

IN THE
Supreme Court of the United States

PEOPLE NOT POLITICIANS AND RICHARD VON GLAHN,

Applicants,

v.

CONGRESSMAN ROBERT “BOB” ONDER; RICHARD “RICK” BRATTIN; PATRICIA “PAT”
THOMAS; AND DEBRA HAVENS,

Respondents,

and

STATE OF MISSOURI AND DENNY HOSKINS, *in his official capacity as Missouri*
Secretary of State,

Respondents.

**APPENDIX TO EMERGENCY APPLICATION FOR STAY AND
ADMINISTRATIVE STAY PENDING APPEAL**

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CONGRESSMAN ROBERT “BOB”
ONDER et al.,

Plaintiffs,

v.

STATE OF MISSOURI and DENNY
HOSKINS,

Defendants.

Case No. 4:26-cv-01424-SRC

Memorandum and Order

On August 4, 2026, Missouri concluded its primary elections using the congressional districts laid out in House Bill 1 (“HB 1”). Missouri voters and candidates for federal office in Missouri request that the Court issue a temporary restraining order enjoining the use of any congressional district map other than HB 1, *see generally* doc. 2. All parties, including Intervenor People Not Politicians and Richard von Glahn, had notice and submitted briefing. Docs. 2, 12, 19–20, 29–30. Having considered the Verified Complaint, the affidavit attached to it, the parties’ and intervenors’ briefs, and applicable law, the Court grants Plaintiffs’ motion for a temporary restraining order.

I. Facts and Background

The Court treats the following uncontroverted facts, drawn from Plaintiffs’ verified complaint, docs. 1, 4, as true for the sake of resolving this motion for a TRO. *See* Fed. R. Civ. P. 65(b)(1)(A). Only a very narrow set of facts bear on the resolution of Plaintiffs’ request for a TRO. On September 12, 2025, the Missouri General Assembly passed HB 1, replacing the prior congressional district map enacted in 2022. Doc. 1 ¶¶ 15–16; doc. 12-4 at 11 (The Court cites to

page numbers as assigned by CM/ECF.); doc. 19 at 7. People Not Politicians and its executive director Richard von Glahn (who moved to intervene in this case, doc. 12) circulated a referendum petition seeking to suspend HB 1 until it passed a statewide vote. Doc. 1 ¶ 18; doc. 12 at 1–2. On August 4, 2026, the statutory deadline for doing so, the Missouri Secretary of State Denny Hoskins issued a certificate of insufficiency for the referendum petition. Doc. 1 at ¶¶ 20, 25; *see* Mo. Rev. Stat. § 116.150(3) (setting the statutory deadline to issue a certificate of insufficiency at “5:00 p.m. on the thirteenth Tuesday prior to the general election”).

The Complaint alleges, supported by a verified affidavit sworn under penalty of perjury, that Missouri’s primary election took place on August 4, 2026. Doc. 1 ¶ 21; doc. 1-1 ¶ 4. The primary election used the HB 1 map. Doc. 1 ¶ 21; doc. 12-1 at 5, 7. Neither Defendants nor Intervenor have disputed those facts; Intervenor’s briefing acknowledges that Missouri concluded its congressional primary elections on August 4, 2026. Doc. 12-1 at 7. The Complaint alleges that Plaintiffs Patricia Thomas and Debra Havens would cast votes in a different congressional district under the 2022 map than the one in which they cast their primary-election votes under the HB 1 map. Doc. 1 ¶ 17. The Complaint further alleges that the HB 1 congressional districts in which Plaintiffs Congressman Robert Onder and Richard Brattin won nominations would change. Doc. 1 ¶¶ 2, 4, 37.

On September 3, 2026, the Missouri Supreme Court issued an opinion in *von Glahn v. Hoskins*, determining that, as a matter of state law, the Missouri Constitution authorizes referenda on the General Assembly’s adoption of new congressional district maps. *von Glahn v. Hoskins*, --- S.W.3d ---, No. SC101805, at *3 (Mo. Sep. 3, 2026) (en banc). The court enjoined Secretary of State Hoskins from using the HB 1 map for the November general election, retroactively deeming under state law that HB 1 “is not the law and has never been the law.” *Id.*

at *13–14, 12 n.8. Because the court concluded that any “claimed federal law violations” had been “waived and abandoned” by the Secretary of State, the court limited its holding to the single state-law issue of whether the Missouri Constitution authorized referendums on congressional redistricting plans. *Id.* at *5 n.5.

On September 4, 2026, Plaintiffs filed a complaint in this court, alleging claims under the Elections Clause; Article I, Section 2 of the U.S. Constitution; and the Equal Protection Clause. Doc. 1 ¶¶ 50–109. Plaintiffs moved for a temporary restraining order and a preliminary injunction and requested a “[TRO] and preliminary injunction hearing as expeditiously as possible.” Doc. 2 at 2. Plaintiffs moved to expedite the briefing and hearing schedule, asking the Court to resolve their motion for a TRO and preliminary injunction “as expeditiously as possible.” Doc. 3 at 2. Also on September 4, 2026, the Secretary of State filed an Emergency Application for Stay and Administrative Stay Pending Appeal before the Supreme Court, raising the same federal law claims. Emergency Appl. for Stay and Admin. Stay Pending Appeal, *Hoskins v. von Glahn*, No. 26A304 (U.S. Sep. 4, 2026). Justice Kavanaugh denied the application on September 8, 2026. *See Hoskins v. von Glahn*, No. 26A304 (U.S. Sep. 8, 2026). On September 5, Intervenors moved to intervene, requesting oral argument and the opportunity to “participate fully” in any hearings on Plaintiffs’ motion for a TRO and preliminary injunction. Doc. 12-1 at 18.

Missouri law sets the deadline for finalizing the general-election ballot at 5:00 p.m. on the eighth Tuesday before the general election. Mo. Rev. Stat. § 115.125(2). The State has set the general election for November 3, 2026, meaning that the deadline for finalizing the ballot is 5:00 p.m. today, September 8. Doc. 1 ¶ 33; doc. 12-1 at 8; doc. 12-4 at 12.

Because no party or intervenor has disputed the facts described above and because many of those facts are matters of public record, the Court accepts the above facts as true for the purpose of this TRO.

II. Discussion

Before issuing a TRO, the Court must consider (1) the threat of irreparable harm to the movant (2) the balance between that harm and the injury that granting the injunction would inflict, (3) the movant's probability of success on the merits, and (4) the public interest. *Dataphase Sys., Inc. v. CL Sys, Inc.*, 640 F.2d 109, 113 (8th Cir. 1981); *see Tumey v. Mycroft AI, Inc.*, 27 F.4th 657, 665 (8th Cir. 2022). No single factor is dispositive, but the probability of success on the merits is the most important. *Home Instead, Inc. v. Florance*, 721 F.3d 494, 497 (8th Cir. 2013). The relevant inquiry is “whether the balance of equities so favors the movant that justice requires the court to intervene to preserve the status quo until the merits are determined.” *Dataphase*, 640 F.2d at 113. The movant bears the burden of proving the necessity of injunctive relief. *Gelco Corp. v. Coniston Partners*, 811 F.2d 414, 418 (8th Cir. 1987).

A. Irreparable harm

Demonstrating irreparable harm requires showing “that the harm is certain and great and of such imminence that there is a clear and present need for equitable relief.” *Novus Franchising, Inc. v. Dawson*, 725 F.3d 885, 895 (8th Cir. 2013) (citation omitted). The party facing the harm must have “no adequate remedy at law, typically because its injuries cannot be fully compensated through an award of damages.” *Gen. Motors Corp. v. Harry Brown's, LLC*, 563 F.3d 312, 319 (8th Cir. 2009). Plaintiffs meet that burden here.

Plaintiffs face irreparable harm absent a TRO because many Missouri voters would have to cast their general-election votes for candidates whom they had no role in nominating.

Candidates who had no choice but to campaign and raise money in the HB 1 districts that Missouri’s highest election authority presented to them, have spent their funds and campaign efforts in districts that would no longer exist. Using a map other than HB 1’s would disenfranchise primary-election voters and undermine the nominations of candidates chosen in the primaries, leading to “certain” and “great” harm, *Novus Franchising, Inc.*, 725 F.3d at 895, not merely “speculative” or “possible” harm, *MPAY Inc. v. Erie Custom Comput. Applications, Inc.*, 970 F.3d 1010, 1020 (8th Cir. 2020) (alteration and citation omitted). The primary ballots cannot simply be recounted under the 2022 districts, as the district boundaries and candidates would not be the same for all voters. And the harm could not be more imminent: under state law, the deadline for finalizing the ballot is today, September 8. *See* Mo. Rev. Stat. § 115.125(2).

B. Balance of Harms

Conducting state elections in accordance with the Missouri Constitution undoubtedly qualifies as an important interest. But the Eighth Circuit has observed that “there can be little harm to other parties where . . . ‘a stay preserves the status quo and promotes confidence in our electoral system.’” *Org. for Black Struggle v. Ashcroft*, 978 F.3d 603, 609 (8th Cir. 2020) (quoting *New Ga. Project v. Raffensperger*, 976 F.3d 1278, 1284 (11th Cir. 2020)). Preserving the status quo entails using the same map for the general election that Missouri used for its primaries—the HB 1 map. *See* doc. 1 ¶ 21. Whatever harm Defendants, Intervenor, or others might suffer under a TRO pales in comparison to the irreparable harm that Plaintiffs and, palpably notable here, the public would suffer if the Court does not issue a TRO.

C. Probability of success on the merits

i. Elections Clause

Article I, Section 4 of the federal Constitution gives to state legislatures the ability to establish “the Times, Places, and Manner of holding Elections for Senators and Representatives.” U.S. Const. art I, § 4, cl. 1. While it recognizes the “need for congressional oversight,” the Elections Clause doesn’t “disarm States from adopting modes of legislation that place the lead rein in the people’s hands.” *Ariz. State Legis. v. Ariz. Indep. Redistricting Comm’n*, 576 U.S. 787, 816 (2015). Because the “dictionaries of the founding era . . . capaciously define[d] the word legislature,” *Moore v. Harper*, 600 U.S. 1, 25 (2023) (internal quotation marks omitted), “includ[ing] the referendum within state legislative power for the purpose of apportionment” does not offend the Elections Clause, *Ohio ex rel. Davis v. Hildebrant*, 241 U.S. 565, 569 (1916); *see also Hawke v. Smith*, 253 U.S. 221, 230–31 (1920) (describing *Hildebrant*’s holding).

In *Hildebrant*, the Supreme Court considered an Elections-Clause challenge to Ohioans’ rejection of new congressional districts by popular referendum. *Hildebrant*, 241 U.S. at 566–67. The Ohio Constitution permitted its voters “to approve or disapprove by popular vote any law enacted by the General Assembly.” *Id.* at 566; *see* Ohio Const. Art. II, § 1 (1912) (“[T]he people reserve to themselves the power . . . [to] reject [laws] at the polls on a referendum vote.”). The Court held that the referendum, as part of the state’s legislative power, did not violate the Elections Clause. *Hildebrant*, 241 U.S. at 569.

Missouri’s Constitution grants the people of Missouri the “power to approve or reject by referendum any act of the general assembly.” Mo. Const. Art. III, § 49. Interpreting its own Constitution, the Missouri Supreme Court has held that redistricting is “subject . . . to a

referendum as the default” because “redistricting by the General Assembly is a legislative act.” *Von Glahn v. Hoskins*, No. SC101805, at *7 (Mo. Sep. 3, 2026) (en banc).

Plaintiffs are not likely to succeed on the merits of their Elections-Clause claim because the referendum is a licit part of the legislative power in Missouri. States may choose to vest parts of the legislative power in bodies other than the General Assembly, and Missouri has so chosen. *See Ariz. State Legis.*, 576 U.S. at 813; *Moore*, 600 U.S. at 23; Mo. Const. Art. III, § 49. In turn, states may permit their voters to challenge redistricting maps by referendum without running afoul of the Elections Clause. *See Hildebrant*, 241 at 569.

Plaintiffs argue that a state constitutional provision must, under the Elections Clause, “supply [a] clear, deliberate statement” to “divest its legislature of redistricting authority.” Doc. 2-1 at 6 (citing *Ariz. State Legis.*, 576 U.S. at 843 (Roberts, C.J., dissenting)). This argument is unavailing for two reasons.

