

IN THE MISSOURI SUPREME COURT

RICHARD VON GLAHN,

Appellants,

v.

DENNY HOSKINS, IN HIS OFFICIAL
CAPACITY AS THE MISSOURI
SECRETARY OF STATE,

Respondent.

Case No. SC101805

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No. 26A_____

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Supreme Court of the United States**

DENNY HOSKINS, *in his official capacity as Missouri Secretary of State,*
Applicant,

v.

RICHARD VON GLAHN,
Respondent.

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

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Applicant Denny Hoskins, in his official capacity as Missouri Secretary of State, was the Defendant in the Circuit Court of Cole County, Missouri and the Respondent in the Missouri Supreme Court.

Republican National Committee, National Republican Congressional Committee, and Missouri Republican State Committee were Intervenor-Defendants in the Circuit Court of Cole County, Missouri and Intervenor-Respondents in the Missouri Supreme Court.

Respondent Richard von Glahn was Plaintiff in the Circuit Court of Cole County, Missouri and the Appellant in the Missouri Supreme Court.

RELATED PROCEEDINGS

Circuit Court of Cole County, Missouri (Cole Cnty. Cir. Ct.): Official Court Document

Von Glahn v. Hoskins, No. 26AC-CC00440 (Aug. 19, 2026) (final judgment and order denying injunction)

Missouri Supreme Court (Mo.):

Von Glahn v. Hoskins, No. SC101805 (Sept. 3, 2026) (order granting injunction)

Von Glahn v. Hoskins, No. SC101805 (Sept. 4, 2026) (order denying motion for stay pending appeal)

RULE 29.6 STATEMENT

Pursuant to Supreme Court Rule 29.6, Applicant represents that he and his office do not have any parent entities and do not issue stock.

/s/ Louis J. Capozzi, III

Louis J. Capozzi, III

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TO THE HONORABLE BRETT M. KAVANAUGH, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE EIGHTH CIRCUIT:

A federal-election-administration disaster is unfolding in Missouri. In August 2025, the Missouri General Assembly adopted a new congressional map (the “HB 1 map”); that map was used about one year later in the August 2026 Primary Election, in which about 1.2 million Missourians voted. But yesterday, the Missouri Supreme Court ordered the State to use a dramatically different map—one adopted in 2022—for the imminent 2026 General Election. The court gave no specific guidance on *how* this is to be done—but it undoubtedly will require the winners of the Primary Election to run in dramatically different districts for the General Election.

No court in American history has *ever* given such an extraordinary remedy, which inflicts unprecedented chaos on Missouri. Looking backwards, the order renders a completed federal Primary Election utterly pointless—disenfranchising hundreds of thousands of voters who will now be moved into new districts and forced to vote for candidates they had no role in selecting. Looking forwards, the State is genuinely unsure whether it can switch its governing congressional map in time to run a timely federal election. App., *infra*, at 1665a–1668a. Several weeks ago, the trial court found that “changing the maps at this late juncture is not just ‘impractical,’ it is impossible” given the complexity of doing so. *Id.* at 52a. The Missouri Supreme Court simply ignored that factual finding (and the substantial evidence underlying it). Certainly, absent a stay, Missouri will be forced to violate the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), which sets a deadline of September 19 to start sending absentee ballots to overseas and military voters. 52

U.S.C. § 20302(a)(8); App., *infra*, at 1667a–68a. Altogether, the chaos present here easily dwarfs that in *any* case where this Court ever invoked *Purcell*-related concerns to grant a stay. Cf., e.g., *Abbott v. LULAC*, 146 S. Ct. 418, 419 (2025) (per curiam) (prohibiting changes to Texas’s congressional map for the 2026 elections ten months ago).

Below, Missouri raised several federal constitutional defenses to avoid this catastrophic scenario—but the Missouri Supreme Court simply ignored them. That court deemed Missouri’s federal constitutional arguments, as well as warnings that it would be forced to violate federal law, “irrelevant” in footnotes. App., *infra*, at 5a n.5, 12a n.8. Instead, the court reasoned that the Missouri Constitution gives about 3.3% of registered voters an absolute right to void a duly enacted congressional map *before* a statewide referendum vote—and after the Primary Election was completed under a very different congressional map. App., *infra*, at 5a n.5, 11a–13a n.8.

The Missouri Supreme Court’s order to change Missouri’s congressional map for the 2026 Election patently violates the U.S. Constitution and should be stayed by this Court. There is a “reasonable probability” this Court will grant certiorari and reverse on at least two bases. *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010).

First, the order below violates the U.S. Constitution’s Elections Clause. U.S. Const. art. I, § 4. The Clause provides that “[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the *Legislature* thereof.” *Id.* (emphasis added). But yesterday, the Missouri Supreme Court held that a referendum *petition*—signed by just “five percent of the

legal voters in each of two-thirds of the congressional districts in the state” (approximately 3.3% of the State’s voters)—can suspend Missouri’s duly-enacted congressional map. App., *infra*, at 5a, 11a–13a (quoting Mo. Const. art. III, § 52(a)). And, the court made clear, this happens *before* any statewide referendum vote—meaning the State must at least temporarily use a congressional map the General Assembly repealed regardless of the ultimate statewide referendum vote. App., *infra*, at 13a. Although this Court has held that the Elections Clause permits statewide referendum votes on congressional maps, *see Ariz. State Legislature v. Ariz. Indep. Redistricting Comm’n* (“AIRC”), 576 U.S. 787, 808–09 (2015), the Court has never held that just 3.3% of a State’s voters can unilaterally suspend a disfavored congressional map by submitting a referendum petition. If *that* profoundly anti-democratic arrangement is permissible, little is left of the Elections Clause.

Second, a judicial order dramatically altering a congressional map *between* a Primary and a General Election violates several constitutional provisions. Article I, Section 2 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 (emphasis added). This protects the right of Missourians to select their representatives in both Primary and General Elections. *See United States v. Classic*, 313 U.S. 299, 318 (1941). 1.2 million Missourians participated in the State’s Primary under the HB 1 map, in August 2026. App., *infra*, at 19a–20a. Yet the Missouri Supreme Court just threw those votes into the dustbin—requiring the winners of the Primary election to run in very different congressional districts.

App., *infra*, at 11a–13a n.8. Thus, absent a stay, hundreds of thousands of voters will be forcibly switched to new districts and forced to vote on General Election candidates they had no role in choosing. App., *infra*, at 19a, 45a. This unprecedented disenfranchisement violates Article I, Section 2, the constitutional right to vote, and the Equal Protection Clause.

Merits aside, the other stay factors *overwhelmingly* favor a stay. *Cf. Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring in grant of stay).

To start, absent a stay, Missouri will face several irreparable harms. The State will be barred from using a duly enacted congressional map, a classic and weighty irreparable harm, *see Maryland v. King*, 567 U.S. 1301, 1303–04 (2012) (Roberts, C.J., in chambers)—but one that is unusually acute here because Missouri used that map for its Primary Election. Moreover, the order below will force Missouri to violate federal law, including UOCAVA—which requires absentee mail ballots to be sent to military and overseas voters in 15 days. 52 U.S.C. § 20302; App., *infra*, at 1667a–1668a (doing math on why State will violate UOCAVA). The trial court’s factual findings (which the Missouri Supreme Court simply ignored) make clear that Missouri election officials cannot change the congressional map and meet this deadline. App., *infra*, at 52a. And worst of all, hundreds of thousands of Missourians will see their votes in the Primary election rendered pointless—destroying public confidence in the integrity of Missouri’s elections. *Id.*, at 1669a–1670a; *see Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 196–97 (2008) (plurality op.).

