

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

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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.

Case No. SC101805

Denny Hoskins, Secretary of State,

Respondent.

**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 / 1-800-669-8883

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.

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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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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