First, the referendum doesn’t *divest* the Missouri legislature of redistricting authority, as the people are part of the Missouri legislature through the referendum process. *See* Mo. Const. Art. III § 49 (locating referendum provision in article on “legislative department”); *von Glahn*, No. SC101805, at *8 (“[T]he referendum and initiative petition power . . . is an essential part of the state’s lawmaking process under the Missouri Constitution.”). Second, to the extent a clear statement rule applies in the Elections-Clause context, the Missouri Constitution’s referendum provision is as clear as the Ohio Constitution’s provision upheld in *Hildebrant*—both referendum powers apply to any law of the General Assembly. *Compare* Mo. Const. Art. III, § 49 *with* Ohio Const. Art. II, § 1 (1912); *see Hildebrant*, 241 U.S. at 566.

The Court therefore finds that Plaintiffs are not likely to succeed on the merits of their Elections-Clause claim. Next, the Court turns to Plaintiffs’ Article I, Section 2 claim.

ii. Article I, Section 2

Article I, Section 2 of the Constitution provides that “[t]he House of Representatives shall be composed of Members chosen every second Year by the People of the several States.” U.S. Const. art. I, § 2, cl. 1. The Supreme Court has stated that, “[w]here the state law has made the primary an integral part of the procedure of choice, . . . the right of the elector to have his ballot counted at the primary, is likewise included in the right protected by Article I, Section 2.” *United States v. Classic*, 313 U.S. 299, 318 (1941).

Missouri law dictates that “all candidates for elective office shall be nominated at a primary election” Mo. Rev. Stat. § 115.339. Afterwards, “[t]he person receiving the greatest number of votes at a primary election as a party candidate for an office shall be the only candidate of that party for the office at the general election.” Mo. Rev. Stat. § 115.343. Using such a structure for elections renders the primary an “integral part of the election process. *See Morse v. Republican Party of Va.*, 517 U.S. 186, 207 (1996) (describing a primary election as “an ‘integral part of the election machinery’” when a state “effectively divided its election into two stages, the first consisting of the selection of party candidates and the second being the general election (quoting *Classic*, 313 U.S. at 318)); *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 211, 226–27 (1986) (treating primary elections that led to the nomination of a party’s candidate as integral parts of the election process). The Eighth Circuit held in 1949 that Missouri’s then-existing primary election system—which, like the present system, provided that “no one can be elected to office without receiving nomination at a primary election”—was “an integral part of the general election laws of the state for the election of public officers, including Members of Congress.” *Klein v. United States*, 176 F.2d 184, 187 (8th Cir. 1949).

Because voters have already cast their ballots in the primaries, doc. 1 ¶ 21, replacing the applicable map for the general election would disenfranchise voters of their votes in the primary election, in clear violation of Article I, Section 2. Voters reassigned to different district would have cast their votes in vain for candidates now connected to other districts, effectively nullifying their votes.

Intervenors' only rebuttal is that Plaintiffs' Article I, Section 2 claim "rest[s] entirely on the premise that HB 1 was lawfully in effect when the August 4, 2026 primary was conducted." Doc. 12-4 at 18. But Plaintiffs' Article I, Section 2 claim does not depend on the legal status of the HB 1 map. Whether or not HB 1 was the governing law during the primary election, voters—including Plaintiffs—voted in primary elections within the congressional districts drawn by HB 1. *See* doc. 1 at ¶¶ 21–22, 24. And they didn't do so of their own accord. Instead, they did so based on the parameters set by Missouri's highest election authority, the Secretary of State. Mo. Const. Art. IV, § 14.

The Court therefore finds that Plaintiffs have a high probability of success on the merits of their claim under Article I, Section 2.

iii. Equal Protection Clause

The Fourteenth Amendment prohibits states from "deny[ing] to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV. Included in equal protection is "a citizen['s] . . . right to participate in elections on an equal basis with other citizens in the jurisdiction." *Dunn v. Blumstein*, 405 U.S. 330, 336 (1972) (collecting cases). And "[o]nce the geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote . . . wherever their home may be in that geographical unit." *Gray v. Sanders*, 372 U.S. 368, 379 (1963).

The Equal Protection Clause’s aegis covers the rights not only of voters but also of candidates: a state cannot “unfairly or unnecessarily burden . . . an individual candidate’s equally important interest in the continued availability of political opportunity” because “voters can assert their preferences only through candidates or parties.” *Lubin v. Panish*, 415 U.S. 709, 716 (1974). Primary-election procedures, as “state action within the meaning of the Fourteenth Amendment . . . must be . . . consistent with the Equal Protection Clause.” *Bullock v. Carter*, 405 U.S. 134, 140–41 (1972). And when a state “limit[s] the choices available to voters, [it] impairs the voters’ ability to express their political preferences,” requiring the “[s]tate [to] establish that its classification is necessary to serve a compelling interest.” *Ill. State Bd. of Elections v. Socialist Workers Party*, 440 U.S. 173, 184 (1979).

Plaintiffs have demonstrated a sufficient likelihood of success on the merits of their Equal Protection Clause claim. In the August primaries, voters have already cast their ballots and candidates already ran using the HB 1 map. Doc. 1 at ¶¶ 21–24. Replacing the HB 1 map after the primary would sort “hundreds of thousands” of voters into different districts and cause candidates to run in districts covering voters to whom those candidates have not campaigned. *Id.* at ¶¶ 36–37. Using any map other than HB 1’s for the general election creates two classes of voters: those who happen to stay in their HB 1 congressional districts, and those who do not. Likewise, it divides candidates between those who retain the same electorate, and those who do not. In both situations, those who “do not” are divested of their fundamental electoral rights.

Switching maps now would deprive many Missourians of their equal vote in the primaries and “impair the voters’ ability to express their political preferences” by foisting new candidates on them on the eve of the election. *See Socialist Workers Party*, 440 U.S. at 184. Defendants have not offered an interest to establish the necessity of these arbitrary geographic

classifications, nor do they want to. *See generally* doc. 11. So these classifications burden or outright divest the right to vote—“the essence of a democratic society” and “the heart of representative government”—without justification. *Reynolds v. Sims*, 377 U.S. 533, 555 (1964).

Like their response to Plaintiffs’ Article I, Section 2 claim, Intervenor’s argue that the Equal-Protection claim presumes the lawfulness of the HB 1 map when the primary occurred. That contention is irrelevant to the Equal-Protection claim as it was to the Article I, Section 2 claim. The primary already happened, and the clock cannot be turned back, so Missouri must honor the equal right to vote of all its eligible voters, regardless of geography.

The Court therefore finds that Plaintiffs have shown a high probability of success on the merits of their Equal-Protection-Clause claim. Because the Court finds an adequate likelihood of success for two out of the three claims, the Court turns to the public’s interest in temporary relief.

D. Public interest

The public interest favors enjoining the Secretary from using the 2022 map for the general election. Disenfranchising voters across the state and denying them their constitutional right to have their primary votes counted significantly harm the public interest. “[I]t is always in the public interest to protect constitutional rights.” *Phelps-Roper v. Nixon*, 545 F.3d 685, 690 (8th Cir. 2008), *overruled on other grounds*, *Phelps-Roper v. City of Manchester*, 697 F.3d 678 (8th Cir. 2012) (en banc).

On top of that, “[t]he public has an interest in the fair and orderly operation of election[s]” *Org. for Black Struggle*, 978 F.3d at 609. 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.*, 589 U.S. 423, 423 (2020) (per curiam) (citing *Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam)); *Merrill v. Milligan*,

142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring in grant of application for stays) (“When an election is close at hand, the rules of the road must be clear and settled.”); *Allen v. Milligan*, 146 S. Ct. 1377, 1381 (2026). In *Purcell v. Gonzalez*, the Supreme Court explained that “[c]ourt orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls,” a risk that grows “[a]s an election draws closer.” *Purcell*, 549 U.S. at 4–5.

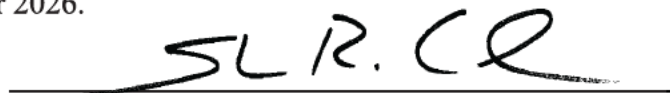
Admittedly, courts normally invoke the *Purcell* principle to caution against federal-court intervention in the election decisions of state legislatures, and no federal court has ordered the use of the 2022 map. But *Purcell* does not cut against injunctive relief here. This case presents *Purcell* in reverse, but with no less weight. Injunctive relief “may be inequitable if it is issued shortly before an election, when candidates, election officials, and voters have relied on the rules in place at that time.” *Malliotakis v. Williams*, 146 S. Ct. 809, 811 (2026) (Alito, J., concurring in grant of stay). Issuing a TRO here would preserve, rather than disturb, the election rules that candidates, election officials, and voters have relied on. If anything, the public interest concerns that the *Purcell* principle invokes—avoiding voter confusion, disincentivizing voting, and preserving the fair and orderly operation of elections—support issuing a TRO. Missouri already held its primaries using the HB 1 map. Doc. 1 ¶ 21. Using a different map for the general election would wreak havoc on the fairness and orderliness of Missouri’s congressional elections, calling into question the candidacy of those nominated in the primaries and the votes of those who voted in the primaries. Widespread voter confusion would inevitably follow. The public interest factor thus weighs in favor of a TRO.

III. Conclusion

Accordingly, the Court grants Plaintiffs' [2] motion for a temporary restraining order and enjoins, on federal law grounds, Secretary of State Hoskins—as well as his officers, agents, employees, and attorneys—from implementing, using, publishing, distributing, or mandating the use of any congressional district map other than the HB 1 map for the November 3, 2026 general election. The Court finds that a hearing is not necessary because all parties have participated fully through their briefing, and because all parties agree on the material facts. The Court also denies Plaintiffs' [3] Motion to Expedite as moot.

This order remains in effect for 14 days from the date of issuance. The Court will set a preliminary injunction hearing by separate order. Neither Defendants nor Intervenor Defendants asks the Court to set a bond, and having considered the issue, the Court finds a bond unnecessary on these unique facts and circumstances. *See* Fed. R. Civ. P. 65(c). As provided in Rule 65(d)(2), this temporary restraining order binds “only the following who receive actual notice of it by personal service or otherwise: (A) the parties; (B) the parties’ officers, agents, servants, employees, and attorneys; and (C) other persons who are in active concert or participation with anyone described in Rule 65(d)(2)(A) or (B).”

So ordered this 8th day of September 2026.


STEPHEN R. CLARK
CHIEF UNITED STATES DISTRICT JUDGE



DENNY HOSKINS, CPA

SECRETARY OF STATE
STATE OF MISSOURI

September 8, 2026

Richard von Glahn
9 Wilshire Terrace
Webster Groves, MO 63119

Re: Referendum Petition circulated by Richard von Glahn (2026-R004)

Dear Mr. von Glahn:

Pursuant to the Opinion of the Supreme Court of Missouri, please find enclosed the certificate of sufficiency of your referendum petition.

If we can be of further assistance, please feel free to contact our office at (573) 751-2301.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Buss", written over the printed name "Chris Buss".

Director of Elections

Enclosures



STATE OF MISSOURI

Office of Secretary of State

CERTIFICATE OF SUFFICIENCY OF PETITION

STATE OF MISSOURI

ss.

SECRETARY OF STATE

I, Denny Hoskins, Secretary of State of Missouri, do hereby certify that my office has examined for compliance with the Missouri Constitution and Chapter 116, RSMo, the referendum petition submitted by Richard von Glahn with the following official ballot title:

Do the people of the state of Missouri approve the act of the General Assembly entitled "House Bill No. 1 (2025 Second Extraordinary Session)," which repeals Missouri's existing congressional plan, and replaces it with new congressional boundaries that keep more counties intact?

State and local governmental entities estimate no costs or savings.

Pursuant to the Opinion of the Supreme Court of Missouri, I further certify that this petition contains a sufficient number of valid signatures to comply with the Constitution of Missouri and Chapter 116, RSMo. Therefore, this referendum petition shall be placed on the ballot at the November 3, 2026 General Election.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the seal of my office in the City of Jefferson, State of Missouri, on this 8th day of September 2026.