Moreover, the balance of the equities is remarkably one-sided. *Cf. Milligan*, 142 S. Ct. at 880 (Kavanaugh, J., concurring in grant of stay). On the one hand, Richard von Glahn—the referendum petition’s proponent—will get his referendum vote on Missouri’s congressional map regardless of what this Court does. The only question is whether he (joined by a small minority of the State’s voters) can void a congressional map *before* he gets his vote.

On the other hand, Missouri cannot run a timely, lawful federal election absent a stay. App., *infra*, at 42a–43a, 52a, 1665a–1668a. This Court has long recognized that last-minute judicial alterations can upend and inflict chaos on federal elections. *See Milligan*, 142 S. Ct. at 880–81 (Kavanaugh, J., concurring in grant of stay). This is true even when a state court issues the order, *see Malliotakis v. Williams*, 146 S. Ct. 809, 811 (2026) (Alito, J., concurring in grant of stay), and *Purcell*’s equitable concerns are squarely implicated here. Across the State, ahead of a September 8 state-law deadline to alter the ballot, Mo. Rev. Stat. § 115.125.2, county election officials are scrambling to figure out how to comply with the order below—and assessing whether it is even possible to do so. App., *infra*, at 1665a–1668a. Even if the trial court is wrong—and it is *possible* to change the map before November 3, *but see id.*, at 52a—Missouri will be forced to violate UOCAVA and delay the start of voting. *Id.*, at 1667a–68a. Candidates—who have campaigned for over a year and raised tens of millions of dollars based on the HB 1 districts—now face the prospect of all that time and expense being wasted and being forced to campaign afresh before very different electorates. Voters across the State are confused. *Id.*, *infra*, at 1669a–

1670a. Altogether, the chaos inflicted by the order below exceeds that present in any of this Court's *Purcell*-related cases.

To ensure Missouri can run a timely and lawful federal election, this Court should also enter an immediate administrative stay of the Missouri Supreme Court's injunction ordering the use of a new congressional map for the 2026 General Election. Although this Court is not bound by it, Missouri has a state-law deadline of September 8 to alter the ballot, Mo. Rev. Stat. § 115.125.2; an administrative stay by that time would provide much needed clarity to confused election officials. More importantly, UOCAVA requires Missouri to send out absentee ballots on September 19. To enable Missouri to comply with that federal deadline, Secretary Hoskins respectfully requests this Court issue a decision **no later than September 14, 2026**. The Secretary also proposes a briefing schedule in which Respondent's brief is due **no later than 5:00 p.m. on September 7, 2026**, and in which the Secretary's reply becomes due **no later than 5:00 p.m. on September 8, 2026**.

DECISIONS BELOW

The Missouri Supreme Court's September 3, 2026 merits opinion is attached. App., *infra*, at 1a–14a. The Missouri Supreme Court's September 3, 2026 mandate is attached. *Id.*, at 15a.

Applicant's September 3, 2026 motion to the Missouri Supreme Court seeking a stay of the court's injunction pending an emergency application for stay to this Court is attached. *Id.*, at 1639a–1663a. The Missouri Supreme Court's September 4, 2026 denial of the Applicant's motion for stay is attached. *Id.*, at 16a.

The Cole County Circuit Court's August 19, 2026 judgment, findings of fact, and conclusions of law is attached. *Id.*, at 17a–53a.

JURISDICTION

The Court has jurisdiction under 28 U.S.C. §§ 1257(a), 1651(a). “Title 28 U.S.C. § 1257(a) gives [this Court] jurisdiction to review ‘[f]inal judgments or decrees’ that are rendered by a State’s highest court and adjudicate federal constitutional claims.” *Malliotakis*, 146 S. Ct. at 810 (Alito, J., concurring in grant of stay) (second alteration original) (quoting 28 U.S.C. § 1257(a)). That includes review of a state supreme court’s refusal to stay a “state-court order” that violates the U.S. Constitution. *Id.* at 810–11.

Likewise, Title 28 U.S.C. § 1651(a) “preserve[s]” the “inherent” authority of this Court to grant a stay, which is “necessary or appropriate in aid of [its] jurisdiction[].” *Nken v. Holder*, 556 U.S. 418, 426–27 (2009) (quoting 28 U.S.C. § 1651(a)) (citing *In re McKenzie*, 180 U.S. 536, 551 (1901)).

Under these rules, the Missouri Supreme Court’s September 3, 2026 opinion and mandate, and the court’s September 4, 2026 denial of the Secretary’s motion for stay, are final judgments and decrees of the Missouri Supreme Court subject to appellate review in this Court to the extent that the Missouri Supreme Court’s injunction violates the U.S. Constitution. This Court’s exercise of its inherent authority to grant a stay is also necessary and appropriate in aid of its jurisdiction.

STATEMENT

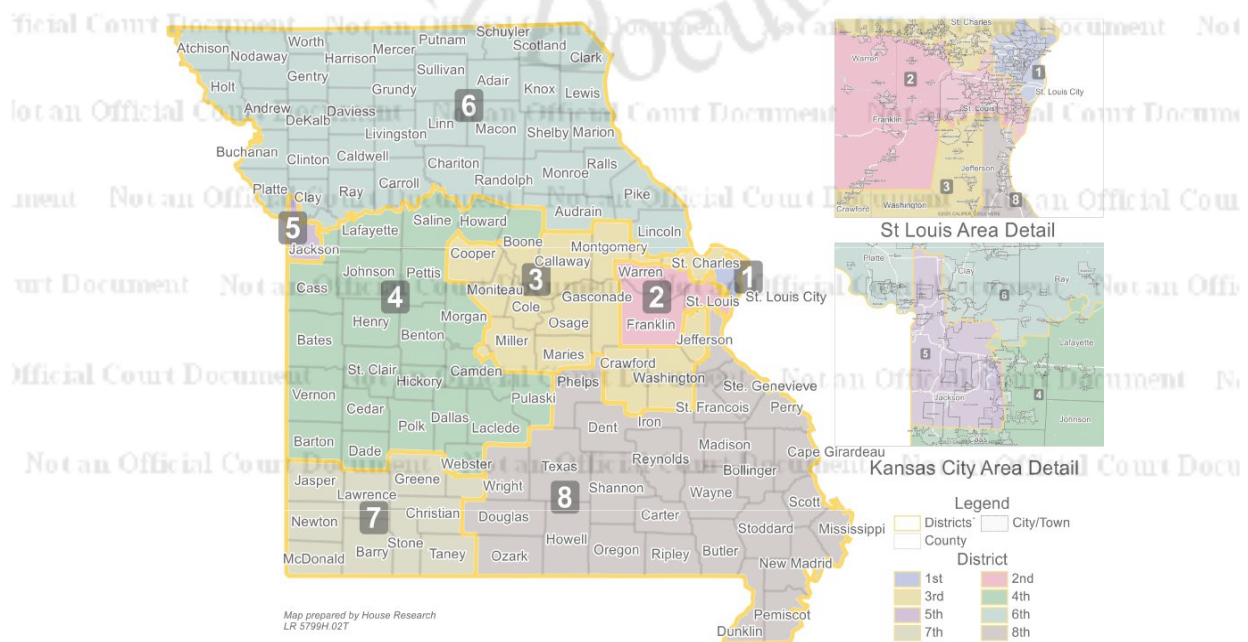
On September 12, 2025, the Missouri General Assembly passed House Bill 1 (“HB 1”), which redistricted the boundaries of Missouri’s eight congressional districts.

