right to vote is a fundamental right is explicitly and implicitly guaranteed by the constitution. See *Mahoney v. Doerhoff Surgical Servs., Inc.*, 807 S.W.2d 503, 512 (Mo. Banc 1991). A writ in "mandamus is an appropriate remedy when alternative remedies waste judicial resources or result in a burdensome delay, creating irreparable harm to the parties." *Hewitt*, 461 S.W.3d at 806. If this Court does not

expeditiously act, and mandate that the Circuit Court issue and order granting the a temporary restraining order, then not issuing a writ of mandamus will cause Relators to incur unnecessary expense, denial of their fundamental rights and “result in a failure of judicial efficiency.” *See id.*

Mandamus will lie to control the abuse of discretion by a trial court. *See State ex rel. Johnston v. Luckenbill*, 975 S.W.2d 253, 256 (Mo. App. W.D. 1998). (“Acting without authority is an abuse of discretion.”) “Mandamus is a proper remedy to rectify a clear abuse of discretion by an inferior tribunal where that discretionary power is exercised with manifest injustice.” *State ex rel. Peavey Co. v. Corcoran*, 714 S.W.2d 943, 945 (Mo. App. 1986).

Here, a writ of mandamus should immediately issue because Relators cannot otherwise appeal Respondent’s failure to expeditiously rule on Relators’ Motion for TRO. Relators can establish their clear, unequivocal right to pursue their claims, and they can show that they are being prejudiced by Respondents’ delay, while the Legislature’s unconstitutional special session, and the signing into law of HB1, has continued expeditiously and undeterred by Respondent, resulting in manifest injustice.

AUTHORITIES AND ARGUMENT

I. This Court Should Immediately Issue a Temporary Restraining Order and/or Mandate Respondent to Issue that Order, and in the Alternative, to Issue a Preliminary Injunction enjoining the implementation of HB1 and HJR3 as passed pursuant to the Governor’s Proclamation

Missouri courts “must uphold the mandatory language of the constitution,” including provisions of “shall.” *Pearson v. Koster*, 359 S.W.3d 35, 39 (Mo. banc 2012).

Regarding Mo. Cons. Art III, sec. 45, “No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live.” *Id.* The applicable standard of review for a court reviewing a constitutional interpretation claims “is the language of the constitution itself.” *Id.* at 40 (regarding interpretation of Article III, Sec. 45.)

Article IV, section 9 provides in part: “On **extraordinary occasions** he may convene the general assembly by proclamation, wherein he **shall** state specifically each matter on which action is deemed necessary.” (Emphasis added.)

The legislature has exclusive authority to redistrict voting districts. Art. III, § 3. Like the authority of the Governor, the Legislature’s power is not unlimited. “Districts **shall** be **as nearly equal as practicable in population**, and **shall** be drawn on the basis of one person, one vote.” *Id.*, § 3(b)(1) (emphasis added). Districts created by the legislature drawn based on population must not deviate by more than one percent from the ideal population of the district. *Id.* “Districts **shall** be established in a manner so as to comply with all requirements of the United States Constitution and applicable federal laws, including, but not limited to, the Voting Rights Act of 1965 (as amended).” *Id.*, § 3(b)(2).

Article III, section 45 provides:

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.

There apparently no Missouri case law which interprets the meaning of an “extraordinary occasion” regarding the Governor’s limited ability to call for a special session under Article IV, section 9. Under these circumstances, where the Governor invokes Article IV, section 9 to invoke a procedure Article III, Section 45, both of which include mandatory language, the former, including “extraordinary occasion”, should be strictly applied as mandatory language. Applying the language of the Missouri constitution, including such mandatory provisions, no “extraordinary occasion” has occurred to justify the Governor’s call for a special session of the Legislature.

Looking to the language of the Missouri constitution as previously applied, prior proclamations by the Missouri Governor indicated that an “extraordinary occasion” included circumstances such as responding to a world-wide pandemic such as COVID-19, giving rise to the need for an expedited legislative session because the General Assembly was unable to meet in time to address such an emergency pertaining to public health. See Governor’s Proclamation, July 15, 2020, “due to the COVID-19 outbreak, the General Assembly was unable to meet ...” therefore “on the extraordinary occasion that exists in the State of Missouri,” See MO Register Vo. 45 No. 16 (pp. 1211-1296), August 17, 2020.

The Governor previously indicated “additional immediate legislative measures must be taken to provide for the economic recovery from COVID-19 by providing liability protection ... on the extraordinary occasion that exists in the State of Missouri...” And see Executive Order, Governor’s Proclamation, Special Message, November 12, 2020, MO Register Vol. 45 No. 24 (pp. 1949-1998), Dec. 15, 2020; and Governor’s Proclamation, August 10, 2020, MO Register Vo. 45 No. 18 (p. 1333-1366) (regarding “unprecedented

wave of violent crime existing in Missouri's urban areas ... on the extraordinary occasion that exists..."). Other states such as Kentucky have concluded that an "extraordinary measure" includes an emergency threatening public health and welfare like the pandemic. *Beshear v. Acree*, 615 S.W.3d 780, 807 (Ky. 2020) ("the 'extraordinary occasion' ... of a global pandemic gives rise to an obvious emergency".)

Looking at the mandatory language of Article III, section 45, none of the requisite events which are required to trigger redistricting legislation have occurred under Article III, section 45, particularly when there has been no applicable act of the U.S. Congress regarding the number of representatives to which Missouri is entitled and there has not been a new census since the last time the Missouri Legislature took action on redistricting.

Whereas Governor's call for a special session was in excess of his constitutional authority, then the Legislature likewise had limited authority to convene because there was, in effect, no valid call under the Missouri Constitution, and therefore, the legislation passed, presented and signed by the Governor is invalid.

WHEREFORE, Relators respectfully request the Missouri Supreme Court to assume original jurisdiction, deny Defendant's Motion to Dismiss, and issue Temporary Restraining Order and Preliminary Injunction, granting Relators' request, permanently enjoining the implementation of HB1 and HJR3 as passed pursuant to the Governor's Proclamation.

Respectfully submitted,

/s/ Nimrod T. Chapel, Jr.

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ATTORNEYS FOR RELATORS

CERTIFICATE OF SERVICE

I hereby affirm on this 8th day of October 2025, I filed true and accurate copies of the foregoing *Suggestions in Support of Relators' Petition in Mandamus*, along with all the exhibits filed with this document, went to each party or their counsel of record by

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