Denny Hoskins

Secretary of State





Supreme Court of Missouri

en banc

SC101805

Richard von Glahn,

Appellant,

v.

Denny Hoskins, in His Official Capacity,
et al.,

Respondents.

FILED

SEP 03 2026

CLERK, SUPREME COURT

Appeal from the Cole County Circuit Court
The Honorable Daniel R. Green, Judge

Overview

This case involves a straightforward question of law: Does the Missouri Constitution permit a referendum on a congressional redistricting act passed by the General Assembly? There is no dispute the referendum petition (2026-R004) seeking a referendum on House Bill 1 ("HB 1") was timely filed.¹ Likewise, there is no dispute the referendum petition has the number of signatures required by the Missouri Constitution. The only issue is whether the Missouri Constitution authorizes the referendum petition as a matter of law. About one hour before the statutory deadline of 5:00 p.m. on August 4, 2026, Missouri Secretary of State Denny Hoskins

¹ H.B. 1, 103d Gen. Assembly, 2d Extraordinary Sess. (2025).

held a press conference and issued a “Certificate of Insufficiency of Petition” finding “the referendum petition is insufficient under the Missouri Constitution because the Missouri Constitution does not authorize a referendum on congressional redistricting plans passed by the General Assembly.” The secretary directed the referendum petition should not be placed on the November 2026 general election ballot.

Because the plain language of article III, section 49 of the Missouri Constitution authorizes a referendum as to “any act of the general assembly” and no exception applies, the referendum petition was legal, sufficient, and timely. This Court reverses the circuit court’s judgment. Pursuant to Rule 84.14, this Court enters judgment ordering the secretary to issue a certificate of sufficiency as to the referendum petition (2026-R004) (attaching a copy of this opinion thereto), to place the referendum petition on the November 2026 general election ballot, and to take any and all additional steps necessary to place the referendum petition on the ballot at that election before September 8, 2026. The secretary and all of those acting in concert with him are restrained and enjoined from implementing, using, or mandating the use of the congressional redistricting in HB 1 for the November 2026 general election or at any other time thereafter unless and until HB 1 is approved by the voters at the November 2026 general election and takes effect 30 days thereafter. Mo. Const. art. XII, sec. 2(b).

Factual Background and Procedural History

The circuit court held a bench trial on the following joint stipulated facts and exhibits. On September 12, 2025, the General Assembly passed HB 1, which, if it becomes effective, will repeal the congressional districts established in 2022 and establish new congressional districts.

On September 29, organizers submitted a referendum petition form to the secretary. The secretary approved the referendum petition for circulation. On December 9, the organizers

submitted to the secretary 691 boxes purporting to contain more than 300,000 signatures in support of the referendum petition.

The December 9 filing triggered several obligations of the secretary. First, the secretary had to “examine the petition to determine whether it complies with the Constitution of Missouri and with this chapter [116].” Sec. 116.120.1.² Second, the secretary had to issue a certificate of sufficiency or insufficiency as to the petition within the statutory timeframe. Sec. 116.150.1-.3. There is no dispute the secretary could have issued his certificate any time after the December 9 filing but had to issue it by August 4 at 5:00 p.m. At about 4:00 p.m. on August 4, the secretary issued a “Certificate of Insufficiency of Petition” finding “the referendum petition is insufficient under the Missouri Constitution because the Missouri Constitution does not authorize a referendum on congressional redistricting plans passed by the General Assembly.” The secretary directed the referendum petition should not be placed on the November 2026 general election ballot.

On the same day, Richard von Glahn timely sued under section 116.200.1 in the Cole County circuit court, seeking reversal of the secretary’s certification decision and an injunction restraining the secretary from using, implementing, or mandating the use of the congressional redistricting in HB 1. Von Glahn is one of the referendum petition proponents, a Missouri

² All statutory references are to RSMo 2016, and all rule references are to Missouri Court Rules (2026).

citizen, a St. Louis County resident, a taxpayer, and a qualified Missouri voter.³ The circuit court upheld the secretary's insufficiency certification. Von Glahn appealed.⁴

Standard of Review

"This Court will affirm a declaratory judgment unless there is no substantial evidence to support it, unless it is against the weight of the evidence, unless it erroneously declares the law, or unless it erroneously applies the law." *Maggard v. State*, 733 S.W.3d 411, 413-14 (Mo. banc 2026) (internal quotation omitted). "Because the facts are stipulated, this Court's review is limited to determining whether the circuit court properly declared and applied the law." *Id.* at 414 (internal quotation omitted). "Questions of law involving constitutional interpretation are reviewed *de novo*." *Id.* (internal quotation omitted).

³ The circuit court permitted the Republican National Committee, the National Republican Congressional Committee, and the Missouri Republican State Committee to intervene in defense of HB 1. *See* Rule 52.12. Von Glahn challenges this ruling, citing *Committee for Educational Equality v. State*, 294 S.W.3d 477, 487 (Mo. banc 2009) (holding the circuit court abused its discretion in allowing permissive intervention when the intervenors merely repeated the state's arguments and failed to show the state could not defend its interests adequately), and *Toder v. Hoskins*, 730 S.W.3d 129, 135-37 (Mo. App. 2026) (holding the circuit court erred in granting intervention because the intervenor would not lose by direct operation of the judgment and offered only defenses already asserted by the secretary). Because von Glahn prevails on other grounds, this Court declines to address this issue.

⁴ Because of the general interest and importance of the legal issue involved, this Court, on its own motion, granted discretionary transfer of this case under Rule 83.01 and article V, section 10 of the Missouri Constitution. As a result, this Court need not decide whether any defense asserted by the secretary invokes this Court's exclusive appellate jurisdiction, as von Glahn contends.

Analysis

The secretary's sole basis for declaring the referendum petition insufficient is that the Missouri Constitution does not authorize a referendum on congressional redistricting passed by the General Assembly.⁵

The secretary correctly limited his analysis to the Missouri Constitution because both: (1) under section 116.120.1 the secretary's review is limited to "examin[ing] the petition to determine whether it complies with the Constitution of Missouri and with this chapter [116]" and

⁵ The secretary attached to his certificate a seven-page "opinion" signed by the attorney general. In his certificate, the secretary states: "The grounds for insufficiency are more fully articulated in the attached opinion ..., which is incorporated by reference into this certificate." This does not comply with section 116.150.2, which provides the secretary "shall issue a certificate stating the reason for the insufficiency[.]" and does not authorize the secretary to delegate his statutory duty by attaching and incorporating by reference a document prepared and signed by another person or entity. Sec. 116.150.2. *See Mesker Bros. Indus., Inc. v. Leachman*, 529 S.W.2d 153, 158 (Mo. 1975 (noting it is well-settled "an opinion of the Attorney General is not binding upon the courts or the citizenry")). The secretary must state in his certificate "the reason for the insufficiency." *Id.* In this case, the secretary stated a single reason: "the Missouri Constitution does not authorize a referendum on congressional redistricting plans passed by the General Assembly." As a matter of law, this is the only reason preserved for this Court's review, and this Court considers only the single reason set out in his certificate. Therefore, to the extent the secretary, by attaching the attorney general's "opinion" or through subsequent briefing, has attempted to raise other arguments beyond those set out in his certificate, those arguments have been waived and abandoned. This includes claimed federal law violations and whether the congressional redistricting in HB 1 should or must remain in place through the 2026 election cycle, which are also outside the scope of the secretary's authorized statutory review in section 116.120.1. In raising hypothetical scenarios and arguments wholly unrelated to whether the Missouri Constitution authorizes a referendum as to congressional redistricting passed by the General Assembly, the secretary also requests an advisory opinion, which this Court lacks the authority to issue. *Graves v. Mo. Dep't of Corr., Div. of Prob. & Parole*, 630 S.W.3d 769, 774 (Mo. banc 2021). Likewise, by failing to include in his certificate any reason for insufficiency related to the filing deadline or signature requirement for referendum petitions, the secretary has waived and abandoned any argument as to noncompliance with either requirement and has conceded the referendum petition was timely filed and contained at least the minimum number of signatures required under article III, section 52(a) (requiring the petition be filed "not more than ninety days after" the General Assembly adjourns the session and be signed by "five percent of the legal voters in each of two-thirds of the congressional districts in the state"). In fact, the secretary concedes in his answer the petition met the signature requirement in article III, section 52(a).

does *not* extend to whether the referendum petition complies with the United States Constitution or other federal laws; and (2) the United States Supreme Court has held on multiple occasions the United States Constitution permits a state to authorize a referendum as to legislation drawing new congressional districts. *See Ohio ex rel. Davis v. Hildebrandt*, 241 U.S. 565, 569 (1916) (rejecting as “plainly without substance” the argument that a state constitution’s authorization of a referendum as to legislation drawing new congressional districts violates the Elections Clause)⁶; *see also Hawke v. Smith*, 253 U.S. 221, 230-31 (1920) (noting *Hildebrandt* held “the referendum provision of the state [c]onstitution, when applied to a law redistricting the state with a view to representation in Congress, was not unconstitutional”); *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm’n*, 576 U.S. 787, 805 (2015) (“In upholding the state court’s decision [in *Hildebrandt*], we recognized that the referendum was part of the legislative power in Ohio, legitimately exercised by the people to disapprove the legislation creating congressional districts.” (internal citation and quotation omitted)); *id.* at 840 (Roberts, C.J., dissenting) (“*Hildebrandt* simply approved a [s]tate’s decision to employ a referendum *in addition to* redistricting by the Legislature. The result of the decision was to send *the Ohio Legislature* back to the drawing board to do the redistricting.” (internal citation omitted)); *Luther v. Hoskins*, 730 S.W.3d 567, 582 n.7, 583 (Mo. banc 2026) (Wilson, J., dissenting) (noting the United States Supreme Court has approved the use of both the referendum process and a gubernatorial veto for

⁶ The Ohio constitutional provision at issue in *Hildebrandt* provided:

[T]he people reserve to themselves the power to propose to the General Assembly laws and amendments to the Constitution, and to adopt or reject the same at the polls on a referendum vote as hereinafter provided. They also reserve the power to adopt or reject any law ... passed by the General Assembly, except as hereinafter provided[.]

State ex rel. Davis v. Hildebrant, 114 N.E. 55, 56 (Ohio 1916) (quoting Ohio Const. art. II, sec. 1, as amended Sep. 3, 1912).

legislative acts purporting to draw new congressional districts, with Missouri using the former in 1922 and the latter in 1932).

A mere three years ago, the Supreme Court reaffirmed *Hildebrandt* and again rejected the argument the Elections Clause prohibits a state referendum as to legislation drawing new congressional districts. *Moore v. Harper*, 600 U.S. 1, 25-26 (2023) (concluding “redistricting is a legislative function, to be performed in accordance with the [s]tate’s prescriptions for lawmaking, which may include the referendum and the Governor’s veto” and rejecting “the contention that the Elections Clause vests state legislatures with exclusive and independent authority when setting the rules governing federal elections” (internal quotation omitted)). The Supreme Court affirmed: “A state legislature may not create congressional districts independently of requirements imposed by the state constitution with respect to the enactment of laws.” *Id.* at 26 (internal quotation omitted).

The secretary asserts the Missouri Constitution does not permit a referendum as to HB 1 because the Missouri Constitution has no plain, clear statement subjecting legislation drawing new congressional districts to a referendum. But this ignores article III, section 49, which provides: “The people ... reserve power to approve or reject by referendum *any act of the general assembly*, except as hereinafter provided.” Mo. Const. art. III, sec. 49 (emphasis added).

The language in article III, section 49 subjects “any act of the general assembly” to a referendum as the default. This Court has held congressional redistricting by the General Assembly “is a legislative act.” *State ex rel. Carroll v. Becker*, 45 S.W.2d 533, 537 (Mo. banc 1932). HB 1 is an act of the General Assembly. There is no meaningful difference between article III, section 49 and the Ohio constitutional provision the Supreme Court upheld in *Hildebrandt* in 1916. See *supra* note 6.