HB 1 abrogated Missouri's previous congressional map enacted in 2022. A copy of the two maps is reproduced below:

Missouri's 2025 Congressional Map



Missouri's 2022 Congressional Map



HB 1 passed overwhelmingly in the Missouri General Assembly. App., *infra*, at 17a. The margin was 21 to 11 in the Missouri Senate and 90 to 65 in the Missouri House of Representatives. *Id.* Governor Michael L. Kehoe signed HB 1 into law on September 28, 2025. *Id.*

In response, Respondent and his organization, People Not Politicians (PNP) initiated the referendum petition at issue in this case. Respondent's public statements have long emphasized that he merely wants a statewide vote on the HB 1 map. See, e.g., App., *infra*, 1244a. But Respondent has also acknowledged a less democratic goal: exploiting the Missouri Constitution's referendum provisions to suspend the State's congressional map merely by submitting a referendum *petition* signed by "five percent of the legal voters in each of two-thirds of the congressional districts in the state" (approximately 3.3% of Missouri's voters). Mo. Const. art. III, §§ 52(a), 52(b); see also Jason Rosenbaum, *Missouri's stack of redistricting lawsuits expected to grow over whether new map is in effect*, St. Louis Public Radio (Dec. 16, 2025) (Von Glahn claimed, "[Secretary Hoskins] has to issue a certificate of sufficiency or insufficiency, and until that point, the law is suspended.")¹ To be clear, Respondent's theory is that state law entitles him to suspend a duly-enacted congressional map for an entire election cycle *without* a referendum vote—even though this has never been attempted before in Missouri history. Also, as far as Missouri is aware, this tactic has never been tried in any other State.

¹ <https://www.stlpr.org/government-politics-issues/2025-12-16/missouris-redistricting-lawsuits-whether-new-map-effect>.

Keenly aware of Respondent's objective, the Missouri Secretary of State (alongside the Missouri General Assembly and the State of Missouri) sued PNP and von Glahn in federal district court last October—seeking an injunction and declaratory relief preventing displacement of the HB 1 map. *See App., infra*, at 608a–35a. The Secretary relied on the Elections Clause—among other arguments. *App., infra*, at 627a–28a. The district court, however, dismissed the Secretary's complaint on ripeness grounds. This was so, the district court explained, because the Secretary possesses authority under Missouri law to reject von Glahn's referendum petition as unconstitutional—thereby “prevent[ing] displacement of the new map.” *Mo. Gen. Assembly v. von Glahn*, No. 4:25-CV-1535-ZMB, 2025 WL 3514277, at *1, *4 n.4 (E.D. Mo. Dec. 8, 2025) (citing Mo. Rev. Stat. § 116.120).

On December 9, 2025, the day after the federal district court's decision, Respondent submitted his referendum petition to the Secretary of State's office. *App., infra*, at 18a. The Attorney General and Secretary promptly declared that the HB 1 map had gone into effect and would remain in effect—at least until the Secretary certified the referendum as legal. *See Maggard v. Missouri*, 733 S.W.3d 411, 412–13, 419 (Mo. 2026). The Missouri Supreme Court subsequently rejected a challenge to that public declaration in *Maggard*—holding that the mere submission of a referendum petition does not freeze a duly enacted congressional map. *Id.* at 421. The *Maggard* decision also expressly reserved the question whether referenda can proceed against federal congressional maps. *Id.* at 414 n.7.

The Missouri Supreme Court also rejected four other legal challenges to the HB 1 map—including as recently as May 2026. *See Luther v. Hoskins*, 730 S.W.3d 567 (Mo. 2026); *Healey v. Missouri*, 732 S.W.3d 827 (Mo. 2026); *Maggard v. Missouri*, 733 S.W.3d 411 (Mo. 2026); *NAACP v. Kehoe*, 734 S.W.3d 338 (Mo. 2026). Because of those decisions, even Democracy Docket—the publication founded by Marc Elias, the Democratic Party’s leading election lawyer—admitted the HB 1 map would likely need to govern Missouri’s elections in 2026. App., *infra*, at 1246a.

While all this litigation was unfolding, the Secretary strictly complied with his state-law duties in processing Respondent’s referendum petition. *See* Mo. Rev. Stat. §§ 116.120–116.150. Within two weeks of the petition’s submission, the Secretary forwarded Respondent’s referendum petition to Missouri’s 116 local election authorities so that they could begin reviewing the signatures on Respondent’s petition to verify validity. *See id.* § 116.130.1. Review of the petition’s signatures was necessary *before* any ruling on the constitutionality of the referendum petition because Missouri law establishes that any defect not raised in a Secretary’s certificate is waived. *See id.* § 116.150; App., *infra*, at 5a. Additionally, Missouri law explicitly granted the Secretary until August 4, 2026—the same day as Missouri’s Primary Election day—to issue his certificate of sufficiency or insufficiency as to Respondent’s referendum petition. App., *infra*, at 3a; Mo. Rev. Stat. § 116.150.3.

On May 13, 2026—following the Missouri Supreme Court’s rejection of multiple challenges to the HB 1 map—the Attorney General issued an opinion making clear that the HB 1 map must be used during the 2026 Primary Election.

App., *infra*, at 19a; Mo. Att’y Gen., Op. Letter 03-2026 (May 13, 2026). No court ever stated that this opinion letter was unlawful or wrong.

Consistent with the Attorney General’s Opinion, Missouri conducted its 2026 Primary Election under the HB 1 map. About 1.2 million Missourians voted in the elections. App., *infra*, at 19a–20a.

On the same day, the Secretary met his statutory deadline and issued a certificate of insufficiency rejecting the referendum on a host of legal grounds. *Id.* at 599a. As part of that certificate, the Secretary attached and incorporated an Attorney General opinion—which he noted “more fully articulated” the “grounds for insufficiency.” *Id.* In particular, the certificate concluded “the Missouri Constitution does not authorize a referendum on congressional redistricting plans passed by the General Assembly.” *Id.* at 600a. Among other things, the certificate noted exceptions in the Missouri Constitution to the referendum right. *Id.* at 603a–04a. The certificate also concluded that—even if the Missouri Constitution did authorize a statewide vote on a congressional redistricting plan—it would violate the U.S. Constitution to allow a small minority of voters to unilaterally void a redistricting plan in the interim. *Id.* at 600a. And even if all that were wrong, the Secretary’s certificate concluded that it would violate federal law and Missouri’s equivalent of the *Purcell* principle—the *Hadley* doctrine—to change congressional maps after the Primary Election. *Id.* at 605a–06a; *Hadley v. Junior Coll. Dist. of Metro. Kansas City*, 460 S.W.2d 1, 2–3 (Mo. 1970).

Respondent Richard von Glahn promptly sued. App., *infra*, at 54a., 56a. His complaint sought an injunction “reversing Defendant Hoskins’ certification decision,” and an injunction “[r]estraining” the Secretary “and those acting in concert with him from taking any further steps to implement or mandate the use of HB 1.” *Id.* at 61a. Respondent’s complaint provided zero explanation regarding how the latter injunction could even be implemented—given that Missouri completed its Primary Election on August 4, 2026.

The trial court rejected Respondent’s challenge on every conceivable ground. It agreed with the Secretary that the Missouri Constitution does not authorize referenda on congressional maps. *Id.* at 22a–30a. It also held that the U.S. Constitution’s Elections Clause forbids changing Missouri’s congressional map based on a referendum petition signed by just “five percent of the legal voters in each of two-thirds of the congressional districts in the state.” *Id.* at 27a (quoting Mo. Const. art. III, § 52(a)). The trial court further held that changing Missouri’s congressional map between a Primary and General Election would violate Article I, Section 2 of the U.S. Constitution and the Equal Protection Clause of the Fourteenth Amendment. *Id.* at 39a–42a. Finally, the trial court held that *even if* it were wrong on the first three bases for its judgment, it would still decline to change the HB 1 map before the 2026 election in light of the *Hadley* principle—the Missouri equivalent to the *Purcell* principle. *Id.* at 49a–50a (citing *Hadley*, 460 S.W.2d 1).

The trial court’s holdings were also buttressed by several factual findings—none of which were contested (or even mentioned) by the Missouri Supreme Court.