This Court has recognized in *dicta* that the right of referendum applies to legislation drawing new congressional districts. *See Preisler v. Hearnese*, 362 S.W.2d 552, 557 (Mo. banc 1962) (upholding congressional redistricting dividing the state into 10 districts and noting: “the people of this state have a remedy for even valid redistricting, which they do not like, through our initiative and referendum provisions”); *State ex rel. Moore v. Toberman*, 250 S.W.2d 701, 703, 706 (Mo. banc 1952) (noting, in the context of considering whether a referendum petition as to congressional redistricting could be supplemented outside of the constitutional time periods, “[i]t seems clear that the intentment of the framers of the Constitution was that all laws, except those declared non-referable, should be subject to referendum if petitions to refer them were duly filed before their effective date” and noting the circuit court had held the redistricting was subject to the referendum provisions of the Missouri Constitution).

This Court holds that the referendum and initiative petition power in article III, section 49, like the Governor’s veto power in article III, section 31, is an essential part of the state’s lawmaking process under the Missouri Constitution.

The secretary next asserts even if legislation drawing new congressional districts might otherwise be subject to a referendum under article III, section 49, one of the exceptions in article III, section 52(a) applies. Article III, section 52(a) excepts from referendum “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[.]”

First, the secretary asserts in his brief, with no supporting authority, that “the immediate preservation of the public peace” exception “exempts election laws, such as the HB 1 map, from referendum challenges.” HB 1 did not have an attached emergency clause as required for the

“immediate preservation” exception. Mo. Const. art. III, sec. 29; *Maggard*, 733 S.W.3d at 414 n.8; *Inter-City Fire Prot. Dist. of Jackson Cnty. v. Gambrell*, 231 S.W.2d 193, 199-200 (Mo. banc 1950) (noting the emergency clause requirement applies to article III, sections 29 and 52 and, even with an emergency clause, “[w]hether or not the act is one necessary for the immediate preservation of the public peace, health or safety is a judicial question”). Further, the plain language of article III, section 52(a) does not support the secretary’s argument. This Court cannot rewrite the Missouri Constitution to substitute “all election laws” for “the immediate preservation of the public peace[.]” The secretary’s argument is even less persuasive in this case, involving an optional, mid-decade redistricting in no way necessary for “the immediate preservation of the public peace” because the 2022 congressional districts established by the General Assembly remain in place unless and until repealed by HB 1.

Second, the secretary asserts, with no supporting authority, that suffrage is a state institution, congressional redistricting is required by the state and federal constitutions, and congressional redistricting is necessary to maintain the suffrage right as populations change, invoking the “for the maintenance of state institutions” exception. The secretary’s argument ignores that this exception applies only to “laws making appropriations ... for the maintenance of state institutions[.]” See *Heinkel v. Toberman*, 226 S.W.2d 1012, 1013, 1016 (Mo. banc 1950) (concluding it was unnecessary to decide whether the state highway system is a “state institution” under the exception in article III, section 52(a) after determining the bill at issue did not make an appropriation); *State ex rel. Harvey v. Linville*, 300 S.W. 1066, 1068 (Mo. 1927) (concluding “the provision relating to laws making appropriations for the current expenses of the state government, for the maintenance of state institutions, and for the support of public schools, means that the word ‘appropriation’ applies to each of those conditions[.]” and “it must be an act

making appropriations for the support of public schools, which are excluded from the referendum, not merely any act which tends to support public schools”). Even if the exception were to apply absent an appropriation, applying the right of referendum to congressional redistricting passed by the General Assembly does not eliminate suffrage generally or the General Assembly’s right to redistrict. Instead, if by referendum vote the voters reject the new redistricting in HB 1, the General Assembly’s prior redistricting in 2022 remains in effect. The General Assembly also remains free to go “back to the drawing board to do [new] redistricting.” *Ariz. Indep. Redistricting Comm’n*, 576 U.S. at 840 (Roberts, C.J., dissenting).

That the broad language in article III, section 49 subjecting “any act of the general assembly” to referendum applies to legislation drawing new congressional districts is even more obvious when one considers article III, sections 3(i) and 7(h), which explicitly exclude redistricting plans proposed by independent bipartisan citizens commissions drawing new *state* representative districts and new *state* senate districts, respectively, from the right of referendum. Because no such explicit exception for legislation drawing new congressional districts is found anywhere in the Missouri Constitution, the broad default language in article III, section 49 subjecting “any act of the general assembly” to referendum applies.⁷

⁷ The secretary contends article III, sections 3(i) and 7(h), each of which provide that “[n]o redistricting plan shall be subject to the referendum,” apply to HB 1. This argument ignores that the phrase “redistricting plan” appears 13 times in section 3 and 12 times in section 7 and, therefore, refers solely to commission-drawn redistricting plans for state house and state senate districts. The phrase “redistricting plan” does not appear in article III, section 45, however, and this omission is significant. Section 45 provides “the general assembly shall *by law* divide the state into [congressional] districts.” Mo. Const. art. III, sec. 45 (emphasis added). By “law” and not by “plan.” This language takes an act of the general assembly purporting to draw new congressional districts out of the ambit of article III, sections 3(i) and 7(h), and places it squarely within the provision in article III, section 49 allowing for a referendum on “any act of the general assembly[.]” The secretary’s argument also ignores the plain language of article III, section 49 subjecting to referendum “any act of the general assembly, except as hereinafter provided.”

The secretary also asserts the Missouri Constitution must not permit a referendum on congressional redistricting passed by the General Assembly because this year the *last* date on which he could make his certification decision under chapter 116 was August 4, the day of the primary election. Section 116.150.3, the statute setting out the certification deadline, took effect in June 1999, more than 50 years *after* adoption of the 1945 Missouri Constitution setting out current article III, section 49 and more than 90 years *after* Missouri voters first adopted a constitutional amendment setting out a right of referendum. *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484, 486 (Mo. banc 2022). This Court need not speculate about why the General Assembly chose the statutory deadline or whether the statute is valid in every case because a later-enacted statute has *no* bearing on the constitution's plain language. The plain language of the constitution permits a referendum as to "any act of the General Assembly" regardless of any statutory deadlines set by the General Assembly decades later. Mo. Const. art. III, sec. 49.

Having concluded the Missouri Constitution authorizes a referendum on congressional redistricting passed by the General Assembly, this Court need look no further than *Maggard*, in which it explained in May of this year what result would follow if the referendum petition was deemed sufficient after the secretary issued his certificate and any judicial review authorized by the General Assembly in section 116.200 had occurred:

If, however, the December 9 referendum petition filing is ultimately determined to be sufficient, article III, section 52(b) applies. In that case, because a "legal, sufficient, and timely" referendum petition was filed on December 9—*before* HB 1 went into effect on December 11—HB 1 did not take effect on December 11, HB 1 was "referred to the people" as of December 9, and HB 1 "shall take effect when approved by a majority of the votes cast thereon, and not otherwise." Mo. Const. art. III, sec. 52(b).

Article III, sections 3(i) and 7(h) precede article III, section 49 and do not appear "hereinafter." Accordingly, the secretary's argument is rejected.

Maggard, 733 S.W.3d at 420 (footnote omitted); see also *NAACP Mo. State Conf. v. Kehoe*, 734 S.W.3d 338, 341 n.4 (Mo. banc 2026) (noting *Maggard* held “if the December 9, 2025 referendum petition is sufficient after any judicial review—HB 1 never went into effect and will not go into effect unless and until approved by the voters, but—if the petition is insufficient after such review—HB 1 went into effect on December 11, 2025, and remains so”).⁸

⁸ The secretary devotes a significant portion of his briefing to discussing the confusion, expense, and practical difficulties that may result from not utilizing the congressional redistricting in HB 1 for the November 2026 election. Besides being irrelevant to the secretary’s sole basis for declaring the referendum petition insufficient, these arguments are particularly misplaced given the secretary’s delay created the confusion, expense, and practical difficulties of which he complains. In December 2025, a federal district court advised the secretary and the state that, if the referendum petition is sufficient, “the new map will be frozen until after the referendum, which could significantly disrupt the 2026 elections.” *Mo. Gen. Assembly v. Von Glahn*, No. 4:25-CV-1535-ZMB, 2025 WL 3514277, at *2 (E.D. Mo. Dec. 8, 2025). At the same time, the federal district court noted the secretary had the ability to declare the petition insufficient based on his argument in the federal litigation—identical to his argument now—that the Missouri Constitution does not permit a referendum as to congressional redistricting passed by the General Assembly. *Id.* at *4. “[T]here is no apparent reason why [the secretary] would incur the significant cost of signature verification given his stated belief that the petition is constitutionally deficient.” *Id.* at *2 n.2. In two separate cases in May, this Court stated it could not determine whether the congressional redistricting in HB 1 was in effect until the secretary issued his certification and the judicial review authorized by the General Assembly was complete. *Maggard*, 733 S.W.3d at 419-20; *NAACP*, 734 S.W.3d at 341 n.4. Despite this clear guidance from the federal district court and this Court, the secretary chose to delay his certification until the last possible day—August 4—and, in the meantime, utilized the congressional redistricting in HB 1 while incurring the time and expense of signature verification despite having represented to the federal district court he believed the referendum petition was constitutionally deficient. The secretary also chose to request verification of every signature, making the signature verification deadline July 28, when he could have chosen random sampling verification, with a deadline of not more than 30 days from the date the election authority received the petition from the secretary. See sec. 116.130.2. The secretary delayed certification until the last possible date and chose not to seek resolution of the constitutional question despite having been told at least as early as December 2025 he had the unique ability as secretary to do so under Missouri statutes. Given these undisputed facts, the secretary’s arguments about confusion, expense, and practical difficulties are wholly unpersuasive.

Perhaps worse, these arguments fundamentally misunderstand the status of HB 1 pending the referendum vote. HB 1 is not the law and has never been the law. There is only one valid congressional redistricting in effect—the congressional redistricting the General Assembly established in 2022. Under article III, section 52(b), HB 1 “shall take effect when approved by a majority of the votes cast thereon, and not otherwise.” Unless and until the voters approve HB 1

In summary, this Court reaffirms *Maggard*. Because the referendum petition was legal, sufficient, and timely, HB 1 never took effect and was referred to the voters as of December 9, 2025. The congressional districts the General Assembly established in 2022 remain in full force and effect for the November 2026 general election, and HB 1 will not take effect unless and until approved by the voters at the November 2026 general election.

Conclusion

This Court reverses the circuit court's judgment. The referendum petition was legal, sufficient, and timely, and the secretary incorrectly concluded otherwise. HB 1 did not go into effect and will not go into effect unless and until approved by the voters. The congressional redistricting the General Assembly established in 2022 remains in full force and effect for the November 2026 general election.

Pursuant to Rule 84.14, this Court enters judgment ordering the secretary to issue a certificate of sufficiency as to the referendum petition (2026-R004) (attaching a copy of this opinion thereto), to place the referendum petition on the November 2026 general election ballot, and to take any and all additional steps necessary to place the referendum petition on the ballot at that election before September 8, 2026. The secretary and all of those acting in concert with him are restrained and enjoined from implementing, using, or mandating the use of the congressional redistricting in HB 1 for the November 2026 general election or at any other time thereafter

at the November 2026 general election, HB 1 is of no force and effect and did not take effect on December 11 because it is subject to a sufficient referendum petition filed on December 9. Regardless of any confusion, expense, or practical difficulties caused by the secretary's delay and incorrect assumption about whether the referendum petition would be deemed sufficient, simply continuing to utilize the congressional redistricting in HB 1 does not comport with the Missouri Constitution because the 2022 map is the only map in effect.

unless and until HB 1 is approved by the voters at the November 2026 general election and takes effect 30 days thereafter. Mo. Const. art. XII, sec. 2(b).⁹ No Rule 84.17 motions are permitted.



Ginger K. Gooch, Judge

All concur.

⁹ The ballot summary statement to be used is set out in *People Not Politicians v. Hoskins*, 736 S.W.3d 518, 535 (Mo. App. 2026).

Subject: Fw: Fourth Supplemental Certification (Amendment 6 and Prop A) and Congressional District Information

External Email – Use Caution

From: Elections-1 <Elections-1@sos.mo.gov>

Sent: Tuesday, September 8, 2026 4:42 PM

Subject: Fourth Supplemental Certification (Amendment 6 and Prop A) and Congressional District Information

CAUTION: This email originated outside of **boonemo.gov**. ONLY use links and attachments which are familiar.

Good afternoon,

To ensure compliance with the Missouri Supreme Court's ruling, attached are the certifications for Proposition A and Amendment 6.

Additionally, the Secretary of State's Office has tied the candidates to Congressional District 20 (CD 20) in MCVR's Election Management in accordance with the Missouri Supreme Court's ruling.

The U.S. Supreme Court specifically addressed whether to STAY the Missouri Supreme Court ruling. Just now, the Motion to Stay was denied.

Thank you,

Elections Division

Office of the Missouri Secretary of State Denny Hoskins

Kirkpatrick State Information Center

600 West Main Street, Jefferson City, MO 65101

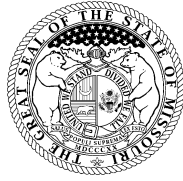
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DENNY HOSKINS, CPA
SECRETARY OF STATE
STATE OF MISSOURI

Fourth Supplemental Certification of Candidates November 3, 2026 General Election

The following is an updated sample ballot for the “*Constitutional Amendments and Statutory Measure*” for the General Election to be held in the State of Missouri on the first Tuesday after the first Monday in November 2026, that being the 3rd day of November 2026, certified by Denny Hoskins, Secretary of State.

Updated version of the “*Constitutional Amendments and Statutory Measure*” sample ballot to include Constitutional Amendment No. 6 and Proposition A; added by court order September 3, 2026.

I, Denny Hoskins, Secretary of State of the State of Missouri, do hereby certify that the foregoing is a true and correct fourth supplemental list, containing the updated version of the Constitutional Amendments and Statutory Measure sample ballot.



IN TESTIMONY WHEREOF, I hereunto set my hand and affix the Seal of my office in the City of Jefferson, State of Missouri, this 8th day of September, 2026.

Denny Hoskins
Secretary of State

James C. Kirkpatrick State Information Center
Elections Division • PO Box 1767 • Jefferson City, Missouri 65102 • (573) 751-2301

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OFFICIAL BALLOT

STATE OF MISSOURI

GENERAL ELECTION, TUESDAY, NOVEMBER 3, 2026

CONSTITUTIONAL AMENDMENTS AND STATUTORY PROPOSITIONS

CONSTITUTIONAL AMENDMENT NO. 3

Proposed by the 103rd General Assembly
(First Regular Session)
HCS HJR 73

YES ☐
NO ☐

Shall the Missouri Constitution be amended to:

- Repeal the 2024 voter-approved Amendment providing reproductive healthcare rights, including abortion through fetal viability;
- Allow abortions for rape and incest (under twelve-weeks' gestation), emergencies, and fetal anomalies;
- Allow legislation regulating abortion;
- Ensure parental consent for minors' abortions;
- Prohibit gender transition procedures for minors?

State governmental entities estimate no costs or savings. Greene County estimates it may experience an unknown increase in tax revenue. Other local governmental entities estimate no costs or savings.

INSTRUCTIONS TO VOTERS

If you are in favor of this question, place an X in the box opposite "YES".
If you are opposed to this question, place an X in the box opposite "NO".

CONSTITUTIONAL AMENDMENT NO. 6

Proposed by Initiative Petition

YES ☐
NO ☐

Shall the Missouri Constitution be amended to:

- expand the initiative and referendum petition process by making it a fundamental right;
- allow courts to revise ballot summaries through lawsuits;
- prohibit the legislature from weakening initiative or referendum powers;
- prohibit the legislature from changing or repealing laws enacted through the initiative process, or passing laws similar to those rejected by referendum, without approval from at least 80% of both chambers; and
- preserve existing majority vote and signature requirements for initiative and referendum petitions?

State and local governmental entities estimate no costs or savings.

INSTRUCTIONS TO VOTERS

If you are in favor of this question, place an X in the box opposite "YES".
If you are opposed to this question, place an X in the box opposite "NO".

CONSTITUTIONAL AMENDMENT NO. 7

Proposed by 103rd General Assembly
(Second Regular Session)
SS SCS SJR 95

YES ☐
NO ☐

Shall the Missouri Constitution be amended to establish a permanent public endowment fund to support state government instead of taxing Missouri residents, prohibit the General Assembly from appropriating or diverting the fund, and eliminate state-imposed taxes once the fund generates sufficient revenue to replace them?

State and local governmental entities estimate no costs or savings.

INSTRUCTIONS TO VOTERS

If you are in favor of this question, place an X in the box opposite "YES".
If you are opposed to this question, place an X in the box opposite "NO".

CONSTITUTIONAL AMENDMENT NO. 8

Proposed by the 103rd General Assembly
(Second Regular Session)
CCS HCS SS SJR 87

YES ☐
NO ☐

Shall the Missouri Constitution be amended to support law enforcement by preserving the right of citizens to elect a county sheriff, prohibiting the removal of a county sheriff except by a writ of quo warranto, and recognizing the office of sheriff as part of the administration of justice?

State and local governmental entities estimate no costs or savings.

INSTRUCTIONS TO VOTERS

If you are in favor of this question, place an X in the box opposite "YES".
If you are opposed to this question, place an X in the box opposite "NO".

PROPOSITION A

Proposed by Referendum Petition

YES ☐
NO ☐

Do the people of the state of Missouri approve the act of the General Assembly entitled "House Bill No. 1 (2025 Second Extraordinary Session)," which repeals Missouri's existing congressional plan, and replaces it with new congressional boundaries that keep more counties intact?

State and local governmental entities estimate no costs or savings.

INSTRUCTIONS TO VOTERS

If you are in favor of this question, place an X in the box opposite "YES".
If you are opposed to this question, place an X in the box opposite "NO".

Importance: High

External Email – Use Caution

From: Elections-1 <Elections-1@sos.mo.gov>

Sent: Tuesday, September 8, 2026 6:19 PM

Subject: NEW DEVELOPEMENT - Temporary Restraining Order

CAUTION: This email originated outside of **boonemo.gov**. ONLY use links and attachments which are familiar.

The Eastern District has issued a Temporary Restraining Order, requiring the use of the CD25 Missouri First Map.

CD25 candidates are already in the Election Management module.

Information provided by the litigation team is that the federal court's ruling, based on federal law, takes precedence over the Missouri Supreme Court's order, which is based on state law. This is in accordance with the U.S. Constitution's Supremacy Clause.

This order is attached.

Thank you!

Elections Division

Office of the Missouri Secretary of State Denny Hoskins

Kirkpatrick State Information Center

600 West Main Street, Jefferson City, MO 65101

elections@sos.mo.gov

Office Phone: 573-751-2301 / 1-800-669-8683



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From: **Missouri AG Press** <press@ago.mo.gov>

Date: Tue, Sep 8, 2026 at 5:43 PM

Subject: Attorney General Hanaway Releases Statement Following TRO Ruling in Congressional Maps Case

[View this email in your browser](#)



FOR IMMEDIATE RELEASE

September 8, 2026

Email: press@ago.mo.gov

**Missouri Attorney General Hanaway Releases Statement
Following TRO Ruling in Congressional Maps Case**

JEFFERSON CITY, Mo. – Today, Missouri Attorney General Catherine Hanaway released the following statement after Chief Justice Clark granted the plaintiff's request for a temporary restraining order in *Onder v. Missouri*:

"Missouri is prepared to follow and comply with Chief Judge Clark's order that binds the state to using the Missouri First map for the November General Election. We appreciate Judge Clark's support of the rights of Missouri voters, and intend to comply with this federal ruling. We maintain that changing the congressional map in between the primary and general elections is simply not feasible and profoundly unjust to Missouri voters," **said General Hanaway.**

###



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Governor Mike Kehoe ✓

@GovMikeKehoe

...

We are grateful for Chief Judge Clark's decision to provide much-needed clarity for Missouri voters and the election process.

With today marking the deadline for changes to the November ballot, the Missouri First Map will be used in the general election.

Voters and candidates deserve consistency, certainty, and not to have the rules changed between elections.

Case: 4:26-cv-01424-SRC Doc. #: 35 Filed: 09/08/26 Page: 1 of 13 PageID #: 455

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CONGRESSMAN ROBERT "BOB"
ONDER et al.,

Plaintiffs,

v.

STATE OF MISSOURI and DENNY
HOSKINS,

Defendants.

Case No. 4:26-cv-01424-SRC

Memorandum and Order

On August 4, 2026, Missouri concluded its primary elections using the congressional districts laid out in House Bill 1 ("HB 1"). Missouri voters and candidates for federal office in Missouri request that the Court issue a temporary restraining order enjoining the use of any congressional district map other than HB 1, *see generally* doc. 2. All parties, including Intervenor People Not Politicians and Richard von Glahn, had notice and submitted briefing. Docs. 2, 12, 19–20, 29–30. Having considered the Verified Complaint, the affidavit attached to it, the parties' and intervenors' briefs, and applicable law, the Court grants Plaintiffs' motion for a temporary restraining order.

I. Facts and Background

The Court treats the following uncontroverted facts, drawn from Plaintiffs' verified complaint, docs. 1, 4, as true for the sake of resolving this motion for a TRO. *See* Fed. R. Civ. P. 65(b)(1)(A). Only a very narrow set of facts bear on the resolution of Plaintiffs' request for a TRO. On September 12, 2025, the Missouri General Assembly passed HB 1, replacing the prior congressional district map enacted in 2022. Doc. 1 ¶¶ 15–16; doc. 12-4 at 11 (The Court cites to

7:07 PM · Sep 8, 2026 · **24.4K** Views

89

120

672

35



App. 38a

IN THE SUPREME COURT OF MISSOURI

Richard von Glahn,	)	
	)	
<i>Appellant,</i>	)	
	)	
v.	)	Case No. SC101805
	)	
Denny Hoskins, Secretary of State,	)	
	)	
<i>Respondent.</i>	)	

**EMERGENCY APPLICATION FOR ORDER HOLDING SECRETARY OF
STATE IN CONTEMPT**

Secretary of State Denny Hoskins has announced that he intends to violate this court’s Judgment and Order of September 3, 2026, which “restrained and enjoined [him] from implementing, using, or mandating the use of the congressional redistricting in HB 1 for the November 2026 general election or at any other time thereafter.” The Attorney General also claims that state officials must use the HB 1 maps in November.

Earlier today, the Honorable Brett Kavanaugh declined the state's request for a stay of this Court's Judgment. Immediately thereafter, a federal court in the Eastern District of Missouri entered a temporary restraining order saying "Secretary of State Hoskins- as well as his officers, agents, employees, and attorneys- from implementing, using, publishing, distributing, or mandating the use of any congressional district map other than the HB 1 map for the November 3, 2026 general election." 4:26-cv-01424-SRC Onder et al v. State of Missouri et al (E.D. Mo.). The order does not purport to overrule this court's injunction and does NOT mandate the Secretary to use HB1, although on its face it enjoins the use of any map other than HB 1.

Although nothing in that order requires the Secretary to use the HB 1 maps, he immediately announced that he intends to do so. He sent the following email to Missouri's Election officials:

Sent: Tuesday, September 8, 2026 6:19 PM
Subject: NEW DEVELOPEMENT - Temporary Restraining Order

CAUTION: This email originated outside of boonemo.gov. ONLY use links and attachments which are familiar.

The Eastern District has issued a Temporary Restraining Order, requiring the use of the CD25 Missouri First Map.

CD25 candidates are already in the Election Management module.

Information provided by the litigation team is that the federal court's ruling, based on federal law, takes precedence over the Missouri Supreme Court's order, which is based on state law. This is in accordance with the U.S Constitution's Supremacy Clause.

This order is attached.

Thank you!

Elections Division
Office of the Missouri Secretary of State Denny Hoskins
Kirkpatrick State Information Center
600 West Main Street, Jefferson City, MO 65101
elections@sos.mo.gov
Office Phone: 573-751-2301 / 1-800-669-8683

The Missouri Attorney General also issued the following statement:

FOR IMMEDIATE RELEASE

September 8, 2026

Email: press@ago.mo.gov

Missouri Attorney General Hanaway Releases Statement Following TRO Ruling in Congressional Maps Case

JEFFERSON CITY, Mo. – Today, Missouri Attorney General Catherine Hanaway released the following statement after Chief Justice Clark granted the plaintiff's request for a temporary restraining order in *Onder v. Missouri*:

"Missouri is prepared to follow and comply with Chief Judge Clark's order that binds the state to using the Missouri First map for the November General Election. We appreciate Judge Clark's support of the rights of Missouri voters, and intend to comply with this federal ruling. We maintain that changing the congressional map in between the primary and general elections is simply not feasible and profoundly unjust to Missouri voters," said General Hanaway.