The trial court found that “changing the maps at this late juncture is not just ‘impractical,’ it is impossible.” *Id.* at 52a. The trial court also found that, “Candidate filing closed months ago. Over 1.2 million Missourians voted in the August 4 Primary. Nominees have been selected. Campaigns for the general election are underway.” *Id.* at 50a. Also, the trial court found that “revert[ing] Missouri to the plan the General Assembly repealed in HB 1 . . . would move hundreds of thousands of voters into different districts for the imminent 2026 general election compared to the districts in which they cast their ballots in the August primary elections.” *Id.* at 20a. The court also found that “[t]hose voters would possess materially less voting power than voters whose districts remained the same.” *Id.* at 45a.

The court further emphasized that “Plaintiff has not demonstrated how State officials could reverse course and implement some entirely new map, how nominees selected by voters in one set of districts would campaign in different ones, or how voters would make sense of a last-minute overhaul of the districts they just voted in.” *Id.* at 50a. In light of these findings, the trial court “decline[d] to order an unprecedented remedy that is impossible to implement.” *Id.* at 52a.

Shockingly, the Missouri Supreme Court reversed and directly issued an injunction prohibiting the Secretary—“and all those acting in concert with him”—“from implementing, using, or mandating the use of the congressional redistricting in HB 1.” *Id.* at 13a–14a. Although the court provided no detail on *how* Missouri is to comply with its order, a footnote in the court’s opinion stated that Missouri must

use “the congressional redistricting [plan] the General Assembly established in 2022.” *Id.* at 12a.

Why this extraordinary injunction? Despite the trial court and Missouri’s statewide officials disagreeing, the Missouri Supreme Court concluded that, under the Missouri Constitution, just 3.3% of the State’s voters can unilaterally override the state legislature and impose their preferred congressional map for an entire election cycle. *See id.* at 5a, 11a–13a (citing Mo. Const. art. III, §§ 52(a), 52(b)). Remarkably, the Missouri Supreme Court explicitly eschewed any consideration of the “confusion, expense, and practical difficulties” that “may result” from its injunction. *Id.* at 12a. And the Missouri Supreme Court did so while never questioning or discussing the trial court’s finding that “changing the maps at this late juncture is not just ‘impractical,’ it is impossible.” *Id.* at 52a.

What of the Secretary’s federal defenses? The Missouri Supreme Court blatantly ignored them. The court hinted in a footnote that it ignored these federal constitutional arguments because the Secretary did not raise these points in his *certificate of insufficiency*, *id.* at 5a—even though the certificate expressly incorporated by reference an Attorney General opinion that did address these arguments, *id.* at 599a. Never mind that the Secretary explicitly raised these federal defenses in his answer and affirmative defenses. *Id.* at 257a–58a. Never mind that the Secretary raised these defenses in his trial brief. *Id.* at 311a–13a, 323a–29a. Never mind that the trial court explicitly accepted *all* of these federal constitutional defenses in its judgment. *Id.* at 39a–46a. Never mind that all

parties explicitly discussed these defenses in their briefing before the Missouri Supreme Court. *Id.* at 1391a–97a, 1409a–14a, 1490a–1501a, 1570a–82a. And never mind that the Missouri Supreme Court did not cite a single case suggesting the Secretary could not incorporate by reference other documents justifying his decision. *Id.* at 5a.

After ignoring the U.S. Constitution, the Missouri Supreme Court is now the first court—*ever*—to enjoin an entire congressional map four weeks after a *completed* Primary Election. Moreover, federal law requires voting to start in just *15 days*. 52 U.S.C. § 20302(a)(8). Understandably, voters are confused and concerned about being disenfranchised in the Primary Election. App., *infra*, at 1669a–1670a. And Missouri election officials are scrambling to pick up the pieces. There is a public disagreement between election officials on whether it is even *possible* to switch the congressional map. *Id.* at 904a–07a, 1023a–28a, 1665a–68a; *see also* Kacen Bayless, ‘We will be ready.’ Jackson County says it will comply with Supreme Court map ruling, *Kansas City Star* (Sept. 4, 2026).² In light of the trial court’s finding that it will be “impossible” for Missouri election officials to change the congressional map, App., *infra*, at 52a, the Secretary is gravely concerned that Missouri will be unable to conduct lawful congressional elections by November 3, *id.* at 1665a–68a; *see also* U.S. Const. art. I, § 2 (requiring a congressional election “every second Year”); 2 U.S.C. § 7; 52 U.S.C. § 20302(a)(8). After consulting with his staff, the Secretary has concluded that—at a minimum—attempting to comply with the Missouri Supreme

² <https://www.kansascity.com/news/politics-government/article317128194.html>.

Court's order will force the State to violate UOCAVA's requirements on sending out absentee ballots to military and overseas voters. App., *infra*, at 1665a–68a.

Confronted with an unprecedented election-administration emergency, the Secretary asked the Missouri Supreme Court to stay its decision the same day it was issued. *Id.* at 1639a–1663a. This morning, that court denied the request for a stay.

Id. at 16a.

REASONS FOR GRANTING A STAY

To obtain a stay, Missouri “must show (1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari; (2) a fair prospect that a majority of the Court will vote to reverse the judgment below; and (3) a likelihood that irreparable harm will result from the denial of a stay.”

Hollingsworth, 558 U.S. at 190. In cases involving federal elections, this Court has issued stays based on the equities alone when an order under review threatens chaos in an upcoming federal election. See, e.g., *Merrill*, 142 S. Ct. at 880–81 (Kavanaugh, J., concurring in grant of stay). Under either approach, the Court should grant a stay.

I. Missouri is likely to succeed on the merits.

A. The Missouri Supreme Court's decision violates the U.S. Constitution's Elections Clause.

The People's elected representatives passed the HB 1 map by strong margins—21 to 11 in the Senate and 90 to 65 in the House of Representatives. See App., *infra*, at 17a. Nevertheless, the Missouri Supreme Court concluded that approximately 3.3% of registered voters unilaterally suspended the HB 1 map by submitting a

referendum petition. See App., *infra*, at 11a–13a (citing Mo. Const. art. III, § 52(b)); see also Mo. Const. art. III, § 52(a). This Court has *never* sanctioned such a profoundly anti-democratic arrangement, and the Elections Clause forbids permitting a small fraction of a State’s voters from suspending a congressional map—and imposing a new map—before a statewide vote. Cf. *Democratic Nat’l Comm. v. Wisconsin State Leg.*, 141 S. Ct. 28, 29 (2020) (Gorsuch, J., concurring in denial of application to vacate stay) (“The Constitution provides that state legislatures—not federal judges, not state judges, not state governors, not other state officials—bear primary responsibility for setting election rules.”).

The Elections Clause provides that “[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof.” U.S. Const. art. I, § 4 (emphasis added). The term “Legislature” was “not . . . of uncertain meaning when incorporated into the Constitution”: It referred to “the representative body which made the laws of the people.” *Hawke v. Smith*, 253 U.S. 221, 227 (1920).

“[T]he Elections Clause expressly vests power to carry out its provisions in ‘the Legislature’ of each State, a deliberate choice that this Court must respect.” *Moore v. Harper*, 600 U.S. 1, 34 (2023). Thus, this Court reviews claims where state actors invoke state law to change federal election rules to ensure they “do not evade federal law.” *Id.*

Of course, this Court has held that the Elections Clause does not mean that *only* a state legislature can set rules for federal elections. See *id.* The Court has

primarily employed a history-and-tradition-based approach in this context, *cf. N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 79 (2022) (Kavanaugh, J., concurring), observing that gubernatorial vetoes and ordinary judicial review have coexisted with state legislative authority since the founding, *see Moore*, 600 U.S. at 24–25; *Smiley v. Holm*, 285 U.S. 355, 368 (1932). More controversially, this Court has also rejected challenges to using state-legislative redistricting commissions and statewide popular votes to set aside redistricting plans. *See AIRC*, 576 U.S. at 824.