###

Of course, nothing in the actual text of the federal order is “requiring the use of the CD25 Missouri First Map [aka HB 1]” as the Secretary says, nor does the language of the federal order “bind the state to using the Missouri First map for the November General Election.” And the federal court has no authority to overrule the Missouri Supreme Court’s determination that HB 1 is not and has never been the law. Nor does anything in the federal court’s order claim to “take precedence over the Missouri Supreme Court’s order.”

"District courts may not review state court decisions, even if those challenges allege that the state court's action was unconstitutional, because federal jurisdiction to review most state court judgments is vested exclusively in

the United States Supreme Court." *Ballinger v. Culotta*, 322 F.3d 546, 548 (8th Cir. 2003).

The Secretary's direction to local election authorities to use HB 1 is a direct violation of this court's injunction. He should be ordered to immediately show cause and be held in contempt. This Court should make clear that regardless of other orders (except from the United States Supreme Court) the Missouri Secretary of State must comply with this court's injunction. The Court should instruct all local election authorities that HB 1 is not the law and has never been the law.

Respectfully submitted,

/s/ Charles W. Hatfield

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230 W. McCarty St.
Jefferson City, MO 65101
Chuck.hatfield@stinson.com

Attorney for Appellants



Supreme Court of Missouri

SC101805

September 8, 2026

Richard von Glahn,
Appellant,
vs.

Denny Hoskins, in His Official Capacity, et al.,
Respondents.

Order

Respondent Denny Hoskins is hereby ordered to show cause, if any, why he should not be held in contempt for violating this Court's injunction dated September 3, 2026, entered before the statutory deadline of September 8, 2026, and before the temporary restraining order entered by the United States District Court for the Eastern District of Missouri of that same date. Respondent is ordered to specifically address why: (1) his e-mail on September 8, 2026, instructing use of the HB 1 map is not an affirmative violation of this Court's injunction; (2) how this Court's injunction is not still in full force and effect in light of the Supreme Court of the United States' overruling of Respondent's emergency application for stay and administrative stay pending appeal; and (3) if he is not willing to comply with this Court's injunction, he should take no action in all things related to the congressional district map until guidance is received from a higher court with jurisdiction to review this Court's judgment and injunction and the United States district court's injunction, *see* 28 U.S.C. § 1257; *Ballinger v. Culotta*, 322 F.3d 546, 548 (8th Cir. 2003).

Respondent's response is due on or before 12:00 p.m., September 9, 2026. Movant Richard von Glahn's response, if any, is due on or before 4:00 p.m., September 9, 2026. The Court will not allow filings from any other parties on this matter or allow for any briefing or filings from amicus curiae. Oral argument on this matter is set for September 10, 2026, at 10:00 a.m. Respondent Denny Hoskins is ordered to appear in person.

By: _____

Chief Justice



Secretary of State Denny Hoskins, CPA



9,944 posts



Secretary of State Denny Hoskins, CPA @DLHoskins · 20m



Missouri is and always will be the place I call home. I will always fight to protect our common-sense Missouri values from a liberal Democrat Socialist and his out-of-state NYC sugar daddies.

The Show Me State will not be run into the ground like the communists running NYC on my watch.

I will continue to abide by Judge Clark's federal temporary restraining order on a federal congressional election.

I look forward to my day in court.



SCOTUS Wire @scotus_wire · 55m



The Missouri Supreme Court has ordered Secretary of State Denny Hoskins to explain why he should not be held in contempt for instructing officials to use the 2025 congressional map despite its injunction. Hoskins must appear in person on Thursday.



Supreme Court of Missouri

SC101805

September 8, 2026

Richard von Glahn,
Appellant,

vs.

Denny Hoskins, in His Official Capacity, et al.,
Respondents.

Order

Respondent Denny Hoskins is hereby ordered to show cause, if any, why he should not be held in contempt for violating this Court's injunction dated September 3, 2026, entered before the statutory deadline of September 8, 2026, and before the temporary restraining order entered by the United States District Court for the Eastern District of Missouri of that same date. Respondent is ordered to specifically address why: (1) his e-mail on September 8, 2026, instructing use of the HB 1 map is not an affirmative violation of this Court's injunction; (2) how this Court's injunction is not still in full force and effect in light of the Supreme Court of the United States' overruling of Respondent's emergency application for stay and administrative stay pending appeal; and (3) if he is not willing to comply with this Court's injunction, he should take no action in all things related to the congressional district map until guidance is received from a higher court with jurisdiction to review this Court's judgment and injunction and the United States district court's injunction, see: 28 U.S.C. § 1257; *Ballinger v. Culotta*, 322 F.3d 540, 548 (8th Cir. 2003).

Respondent's response is due on or before 12:00 p.m., September 9, 2026. Movant Richard von Glahn's response, if any, is due on or before 4:00 p.m., September 9, 2026. The Court will not allow filings from any other parties on this matter or allow for any briefing or filings from amicus curiae. Oral argument on this matter is set for September 10, 2026, at 10:00 a.m. Respondent Denny Hoskins is ordered to appear in person.

By: _____

Chief Justice

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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CONGRESSMAN ROBERT “BOB”
ONDER ET AL.,

Plaintiffs,

v.

STATE OF MISSOURI AND DENNY
HOSKINS,

Defendants.

CASE NO. 4:26-CV-01424-SRC

**DEFENDANT’S
MOTION TO ENJOIN THE MISSOURI SUPREME COURT PURSUANT TO THE
ALL WRITS ACT**

Defendant, Denny Hoskins, in his official capacity as Missouri Secretary of State, respectfully moves this Court to enjoin the Supreme Court of Missouri from holding the Secretary in contempt of court for implementing, using, distributing, and/or mandating the use of the HB 1 congressional district map in the November 3, 2026 election—as ordered by this Court. For the reasons explained in the accompanying memorandum in support of this motion, such relief is both authorized by the All Writs Act, 28 U.S.C. § 1651, and consistent with the Anti-Injunction Statute, 28 U.S.C. § 2283.

Dated: September 9, 2026

Respectfully submitted,

CATHERINE L. HANAWAY

ATTORNEY GENERAL

/s/ Louis J. Capozzi III

Louis J. Capozzi III, #77756(MO)

Solicitor General

William James Seidleck, #77794(MO)

Principal Deputy Solicitor General

Graham Miller, #77656(MO)

Deputy Solicitor General

J. Michael Patton, #76490 (MO)

Deputy Solicitor General

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Graham.Miller@ago.mo.gov

Michael.Patton@ago.mo.gov

Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on September 9, 2026 the foregoing was filed electronically through the Court's electronic filing system to be served electronically on counsel for all parties.

s/ Louis J. Capozzi III

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CONGRESSMAN ROBERT “BOB”
ONDER, et al.,

Plaintiffs,

v.

STATE OF MISSOURI and DENNY
HOSKINS,

Defendants,

RICHARD VON GLAHN, et al.,

Intervener-Defendants.

Case No. 4:26-cv-01424-SRC

**MEMORANDUM IN SUPPORT OF DEFENDANT’S MOTION TO ENJOIN
THE MISSOURI SUPREME COURT PURSUANT TO THE ALL WRITS ACT**

INTRODUCTION

On September 9, 2026, this Court “enjoin[ed], on federal law grounds, Secretary of State Hoskins—as well as his officers, agents, employees, and attorneys—from implementing, using, publishing, distributing, or mandating the use of any congressional district map other than the HB 1 map” in the upcoming General Election. Doc. 35 at 13. The Court did so because it concluded that Plaintiffs were likely to succeed on their claim that implementing the 2022 map at this late stage would violate Article I, Section 2 of the United States Constitution and the Equal Protection Clause of the Fourteenth Amendment—and because the “public interest favor[ed]” injunctive relief given the chaos that would ensue if the State did not use the HB 1 map. *Id.* at 8–12.

In reliance on that order, yesterday evening the Secretary emailed local election officials telling them to proceed with the HB 1 congressional map. Ex. A at 2. This was the only reasonable thing to do given the reality that Missouri’s state-law deadline for altering the ballot passed following this Court’s order, Mo. Rev. Stat. § 115.125(2), Doc. 35 at 3, and that ballots must be sent out to military and overseas voters in *ten days*, see 52 U.S.C. § 20302(a)(8).

Soon thereafter, Defendant-Intervenor Richard Von Glahn (“Von Glahn”) made an emergency application to the Missouri Supreme Court, seeking to hold the Secretary of State and in contempt for following this Court’s clear direction. Ex. A. Von Glahn’s motion is a blatant attempt to frustrate this Court’s order. Indeed, Von Glahn proclaimed that the Missouri Supreme Court should “make clear that

regardless of other orders (except from the United States Supreme Court) the Missouri Secretary of State must comply with [the Missouri Supreme Court’s] injunction,” and that the Missouri Supreme Court “should instruct all local election authorities that HB 1 is not the law and has never been the law.” *Id.* at 4.¹

Remarkably, the Missouri Supreme Court is taking Von Glahn’s motion very seriously. Just a few hours after his motion was filed, that court ordered Secretary of State Hoskins to show cause why he should not be held in contempt, setting a response deadline of noon on September 9. Ex. B. The Missouri Supreme Court’s order suggests—wrongly—adopts Von Glahn’s suggestion that this Court’s order is barred by the *Rooker-Feldman* doctrine. *See* Ex. B (citing *Ballinger v. Culotta*, 322 F.3d 546, 548 (8th Cir. 2003)). That court’s order also suggests that its order relying on state law trumps a federal court’s order relying on federal law—unless the U.S. Supreme Court sets aside their order first. *Id.*

Von Glahn seems confused about how the Supremacy Clause works. This Court’s order to use the HB 1 map relied on federal law. Doc. 35 at 13. The Missouri Supreme Court relied solely on *state law* in ordering Secretary Hoskins to use the 2022 map. *See Von Glahn v. Hoskins*, --- S.W.3d ----, 2026 WL 2628846, at *2 n.5 (Mo. Sept. 3, 2026) (refusing to consider the Secretary’s federal arguments). There is no actual conflict between these orders, and even if there were, this Court’s order would

¹ Defendant-Intervenors’ Counsel also gave a media interview suggesting that local election officials should not comply with this Court’s order, and, indeed, *should not implement any congressional map at all*. *See* Video posted by Mark Maxwell (@MarkMaxwellTV), X (Sept. 8, 2026), <https://x.com/MarkMaxwellTV/status/2097507770991886764>. Defendants considered moving this Court to sanction Counsel, but they (unlike Counsel) do not wish to escalate an already unprecedented situation.

govern. *See Madej v. Briley*, 370 F.3d 665, 665–668 (7th Cir. 2004) (when confronted with conflicting orders by federal district court and state supreme court, state officials are duty-bound to carry out the former).

This Court should bar the Missouri Supreme Court’s attempt to punish Secretary Hoskins for complying with this Court’s order. Although the Anti-Injunction Act typically prohibits federal courts from enjoining state-court proceedings, a textual exception exists for situations where it is “necessary . . . to protect or effectuate [a federal court’s] judgments.” 28 U.S.C. § 2283. That fits this case to a tee. *See Badgley v. Santacroce*, 800 F.2d 33, 38 (2d Cir. 1986) (state courts cannot hold parties in contempt for following federal orders); *Thomason v. Cooper*, 254 F.2d 808, 810–11 (8th Cir. 1958) (state court order could not be used to prevent implementation of federal court mandate to desegregate schools, which would put local officials in the impossible position of violating one order or the other).

This Court should immediately enjoin the Missouri Supreme Court from holding the Secretary in contempt for attempting to implement the HB 1 map in accordance with this Court’s Order and endeavoring to avoid the “havoc” that would be “wreak[ed]” by using a different map for the general election than for the primary election. *See* Doc. 35 at 12.

LEGAL STANDARD

Under the All Writs Act, 28 U.S.C. § 1651, this Court has the authority “to issue such commands as may be necessary or appropriate to effectuate and prevent the frustration of orders it has previously issued.” *McKenzie Cnty. v. United States*,

131 F.4th 877, 886–87 (8th Cir. 2025) (internal quotations omitted); *accord Knox v. Lichtenstein*, 654 F.2d 19, 21 n.2 (8th Cir. 1981). The All Writs Act is employed “flexibly” where “calculated in [the court’s] sound judgment to achieve the ends of justice entrusted to it.” *United States v. N.Y. Tel. Co.*, 434 U.S. 159, 173 (1977).

ARGUMENT

This Court should enjoin the Missouri Supreme Court from holding Secretary of State Denny Hoskins in contempt. The Supremacy Clause states that federal law is “the supreme law of the land, . . . any thing in the Constitution or Laws of any State to the Contrary Notwithstanding.” *United States v. Missouri*, 114 F.4th 980, 986 (2024), *cert denied*, 146 S.Ct. 90 (2025) (quoting U.S. Const. art. VI, cl. 2). State law cannot be used to preempt or invalidate federal law, nor to frustrate the ends of the United States Constitution. *Id.* Thus, “it is improper under the Supremacy Clause of the United States Constitution for the state courts to make orders inconsistent with those of the federal courts.” *United States v. Michigan*, 712 F.2d 242, 242 (6th Cir. 1983) (quotation omitted). This general prohibition extends to contempt orders that “ha[ve] the effect of punishing conduct that [the federal court] ha[s] expressly permitted.” *Id.* Likewise, “Supremacy Clause considerations require that the judgment of the federal court be respected,” and a state court may not hold a party “in contempt for taking actions required by the judgment of the District Court[.]” *Badgley*, 800 F.2d at 38. A federal injunction binds the parties even if entered by consent, which prevents the interference of state courts. *Id.*; *see also Nat’l R.R. Passenger Corp. v. Pa. Pub. Utility Comm’n*, 342 F.3d 242, 259–60 (3d Cir. 2003)

(federal courts can enforce their consent decrees over conflicting state court orders); accord *United States ex rel. Anti-Discrimination Ctr. of Metro N.Y., Inc. v. Westchester Cnty.*, 712 F.3d 761, 772 (2d Cir. 2013).

Despite von Glahn’s antics, this case is not particularly complicated. This Court—a federal court—has given Secretary Hoskins an order—under federal law—to implement the HB 1 map for the 2026 General Election. That governs over a state court order—relying only on state law—to use a different congressional map for the 2026 General Election. See *Madej*, 370 F.3d at 665–668. Defendants *must* comply with this Court’s order.

The Anti-Injunction Act envisions federal-court injunctions against state court proceedings in this narrow situation. That is why it authorizes this court to “grant an injunction to stay proceedings . . . where necessary . . . to protect or effectuate its judgments.” 28 U.S.C. § 2283. This exception to the Anti-Injunction Act is “designed to ensure the effectiveness and supremacy of federal law.” *Chick Kam Choo v. Exxon Corp.*, 486 U.S. 140, 146 (1988). This Court is “not required to stand by and let the state court impair a federal judgment preserving the status quo.” *NBA v. Minn. Professional Basketball, Ltd. P’Ship*, 56 F.3d 866, 872 (8th Cir. 1995).

In opposing this straightforward conclusion, von Glahn’s sanctions motion to the Missouri Supreme Court makes a few points; all obviously fail.

First, Von Glahn suggested (to the Missouri Supreme Court and in a television interview) that this Court’s order does not require using the HB 1 map. Ex. A at 2; Note 1, *supra*. But this is not plausible reading of this Court’s order. The basis of

this Court’s decision was that using a different congressional map than the Primary Election would likely violate the U.S. Constitution and the federal *Purcell* principle. Doc. 35 at 8–12. This Court’s order—which prohibits the Secretary “from implementing, using, publishing, distributing, or mandating the use of any congressional district map other than the HB 1 map for the November 3, 2026 general election,” Doc. 35 at 13—clearly requires Defendants to use the HB 1 map.

Second, Von Glahn argued that the *Rooker-Feldman* doctrine prohibits this Court’s order. This Court has already considered (and was apparently unpersuaded) by this argument. Proposed Intervenor-Defendants’ Mot. to Dismiss Complaint and Combined Memo in Supp’t 6–7 (Doc. 33). And it clearly does not apply here because Plaintiffs were not parties to the state-court action. *See Lance v. Dennis*, 546 U.S. 459, 466 (2006). Further, the Missouri Supreme Court did *not* even address the federal constitutional claims discussed by this Court. Plaintiffs are not asking this Court to review the Missouri Supreme Court’s state-law holdings—but merely asking this Court to protect their federal constitutional rights. This Court is empowered to enjoin the re-litigation of issues the Court has already decided in state court. *Daewoo Electronics Corp. of Am., Inc. v. Western Auto Supply Co.*, 975 F.2d 474, 477 (8th Cir. 1995).

Third, Von Glahn told the Missouri Supreme Court that, “regardless of other orders (except from the United States Supreme Court) the Missouri Secretary of State must comply with” the Missouri Supreme Court’s order. Ex. B at 4. This is wrong (and, frankly, frivolous). Federal courts relying on federal law trump state courts

relying on state law; this is pretty basic stuff. *Madej*, 370 F.3d at 665–66. Making this case even easier, the Missouri Supreme Court’s order did not *even discuss*—let alone issue holdings on—the federal constitutional issues in this case. Although the U.S. Supreme Court *could* have reviewed the Missouri Supreme Court’s state-law holdings, it chose not to—which it could have done for a wide range of reasons considering that it reviews stay applications in a discretionary posture where it only grants applications deemed certworthy. *See Does 1-3 v. Mills*, 142 S.Ct. 17, 18 (2021) (Barrett, J., concurring in denial of application for injunctive relief). A stay decision is not a decision on the merits. *Merril v. Milligan*, 142 S.Ct. 879, 879 (Kavanaugh, J., concurring in grant of application for stays); *Graves v. Barnes*, 405 U.S. 1201, 1204 (1972) (Powell, J., in chambers). It would be foolhardy to speculate why Justice Kavanaugh denied the stay request here, but he could have easily done so because he perceived an independent and adequate state law ground for the Missouri Supreme Court’s decisions (as Von Glahn argued) or because he determined the case was too fact-bound to be worthy of certiorari. *See generally Cruz v. Arizona*, 598 U.S. 17, 25 (2023). In all events, Justice Kavanaugh’s decision does not (and cannot) foreclose this Court from addressing Plaintiffs’ claims.

CONCLUSION

For the above reasons, the Court should grant Defendants’ motion to enjoin the Missouri Supreme Court’s contempt proceeding against Secretary Hoskins.

Dated: September 9, 2026

Respectfully submitted,

CATHERINE L. HANAWAY
ATTORNEY GENERAL

/s/ Louis J. Capozzi III

Louis J. Capozzi III, #77756(MO)

Solicitor General

William James Seidleck, #77794(MO)

Principal Deputy Solicitor General

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Deputy Solicitor General

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Michael.Patton@ago.mo.gov

Graham.Miller@ago.mo.gov

Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on September 9, 2026 the foregoing was filed electronically through the Court's electronic filing system to be served electronically on counsel for all parties.

/s/ Louis J. Capozzi III

**In the
Supreme Court of Missouri**

RICHARD VON GLAHN,
Appellant,

v.

MISSOURI SECRETARY OF STATE DENNY HOSKINS,
Respondent.

Appeal from the Circuit Court of Cole County
The Honorable Daniel R. Green

RESPONSE TO ORDER TO SHOW CAUSE

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Graham D. Miller #77656
Deputy Solicitor General
Ryan Dugan #77805
Assistant Solicitor General

Counsel for Respondent

INTRODUCTION

Counsel for Appellants has taken the extraordinary step of requesting that this Court sanction the Secretary of State for saying that he will comply with a federal court order. Tellingly, the motion cites *zero* authority for the proposition that a state court can sanction a state official for complying with a federal court order enforcing federal legal rights. And federal law clearly prohibits any such order. *See United States v. Mich.*, 712 F.2d 242, 242 (6th Cir. 1983); *Badgley v. Santacroce*, 800 F.2d 33, 38 (2d Cir. 1986). Hence, this Court must deny the motion.

In the aftermath of this Court’s decision in *von Glahn*, four plaintiffs—two candidates and two voters affected by the changed map—filed a complaint and a request for a temporary restraining order in the United States District Court for the Eastern District of Missouri. *See generally* Ex. A. None of the plaintiffs were parties to this Court’s *von Glahn* litigation. *See id.* ¶¶ 1–10.

Plaintiffs asserted claims rooted exclusively in the U.S. Constitution. Specifically, they asserted that using anything but the HB 1 map used in the Primary Election would violate the Elections Clause (U.S. Const. art. I, § 4, cl. 1), the clause dictating selection of the House of Representatives (*id.* art. I, § 2), and the Equal Protection Clause (*id.* amend. XIV, § 1). Ex. A ¶¶ 50–109. Plaintiffs moved for the temporary restraining order against the Secretary. *Id.* at 26 (prayer for relief).

On September 8, the District Court issued a temporary restraining order against the Secretary. It found that plaintiffs were likely to succeed on their claims that conducting a Missouri election according to a map other than that of HB 1 “would disenfranchise voters of their votes in the primary election, in clear violation of Article I, Section 2.” Ex. B at 9. It likewise concluded that “[s]witching maps now would deprive many Missourians of their equal vote in the primaries and ‘impair the voters’ ability to express their political preferences’ by foisting new candidates on them on the eve of the election,” so as to violate the Equal Protection Clause. *Id.* at 10–11.

The District Court further determined that plaintiffs carried their burden for equitable relief. It found that both voters and candidates faced irreparable harm from the Secretary’s complying with this Court’s injunction: “Using a map other than HB 1’s would disenfranchise primary-election voters and undermine the nominations of candidates chosen in the primaries, leading to ‘certain’ and ‘great’ harm” *Id.* at 5. Meanwhile, the District Court saw the balance of equities satisfied because it would preserve status quo by “using the same map for the general election that Missouri used for its primaries—the HB 1 map.” *Id.* Finally, the District Court concluded that the public interest was satisfied. *See id.* at 12 (“Using a different map for the general election would wreak havoc on the fairness and orderliness of Missouri’s congressional elections, calling into question the candidacy of those nominated

in the primaries and the votes of those who voted in the primaries. Widespread voter confusion would inevitably follow.”).

ARGUMENT

The Court must not take the radical step of holding the Secretary of State in contempt for following a federal court order. In response to this Court’s show-cause order, Respondent states as follows.

First, the District Court’s order could not have been clearer. It specifically “enjoins, on federal law grounds, Secretary of State Hoskins—as well as his officers, agents, employees, and attorneys—from implementing, using, publishing, distributing, or mandating the use of any congressional district map other than the HB 1 map for the November 3, 2026 general election.” Ex. B at 13. All of this followed a federal legal holding that the State would violate the U.S. Constitution by not using the same map for the General Election as it used for the Primary Election. Ex. B at 13 at 8-11. The Secretary’s email on September 8, 2026 reflected the District Court’s order. The motion’s saying (at PDF p.3) that “nothing in the actual text of the federal order is ‘requiring the use of the CD25 Missouri First Map [aka HB1]’” is patently absurd. The District Court’s order could not have been more direct and the Secretary’s email simply sought to follow it.

Second, this Court’s order can no longer compel the Secretary. Per the Supremacy Clause of the U.S. Constitution, U.S. Const. art. VI, cl. 2, the

Secretary must follow the federal-law injunction issued by the federal court. So long as the District Court's order stands, the Secretary must obey it. *See, e.g., Mapp v. Bd. of Educ. of Chattanooga, Tenn.*, 341 F. Supp. 193, 198–99 (E.D. Tenn. 1972) (recognizing the nullity of a state-court order interfering with a federal-court desegregation order). The U.S. Supreme Court could not have been clearer: “No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it.” *See Cooper v. Aaron*, 358 U.S. 1, 18 (1958). Axiomatically, any state executive claiming authority (at any behest) “to nullify a federal court order is similarly restrained.” *Id.* at 19; *accord Mapp*, 341 F. Supp. at 199.