But this Court has *never* sanctioned the Missouri Supreme Court's bizarre and profoundly anti-democratic holding. According to that court, a tiny minority of the State's registered voters can unilaterally void a redistricting map passed by the state legislature and signed by the governor *merely* by submitting a referendum petition. *App., infra*, at 11a–13a. No statewide vote. Just a petition signed by about 3.3% of the voters. As far as Missouri is aware, no State has ever been forced to use a different congressional map for an election cycle merely because a small minority of voters submitted a petition. And it certainly has never been done after a completed primary election. Here, as in other contexts, “[p]erhaps the most telling indication of the severe constitutional problem” present here is that Respondent has not “located any historical analogues for this novel” arrangement. *Free Enterprise Fund v. Public Co. Accounting Bd.*, 561 U.S. 477, 505–06 (2010) (quoting 537 F.3d. 667, 669 (D.C. Cir. 2008) (opinion of Kavanaugh, J.)).

Moreover, the Missouri Supreme Court's holding would annihilate the Missouri General Assembly's authority over redistricting. *Contra Moore*, 600 U.S. at

34 (reaffirming importance of Elections Clause's delegation of authority to state legislature). Just consider how redistricting will play out going forward in Missouri. *Every* time Missouri redistricts in a way that favors the majority political party, the minority political party will obviously be incentivized to submit a referendum petition freezing the new map. Such a step is easy; a campaign merely needs to gather around 106,000 signatures in Missouri. *See* Mo. Const. art. III, § 52(a). Here, Respondent gathered those signatures in about a month. *See People Not Politicians v. Hoskins*, No. SC101801, slip op. at 2–3 (Mo. Sept. 3, 2026) (per curiam). Even groups with far less funding than Respondent routinely put measures on Missouri's statewide ballot. *See, e.g.,* Kurt Erickson, *Unions move to block 'right to work' law in Missouri*, ST. LOUIS POST-DISPATCH (Aug. 18, 2017).³ Thus, political parties (and many other entities) have the resources and incentive to use von Glahn's maneuver—especially as that could give them one or more congressional seats for at least two years (as would be true here). And imagine if this happens after a decennial Census, in which Missouri gains or loses a congressional seat. Under the Missouri Supreme Court's approach, state law would seemingly require Missouri to use an old congressional map with the wrong number of seats. In all events, the General Assembly's authority over redistricting would be destroyed.

The Missouri Supreme Court offered zero contrary reasoning and *completely ignored* this defense under the Elections Clause. *See* App., *infra*, at 11a–13a. It did so even though the Secretary raised this defense at trial, App., *infra*, at 311a–16a,

³ https://www.stltoday.com/news/local/government-politics/article_d7fb08a4-2417-508c-a81d-ab3f0e361971.html.

the trial court agreed with this federal defense in its judgment, App., *infra*, at 30a–42a, and all parties briefed this issue and discussed it during oral argument in front of the Missouri Supreme Court, App., *infra*, at 1391a–1403a, 1490a–93a, 1570a–77a. The Secretary’s motion for stay in the Missouri Supreme Court also raised this Elections-Clause defense. App., *infra*, at 1652a–56a. Instead of addressing a clearly-preserved federal legal defense, the court simply insisted state law requires its absurd result—even though nothing like this has ever happened before in Missouri (or anywhere else).

Respondent will likely invoke this Court’s decision in *Ohio ex rel. Davis v. Hildebrandt*, 241 U.S. 565 (1916), but that argument fails. Although this Court seemingly sanctioned statewide votes disapproving congressional maps as consistent with the Elections Clause, *but see AIRC*, 576 U.S. at 824–50 (Roberts, C.J., dissenting), it certainly did not sanction the Missouri Supreme Court’s unprecedented approach. *Hildebrandt* merely recognized the ability to veto redistricting legislation via a statewide referendum vote. *AIRC*, 576 U.S. at 840 (discussing *Hildebrandt*). “The result of the decision was to send *the Ohio Legislature* back to the drawing board to do the redistricting.” *Id.* (emphasis in original). *Hildebrandt* never suggested that just 3.3% of registered voters could force a State to use their preferred map for an entire election cycle even *before* a statewide vote. If *that* is permissible, little will be left of the Elections Clause.

Nor does this Court’s closely divided decision in *AIRC*, 576 U.S. 787, help Respondent. In rejecting an Elections Clause challenge to independent redistricting

commissions, the majority relied in substantial part on its belief that independent redistricting commissions could enhance democracy. *See AIRC*, 576 U.S. at 797–98; *id.* at 816–17; *id.* at 822–24. Those considerations *cannot* support the Missouri Supreme Court’s ruling, which undermines democracy by giving small political minorities uncheckable political power over the majority. App., *infra*, at 11a–13a. Inherent in a healthy approach to *stare decisis* is respecting the logical limits of decisions. *See, e.g., Louisiana v. Callais*, 146 S. Ct. 1131, 1163 (2026) (“Respect for precedent cannot be a one-way street.”). That wisdom counsels against extending *AIRC*—contrary to its own reasoning—to this markedly new context.

* * *

To be clear, this case is *not* about the Missouri Supreme Court’s interpretation of the Missouri Constitution. What is at stake is the Supremacy Clause, which prohibits state courts from ignoring federal legal arguments that would bar their actions. *See* U.S. Const. art. VI (“This Constitution, and the Laws of the United States . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”); *cf. Doe v. Dynamic Physical Therapy, LLC*, 607 U.S. 11, 11 (2025) (per curiam) (“Defining the scope of liability under state law is the State’s prerogative. But a State has no power to confer immunity from *federal* causes of action.” (emphasis original)). Although the Missouri Supreme Court unquestionably has a right to judicial review of Missouri redistricting legislation, it “do[es] not have free rein” to trample the Elections Clause. *Moore*, 600 U.S. at 34. And this Court has a “duty to

safeguard limits imposed by the Federal Constitution,” including the Elections Clause. *Id.* at 35. That duty requires this Court’s intervention when, as here, a State’s supreme court openly ignores federal constitutional arguments. Only this Court can correct the Missouri Supreme Court’s egregious error in holding that approximately 3.3% of Missouri’s voters can force the use of their preferred congressional map for the 2026 congressional elections before any statewide vote.

B. The Missouri Supreme Court’s injunction disenfranchises hundreds of thousands of Missouri voters in violation of the U.S. Constitution.

1. Even setting the Elections Clause aside, the Missouri Supreme Court’s injunction is unconstitutional under Article I, Section 2 and violates the right to vote because it disenfranchises hundreds of thousands of Missourians who voted in the August Primary Election.

The Missouri Supreme Court’s injunction requires the Secretary to change the State’s congressional map between the Primary and the General Election. *See App., infra*, at 13a–14a. Yet the trial court found that an injunction requiring implementation of Missouri’s 2022 map would force hundreds of thousands of Missourians to vote for candidates in the General Election that they had no role in nominating in the Primary Election. *Id.* at 20a, 45a. For example, voters in Osage County, Missouri nominated Rick Brattin and Emanuel Cleaver as the candidates for Missouri’s General Election CD-05. *App., infra*, 1669a–1670a. But the Missouri Supreme Court is now forcing every voter in Osage County to choose between Bob Onder and Bethany Mann—who were nominated by entirely different voters in CD-03. *Id.* Other voters across the State now confront the same reality—being forced to

vote on General Election candidates they had no role in selecting in the Primary. Understandably, those voters are now confused and upset over being disenfranchised in the Primary Election. *Id.*, at 1669a–1670a.