Nor does this Court possess any authority to countermand the District Court's decision on a question of federal law. As with any other matter, the Supremacy Clause demands that any state-court decree “must give way” to the operation of federal law. *Ridgway v. Ridgway*, 454 U.S. 46, 55 (1981); *see also Ex parte Virginia*, 100 U.S. 339, 346 (1879) (holding that state actions must yield to the Fourteenth Amendment “whether that action be executive, legislative, or *judicial*” (emphasis added)). “Faced with conflicting orders—one issued by a federal court to implement the Constitution, and the other issued by a state court as a matter of state practice—” the state official must follow “the priority prescribed by the Constitution.” *Madej v. Briley*, 370 F.3d 665,

667 (7th Cir. 2004) (per curiam); *accord Mapp*, 341 F. Supp. at 199 (enjoining parties from complying with a state-court order frustrating desegregation).

Moreover, the denial of the State’s application for emergency relief before the U.S. Supreme Court has no bearing on the District Court’s authority to issue its order or the Secretary’s obligation to follow that order. As when this Court considers a party’s request for transfer, the U.S. Supreme Court hears the vast majority of its cases (including emergency applications) in a *discretionary* posture. *Compare* Mo. Ct. R. 83.04 (“Transfer by this Court is an extraordinary remedy that is not part of the standard review process”), *with* Sup. Ct. R. 10 (“Review on a writ of certiorari is not a matter of right, but of judicial discretion.”). Receiving an emergency stay from the U.S. Supreme Court requires an applicant to demonstrate, *inter alia*, “‘a reasonable probability’ that this Court will grant certiorari.” *Maryland v. King*, 567 U.S. 1301, 1302 (2012) (Roberts, C.J., in chambers). The U.S. Supreme Court’s denying discretionary review (as occurred here) imparts no suggestion of that court’s view of a case’s merits. *See Teague v. Lane*, 489 U.S. 288, 298 (1989) (“As we have often stated, the ‘denial of a writ of certiorari imports no expression of opinion upon the merits of the case.’”).

As such, Respondent is aware of *zero* authority suggesting that an unreasoned disposal of a petition for discretionary relief before the Supreme Court bars a federal district court from considering similar federal

constitutional claims. Indeed, as the U.S. Supreme Court has recognized, “The possibility of appellate review by [the Supreme Court] of a state court determination may not be substituted, against a party’s wishes, for his right to litigate his federal claims fully in the federal courts. . . . ‘[A] party has the right to return to the District Court, after obtaining the authoritative state court construction for which the court abstained, for a final determination of his claim.’” *England v. La. State Bd. of Med. Examiners*, 375 U.S. 411, 465–66 (1964) (citation omitted). Hence, the *Onder* plaintiffs had the right to maintain their action in the District Court and the District Court likewise did not transgress any boundaries in ruling for the plaintiffs. *See Teague*, 489 U.S. at 298. The Secretary therefore remains bound by the federal court’s judgment. *See Cooper*, 358 U.S. at 18; *Mapp*, 341 F. Supp. at 199.

Third, the *Rooker-Feldman* doctrine clearly does not apply here. The “doctrine provides that, with the exception of habeas corpus petitions, lower federal courts lack subject matter jurisdiction over challenges to state court judgments.” *Ballinger v. Culotta*, 322 F.3d 546, 548 (8th Cir. 2003) (internal quotation marks omitted). But it does not control here for at least two reasons.

First, the *Onder* plaintiffs were not parties to the proceedings before this Court. *See Lance v. Dennis*, 546 U.S. 459, 466 (2006). *Rooker-Feldman* is “not simply preclusion by another name.” *Id.* It is straightforward why the *Rooker-Feldman* doctrine does not apply here. It would make no sense to say that

individuals lose their right to assert federal-constitutional rights in federal court because separate individuals lost state-law arguments in a state court. And under materially identical circumstances to the present case, the U.S. Supreme Court so held. *See id.*

In *Lance*, after the Colorado legislature had performed a mid-decade redistricting, the state attorney general sued the secretary of state seeking to require the use of the previous redistricting map. *Id.* at 460. The Colorado Supreme Court construed the Colorado Constitution “to limit congressional redistricting to ‘once per decade’” and “ordered the secretary of state to use the [previous plan].” *Id.* at 460–61 (quoting *People ex rel. Salazar v. Davidson*, 79 P.3d 1221, 1231 (2003) (en banc)). Following the *Salazar* decision, four Coloradans, “unhappy with [the decision,] filed an action in the District Court seeking to require the secretary of state to use the legislature’s [new redistricting] plan.” *Id.* at 461. Those plaintiffs “argued that [the Colorado Constitution], as interpreted by the Colorado Supreme Court, violated the Elections Clause of Article I, § 4, of the U.S. Constitution.” *Id.* The Supreme Court held that the citizen-plaintiffs “were plainly not parties to the underlying state-court proceeding” and were “not in a ‘position to ask this Court to review the state court’s judgment.’” *Id.* at 465 (quoting *Johnson v. De Grandy*, 512 U.S. 997, 1006 (1994)). Thus, *Rooker-Feldman* did not bar that federal action. *Id.* at 466. And this was true even though the secretary of state

was the defendant in both the original state suit and the federal suit. *See id.* at 460–61 & n.1.

A contrary position would rob many voters and candidates of their right to bring federal claims in federal court after the State lost a case in state court. And such a holding would violate the Due Process Clause, which generally prohibits judgments from extinguishing absent third parties’ claims. *See Taylor v. Sturgell*, 553 U.S. 880, 884–85 (2008).

Second, even if Appellant could establish some privity between the *Onder* plaintiffs and the Secretary, no party asked the District Court to reconsider any holding of this Court—in violation of *Rooker-Feldman* or 28 U.S.C. § 1257. *See* Ex. A at ¶¶ 50–109. This Court decided *state-law* questions. Even though Secretary made federal-constitutional arguments, this Court declined to rule on them. For example, Secretary Hoskins argued that an order to switch Missouri’s congressional map between the Primary and General Elections would violate the U.S. Constitution. *See* Brief for Sec’y Hoskins at 53–63, *von Glahn v. Hoskins*, No. SC101805 (Mo. Aug. 27, 2026). This Court left the argument unaddressed, holding it lacked *jurisdiction* to address them. *See* No. SC101805, slip op. at 5 n.5 (“In raising hypothetical scenarios and arguments wholly unrelated to whether the Missouri Constitution authorizes a referendum as to congressional redistricting passed by the General Assembly, the secretary also requests an advisory opinion, which this Court

lacks the authority issue.”). But the District Court saw those federal arguments as grounds for relief to redress the injuries of the candidate and voter plaintiffs in *Onder*. See Ex. B. at 8–9.

Contrary to the record, the motion here assumes that the District Court effectively engaged in an appeal of this Court’s decision. Not so. Off the bat, the motion concedes (at PDF p.2) that the District Court’s “order does not purport to overrule this [C]ourt’s injunction.” Quite right—nowhere does the District Court purport to review this Court’s decision. It instead analyzes whether the Secretary can lawfully undertake the election using a map other than HB 1 in compliance with the U.S. Constitution (and concludes that he can’t). Ex. B at 8–11.

Indeed, the *Onder* litigation in the District Court hardly looks like an appeal of this Court’s decision. Again, the plaintiffs were two candidates and two individual voters who were *never* parties to the *von Glahn* litigation in this Court. Ex. A ¶¶ 1–10. The defendants were the State of Missouri and the Secretary. *Id.* ¶¶ 11–12. Plaintiffs sought emergency order from the District Court enjoining the Secretary (again, a defendant) from using a map other than HB 1 per several provisions of the U.S. Constitution. *Id.* at 26 (prayer for relief). In issuing its decision, the District Court relied *solely* on the U.S. Constitution in finding the plaintiffs were entitled to temporary injunctive relief against the Secretary. Ex. B at 8–11.

All told, the motion is wrong to insinuate that *Onder* re-litigated matters decided by this Court. Frankly, there is no meaningful overlap. This Court issued the following holdings: (1) a state-law holding that the Missouri Constitution authorizes referenda against congressional maps; and (2) a state-law holding that Missouri may not use the same congressional map it used during the Primary Election *because of state law*. See No. SC101805, slip op. at 11, 13. By contrast, the *Onder* Plaintiffs asked the District Court to decide only *federal* questions: (1) whether the Elections Clause prohibits displacing the HB 1 congressional map, Ex. A ¶¶ 50–73, and (2) whether Missouri would violate the U.S. Constitution if it uses a different congressional map for the General Election than it used during the Primary Election, *id.* ¶¶ 74–109. Sure enough, the latter claims were the basis for the District Court’s temporary injunction. See Ex. B. at 6–11. Hence, the *Rooker-Feldman* doctrine does not apply.

Nor does the Anti-Injunction Act prevent the District Court’s action here. That act generally bars federal courts from enjoining state-court proceedings. See 28 U.S.C. § 2283. But that is simply not what happened here. The District Court did not enjoin this Court from issuing any state-law decisions; it merely relied on federal law to address federal constitutional claims.

Finally, even if the doctrine did apply or some other basis for error in the District Court’s order exists, the order is nonetheless binding on the Secretary

for the time being. Unless and until the District Court or a higher court issues a stay, the Secretary cannot disregard that order. *See Cooper*, 358 U.S. at 18; *Madej*, 370 F.3d at 667. Otherwise, he would be exposed to contempt proceedings in federal court.

* * *

The Secretary is in no position to do anything but obey the clear order of the United States District Court for the Eastern District of Missouri. Because this Court cannot countermand the District Court's order, any sanction imposed upon him for following that order would be profoundly unlawful and unjust.

CONCLUSION

This Court must deny the request to hold the Secretary of State in contempt.

Respectfully submitted,

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CERTIFICATE OF SERVICE AND COMPLIANCE

I hereby certify that a true and correct copy of the foregoing was filed and served electronically via Missouri CaseNet on September 9, 2026 to all counsel of record.

The undersigned further certifies that the foregoing brief complies with the limitations contained in Rule No. 84.06(b) and that the brief contains 2,819 words.

/s/ Louis J. Capozzi III
Solicitor General

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CONGRESSMAN ROBERT “BOB”
ONDER et al.,

Plaintiffs,

v.

STATE OF MISSOURI and DENNY
HOSKINS,

Defendants.

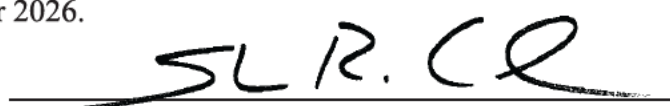
Case No. 4:26-cv-01424-SRC

Order

On September 9, 2026, Defendant Denny Hoskins moved this Court to enjoin the Missouri Supreme Court under the All Writs Act, 28 U.S.C. § 1651. *See* docs. 41, 43. He then filed a motion asking that the Court expedite its briefing schedule on the first motion, doc. 42 at 1 (The Court cites to page numbers as assigned by CM/ECF.), and resolve the pending motion to enjoin before “10:00 a.m. on September 10, 2026,” *id.* at 2.

Accordingly, the Court orders Intervenor-Defendants to, no later than 5:00 p.m. Central Daylight Time on September 9, 2026, file their response to Hoskins’s Motion to Enjoin the Missouri Supreme Court Pursuant to the All Writs Act, doc. 41.

So ordered this 9th day of September 2026.


STEPHEN R. CLARK
CHIEF UNITED STATES DISTRICT JUDGE

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No. 26-2797

Congressman Robert Onder, et al.

Appellees

v.

State of Missouri and Denny L. Hoskins, in his official capacity as Missouri Secretary of State

Appellees

Richard Von Glahn and People Not Politicians

Appellants

Appeal from U.S. District Court for the Eastern District of Missouri - St. Louis
(4:26-cv-01424-SRC)

ORDER

Before LOKEN, STRAS, and JUSTIN D. SMITH, Circuit Judges.

The motion for a stay pending appeal is denied because we either lack jurisdiction over the appeal or, based on the briefing we have so far, the stay factors have not been met. *See Nken v. Holder*, 556 U.S. 418, 425–26 (2009); *see also In re Rutledge*, 956 F.3d 1018, 1026 (8th Cir. 2020) (explaining that “we . . . ordinarily lack jurisdiction to hear an interlocutory appeal from the district court’s grant . . . of a TRO”). The motion for summary reversal is also denied, and the motion for an administrative stay is denied as moot.

September 09, 2026

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

App. 73a