The Missouri Supreme Court’s injunction defies Article I, Section 2 of the U.S. Constitution, which provides, “The 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 (emphasis added). This language protects the right to vote and prohibits States from nullifying votes cast in federal congressional elections. *See id.* Additionally, this Court has recognized that the Constitution protects a fundamental right to vote. *See, e.g., Crawford*, 553 U.S. at 189–91 (2008) (plurality op.). If that right protects *anything*, surely it prohibits nullifying a Primary Election and forcing voters to choose between candidates in a General Election that they had no role in nominating. *See United States v. Mosley*, 238 U.S. 383, 386 (1915) (recognizing that the constitutional right to vote includes “right to have one’s vote counted”). That is why a host of federal judges have recognized that “[p]rimary elections for offices chosen by the electorate in separate geographical districts obviously make no sense unless the districts are the same for the ensuing general election as for the primary.” *Terrazas v. Slagle*, 821 F. Supp. 1154, 1159 (W.D. Tex. 1992) (per curiam three-judge panel); *see, e.g., Covington v. North Carolina*, 316 F.R.D. 117, 176–77 (M.D.N.C. 2016) (Op. of Wynn, Circuit Judge) (allowing General Election “to proceed as scheduled under the challenged plans” despite being determined unconstitutional after the Primary); *Page v. Va. State Bd. of Elections*, 58 F. Supp. 3d 533, 554 (E.D. Va. 2014)

(Op. of Duncan, Circuit Judge) (“[G]eneral principles of equity dictate that Virginia’s 2014 elections should proceed as scheduled under the challenged districting plans” after plan found invalid one month before General Election.), *vacated on other grounds sub nom.*, *Cantor v. Personhuballah*, 135 S. Ct. 1699 (2015); *Vera v. Richards*, 861 F. Supp. 1304, 1310, 1351 (S.D. Tex. 1994) (Op. of Jones, Circuit Judge) (ordering election held on unconstitutional map after Primary had already been held), *aff’d sub nom.*, *Bush v. Vera*, 517 U.S. 952 (1996). Nevertheless, the Missouri Supreme Court’s order would render hundreds of thousands of votes in the Primary Election effectively null and void. *See App., infra*, at 20a, 45a.

Nor does the fact that the Missouri Supreme Court’s injunction nullifies a Primary Election—as opposed to a General Election—change anything. This Court’s precedent establishes 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” the Constitution’s right to vote. *United States v. Classic*, 313 U.S. 299, 318 (1941). And that is obviously true in Missouri, which has long recognized that congressional primaries are “an integral part of the electoral process” in the State. *Pollard v. Bd. of Police Comm’rs*, 665 S.W.2d 333, 340 (Mo. 1984) (citing *Classic*, 313 U.S. 299; *Smith v. Allwright*, 321 U.S. 649 (1944)). And sure enough, Missouri law specifically provides that “all candidates for elective office shall be nominated at a primary election.” Mo. Rev. Stat. §§ 115.339, 115.343. And the Primary “exclud[es] from the ballot on the general election the names of candidates rejected at the primary” such that it “impose[s]

restrictions upon the choice of candidates by the voters save by voting at the primary election.” *Classic*, 313 U.S. at 313; *see* Mo. Rev. Stat. § 115.343. Thus, the Missouri Supreme Court’s injunction violates Article I, Section 2 of the U.S. Constitution and the Constitution’s right to vote by disenfranchising hundreds of thousands of Missourians who voted in the August Primary Election and are now forced to vote in different districts for the General Election. App., *infra*, at 20a, 1669a–70a.

What did the Missouri Supreme Court have to say about all this? Nothing. Once again, the Secretary made this argument at trial; the trial court agreed with this argument; and this argument was prominently briefed and orally argued before the Missouri Supreme Court. *See, e.g.*, App., *infra*, at 20a, 323a–28a, 1501a–02a, 1579a–80a. The Missouri Supreme Court apparently deemed this consideration “irrelevant”—and insisted that state constitutional requirements must apply regardless of any disenfranchisement. *Id.* at 12a–13a.

Reading between the lines, what seems to have driven the Missouri Supreme Court’s disinterest in federal law was its displeasure with the Secretary’s processing of Respondent’s referendum petition. *See id.* at 12a. In particular, the court faulted the Secretary for waiting until the statutory deadline—which was the same day as the primary decision—to reject the referendum petition on state constitutional grounds. *Id.* (“[T]he 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 [verifying signatures].”). But to be clear, all agree that the Secretary *complied* with the state-law deadline for processing referendum petitions. *See* Mo.

Rev. Stat. § 116.130.2. Although Respondent never presented any facts or evidence that the Secretary intentionally delayed a decision—and the trial court made no such finding—it bears mentioning that the Secretary and local election officials around the State needed to review the hundreds of thousands of signatures submitted in support of the referendum petition. *See id.* § 116.130.1; *Maggard*, 733 S.W.3d at 416. And the Missouri Supreme Court acknowledged in May 2026 that not all signatures had been processed. *See id.* at 420. Thus, at most, the Missouri Supreme Court seemingly faults the Secretary for not making a certification decision (before the deadline) in the summer—with an imminent Primary Election approaching. That decision would have inflicted chaos on the Primary Election and no statute or precedent suggests the Secretary was obliged to act before a state-law deadline in a manner that would jeopardize the Primary Election.

More fundamentally, Missouri's squabble over whether Secretary Hoskins appropriately handled the referendum petition is irrelevant here. Even assuming the Missouri Supreme Court's impugning of the Secretary is fair, it is hard to see how that could justify disenfranchising hundreds of thousands of voters in violation of federal law. Indeed, the Missouri Supreme Court did not actually claim otherwise—but merely ignored the federal constitutional argument altogether.

2. The Missouri Supreme Court's injunction also violates the Equal Protection Clause by transferring hundreds of thousands of voters to new districts, but leaving other voters in the same district. *App., infra*, at 20a, 45a. This strange and unprecedented order thus disadvantages voters based solely on where they live—

unlawfully diluting the influence of the moved voters compared to the non-moved voters, in violation of the Equal Protection Clause.” *Id.* at 45a–46a

The Equal Protection Clause forbids weighting the votes of some Missourians “more heavily” than others. *Gray v. Sanders*, 372 U.S. 368, 379 (1963). “Once 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—whatever their race, whatever their sex, whatever their occupation, whatever their income, and *wherever their home may be* in that geographical unit.” *Id.* (emphasis added). “This is required by the Equal Protection Clause of the Fourteenth Amendment. The concept of ‘we the people’ under the Constitution visualizes no preferred class of voters but equality among those who meet the basic qualifications.” *Id.* at 379–80.

Indeed, the Equal Protection Clause protects the rights of all Missourians to have their “vote weighted equally with those of all other citizens.” *Reynolds v. Sims*, 377 U.S. 533, 576 (1964). “And the right of suffrage can be denied by a debasement or dilution of the weight of a citizen’s vote just as effectively as by wholly prohibiting the free exercise of the franchise.” *Id.* at 555. This Court’s precedents are also clear that if a State grants some voters a privilege and “den[ies] the privilege to other classes of otherwise qualified voters in similar circumstances, without affording a comparable alternative means to vote,” the State engages in “arbitrary discrimination violative of the Equal Protection Clause.” *Am. Party of Tex. v. White*, 415 U.S. 767, 795 (1974).

For obvious reasons, the trial court found that changing the congressional map between the Primary and General Elections would violate these standards. App., *infra*, at 45a–46a. The trial court found that “[i]f the congressional map changes between the Primary and General Elections, it would force hundreds of thousands of Missourians to vote in a district different from the one in which they cast their primary ballots.” *Id.* at 45a. Also, the trial court found that “[t]hose voters would possess materially less voting power than voters whose district remained the same because the former group would have to select from candidates they never had the opportunity to” “support” or “oppose” through voting “in the primary.” *Id.* Instead, hundreds of thousands of Missourians would be forced to consider candidates that they had no role in nominating. *Id.* at 20a, 45a–46a, 1669a–70a. This places these voters at a clear disadvantage relative to Missourians who enjoyed the right to select nominees for the General Election in their district. *Id.* at 45a.

Once again, the Missouri Supreme Court simply ignored this federal constitutional argument. The Secretary made this argument at trial; the trial court accepted it and made related factual findings; the argument was briefed to the Missouri Supreme Court. *E.g., id.* at 20a, 325a–28a, 355a, 1497a–1501a, 1581a–82a. Yet that court’s opinion proceeds as if this argument did not exist. Such cavalier treatment of federal law is shocking and, frankly, unacceptable in a legal system where federal law is the supreme law of the land. U.S. Const. art. VI, cl. 2; *Testa v. Katt*, 330 U.S. 386, 391 (1947) (“[T]he Constitution and the laws passed pursuant to

it are the supreme laws of the land, binding alike upon states, courts, and the people.”).

This Court, of course, will not ignore federal law. *See Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 178 (1803). To protect the right to vote, safeguard the Equal Protection Clause, and enforce the Supremacy Clause, this Court should grant a stay.

C. This Court is likely to grant review and reverse.

Whether Missouri can hold a timely and lawful federal congressional election is worthy of this Court’s attention. *See Does 1-3 v. Mills*, 142 S. Ct. 17, 17–18 (2021) (Barrett, J., concurring in the denial). Missouri’s election is in chaos. App., *infra*, at 1667a–68a. As the trial court found, “[c]hanging the map at this late juncture is not just ‘impractical,’ it is impossible.” *Id.* at 52a. Missouri election officials have also testified that the entire congressional election is at risk under the Missouri Supreme Court’s injunction. *Id.* at 1025a–26a. Election analysts with prominent national media outlets are openly questioning how Missouri can possibly comply with the Missouri Supreme Court’s order. *See, e.g.*, Dave Wasserman (@Redistrict), X (Sept. 4, 2026, 9:55 AM) (“Before Dems get carried away celebrating the Missouri redistricting ruling, important to keep in mind that SCOTUS/state courts would likely need to greenlight an entirely new election calendar w/ 60 days left before 11/3. No guarantees here.”);⁴ Nathaniel Rakich (@baseballot), X (Sept. 3, 2026, 6:39 PM) (“Not done yet in Missouri. SCOTUS could very well say it’s too close to the election

⁴ <https://x.com/Redistrict/status/2095888400200999059>

and keep Missouri's 7-1 map in place for 2026."').⁵ Only this Court can intervene to fix this problem.

The Missouri Supreme Court's injunction departs far from the usual course of judicial proceedings—disenfranchising hundreds of thousands of Missourians in violation of the U.S. Constitution. Respondent will undoubtedly argue that there is no split of authority on the legal questions framed above. But that is only because no other court has *ever* issued an order like the Missouri Supreme Court's injunction. No other court has invalidated an entire congressional map one month *after* a completed Primary Election. Nor is Missouri aware of any precedent allowing a small fraction of the State's voters to force the use of their preferred map for an election cycle. In other words, there is no split on the merits questions in this case because no court has ever issued an order this destabilizing to an imminent federal election before. That reality strengthens, rather than weakens, the case for certiorari. *See Does 1–3*, 142 S. Ct. at 17–18 (Barrett, J., concurring in the denial).

In *Moore v. Harper*, this Court held that it “ha[s] an *obligation* to ensure that state court[s] . . . do not evade federal law.” 600 U.S. at 34 (emphasis added). This Court also recognized its “duty to safeguard limits imposed by the Federal Constitution.” *Id.* at 35. If there were ever a case that called for this Court's exercise of its duty, this is it.

⁵ <https://x.com/baseballot/status/2095658021259026651>

II. The remaining stay factors favor the Missouri Secretary of State's application.

A. Missouri and the public will suffer profound irreparable harm.

Without this Court's intervention, Missouri and its citizens will suffer profound irreparable harm. Of course, "any time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury." *Labrador v. Poe*, 144 S. Ct. 921, 923 (2024) (Gorsuch, J., concurring) (quoting *Maryland v. King*, 567 U.S. at 1303 (Roberts, C.J., in chambers)). Allowing a tiny fraction of the State's voters to unilaterally void a congressional map *after a Primary Election* is an especially extreme instantiation of that harm.

But Missouri's injury runs far deeper than that. Federal law requires Missouri to hold its General Election on November 3, 2026. 2 U.S.C. § 7; see *Foster v. Love*, 522 U.S. 67, 73–74 (1997) (holding that State may not run federal election in conflict with federal timing of 2 U.S.C. § 7, which requires an election this year on November 3, 2026). But the trial court in this case found that holding the General Election under a different congressional map would be "impossible." App., *infra*, at 52a. The Missouri Supreme Court never disagreed with this point. Instead, it explicitly held that any "practical difficulties" caused by its injunction were "irrelevant" to its analysis. *Id.* at 12a. That might help explain why one prominent election analyst is openly suggesting that Missouri should violate the federal election calendar to comply with the Missouri Supreme Court's order. See Nathaniel Rakich (@baseballot), X (Sept. 3, 2026, 6:43 PM) ("If Missouri does have to use the 6-2 map,

that's fundamentally incompatible with the primaries, which were conducted under the 7-1 map. Easiest solution would probably be to hold jungle primaries on Nov. 3, with runoffs at a later date.”⁶

Even if Missouri election officials can undertake heroic efforts to disprove the trial court's factual finding, the Missouri Supreme Court's order will certainly require Missouri to violate UOCAVA, 52 U.S.C. § 20302. UOCAVA requires Missouri to send mail ballots to overseas and military voters by September 19—15 days from now. Even assuming Missouri election officials immediately start working—over Labor Day weekend—to comply with the Missouri Supreme Court's order, they will not be able to meet UOCAVA's deadline. App., *infra*, at 1667a–68a.

A longtime Jackson County election official explained this in an affidavit credited by the trial court, and the Secretary of State's office fully agrees with her assessment. *Id.* at 1667a–68a. To switch congressional maps, Missouri election officials in counties that are transposed into new districts will have to manually reassign hundreds of thousands of voters to new districts in the MCVR election system. *Id.* at 1024a–25a. This is a painstaking, labor-intensive process that would ordinarily take two-to-three weeks. *Id.* at 1667a. The Jackson County election official estimated that—if election staff work emergency hours on nights and weekends—that the process could be shortened to 7–10 days. *Id.* at 1024a–25a. Then, after the map is changed in MCVR, ballots must be designed and tested, which takes about 14 days. *Id.* at 1026a. And after that, local election officials need an

⁶ <https://x.com/baseballot/status/2095659079708344747>

additional 7 days (one week) for printing ballots. *Id.* That is a combined 28 days—*at best*. Obviously, 28 days is more than the 15 days Missouri election officials have before they start violating UOCAVA.

Rarely will this Court receive a stay application presenting more urgent and profound irreparable harms. The Court should grant a stay!

B. The balance of the equities overwhelmingly favors the Secretary’s application.

It is hard to imagine a case with more lopsided equities. *Hollingsworth*, 558 U.S. at 190. On the one hand, Respondent would suffer no meaningful prejudice from a stay. Regardless of this Court’s decision, Respondent will get a statewide vote on the HB 1 congressional map. That is what his public statements have insisted his referendum campaign is all about. App., *infra*, at 1244a. At most, a stay would merely prevent him and a small minority of Missourians from forcing the State to use a congressional map rejected by the People’s elected representatives—who at least presumptively reflected the majority’s wishes in enacting the HB 1 map.

On the other hand, this Court’s *Purcell* precedents demonstrate that Missouri’s harms are overwhelming and warrant equitable relief. As this Court has recognized *many* times, “[w]hen an election is close at hand, the rules of the road must be clear and settled.” *Milligan*, 142 S. Ct. at 880–81 (Kavanaugh, J., concurring in grant of stay). And this Court has recognized that changing a federal congressional map is one of *the most disruptive* changes a court can make. *Id.* at 879–80. That is why, for example, this Court applied the *Purcell* principle to foreclose challenges to Texas’s congressional map for the 2026 elections *ten* months ago—*during* Texas’s candidate

filing period. *See Abbott v. LULAC*, 146 S. Ct. at 419. If a federal court had entered the order under review here, this Court would deem it frivolous under *Purcell*.

Admittedly, this Court has not addressed whether the *Purcell* principle can ever *independently* justify a state court's last-minute alteration to federal election rules. However, the primary rationale underlying *Purcell v. Gonzalez*—preventing chaos in a federal election, 549 U.S. 1, 4–5 (2006)—squarely fits this case. The Missouri Supreme Court's order dramatically changes the congressional map after a Primary Election—an unprecedented act this Court has probably *never* reviewed before. Missouri election officials are confident that—absent relief—they will be forced to violate the federal election calendar. App., *infra*, at 1668a. Indeed, they are unsure whether they can hold a timely election on November 3 at all. *Id.* at 1027a, 1667–68a. If the Missouri Supreme Court's order is somehow immune from being stayed under *Purcell*, no federal election is safe from last-minute state court-ordered disruptions.

In any event, this Court need not decide whether *Purcell* independently requires staying the order here. At a minimum, this Court already recognized in *Malliotakis v. Williams* that *Purcell*-related equitable concerns can *support* staying a state court order that disrupts congressional maps before an upcoming election. 146 S. Ct. at 810–11 (Alito, J., concurring in grant of stay). There, this Court stayed a state court order that altered New York's congressional map despite New York's insistence that the *Purcell* principle actually shielded its actions. *Id.* As Justice Alito explained, the Court's “stay, far from causing disruption or upsetting legitimate

expectations, eliminates much of the uncertainty and confusion that would exist if the [New York] Independent Redistricting Commission proceeded to draw a new district that this Court would likely strike down if the cases reached us in time.” *Id.* at 811.

This case is far easier than *Malliotakis*. There, New York’s Primary Election was scheduled to begin four months *after* the Court granted the stay. *See id.* at 816 (Sotomayor, J., dissenting from grant of stay). This Court has recognized that a state court changing a congressional map before a Primary—as occurred in *Malliotakis*—is disruptive. *Id.* at 810–11 (Alito, J., concurring in grant of stay). Certainly changing a map *after the Primary* is far worse. And here, voting for the 2026 General Election begins in just 15 days—three-and-a-half months less time than existed before the Primary Election in New York. Under the unique and extraordinary circumstances present in this case, the equities overwhelmingly favor a stay.

One final point bears mention. Recognizing that *Purcell*-related concerns support a stay is hardly unfair to Respondent or the Missouri Supreme Court. The Missouri Supreme Court itself has adopted this Court’s *Purcell* principle as a matter of state law. *See Hadley v. Junior Coll. Dist. of Metro. Kan. City*, 460 S.W.2d 1, 2–3 (Mo. 1970). In *Hadley*, the Missouri Supreme Court relied on this Court’s *Reynolds* opinion and held that “[i]n awarding or withholding immediate relief [after invalidation of a redistricting map], a court is entitled to *and should* consider the proximity of a forthcoming election and the mechanics and complexities of state election laws, and should act and rely upon general equitable principles.” *Id.* at 2

(emphasis added) (quoting *Reynolds*, 377 U.S. at 585). In light of this principle, *Hadley* held that it was too late to change the unconstitutional districts in that case a few days before the close of the relevant candidate-filing period. *Id.* at 2–3. Here, the relevant candidate-filing period closed over five months ago. Missouri also completed its Primary Election over a month ago. Yet, without even mentioning *Hadley*, the Missouri Supreme Court held that any consideration of “the confusion, expense, and practical difficulties that may result” from enjoining the congressional map was irrelevant. App., *infra*, at 12a–13a. The Missouri Supreme Court’s refusal to engage with its own precedent “impermissibly distort[s]” state law—yet another violation of the Elections Clause. *Bush v. Gore*, 531 U.S. 98, 115 (2000) (Rehnquist, C.J., concurring); accord *Moore*, 600 U.S. at 39 (Kavanaugh, J., concurring) (endorsing Chief Justice Rehnquist’s approach in *Bush v. Gore*).

The balance of the equities is more lopsided in this case than *any* case in which this Court has ever granted a *Purcell*-related stay. Missouri has completed a Primary Election, yet it now faces the unprecedented scenario of being forced to apply a starkly different congressional map in the 2026 General Election. Voting starts in Missouri’s General Election in 15 days. Election officials and public commentators are unsure whether it is even possible to comply with the Missouri Supreme Court’s order. App., *infra*, at 1027a, 1667a–68a; see also Nathaniel Rakich (@baseballot), X (Sept. 3, 2026, 6:43 PM) (“If Missouri does have to use the 6-2 map, that’s fundamentally incompatible with the primaries, which were conducted under the 7-1 map. Easiest

solution would probably be to hold jungle primaries on Nov. 3, with runoffs at a later date.”).⁷ Only this Court can prevent Missouri from being forced to disenfranchise hundreds of thousands of voters; and only this Court can ensure that Missouri hosts a timely and lawful federal congressional election. The Court should do so and grant a stay.

CONCLUSION

This Court should grant the application for stay pending appeal and an immediate administrative stay while it considers the application.

⁷ <https://x.com/baseballot/status/2095659079708344747>

September 4, 2026

Respectfully submitted,

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**In the
Supreme Court of the United States**

DENNY HOSKINS, *in his official capacity as Missouri Secretary of State,*
Applicant,

v.

RICHARD VON GLAHN,
Respondent.

**REPLY IN SUPPORT OF EMERGENCY APPLICATION FOR STAY AND
ADMINISTRATIVE STAY PENDING APPEAL**

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REPLY

Late last Thursday, the Missouri Supreme Court derailed an imminent federal congressional election, ignored federal constitutional arguments against its order, and deemed any consequences resulting from its decision “irrelevant.” *See* App., 5a n.5, 11a–13a n.8. Since Secretary Hoskins sought emergency relief from this Court on Friday night, the chaotic fallout from the Missouri Supreme Court’s irresponsible decision has only multiplied. Multiple lawsuits have already been filed against the State seeking a return to the old congressional map, *see* Complaint, *Onder v. Missouri*, No. 4:26-cv-1424 (E.D. Mo., Sept. 4, 2026); Complaint, *Berry v. Hoskins*, No. 4:26-cv-1419 (E.D. Mo., Sept. 4, 2026), and more are expected. Local election officials in counties are now left to make individual decisions on whether to try to change the congressional map, or stick with the map used to run the Primary and hold out for a federal court order. Candidates are confused about what districts they are running in. Jack Harvel, *Court ruling raises questions about Missouri primary winners under a different map*, *Kansas City Star* (Sept. 4, 2026) (noting confusion by candidates in both parties).¹ And Respondent’s own lawyer is openly acknowledging that candidates who lost their Primary Elections can bring election contests, though he is advising them not to do so. *See* Jacob Barker, *A ‘crisis’ in Missouri elections? Supreme Court puts the blame on one state official*, *St. Louis Post*

¹ <https://www.kansascity.com/news/politics-government/article317133985.html>.

Dispatch (Sept. 6, 2026).² All this occurs in the shadow of a federal deadline to start mailing ballots in *eleven days*. 52 U.S.C. § 20302(a)(8). Without relief from this Court, Applicant has no idea how to manage this chaos, which results from a blatantly unconstitutional court order.

Respondent tries to distract from this extraordinary situation with two threshold procedural arguments—both of which boil down to simply allowing state courts to ignore federal constitutional arguments. *First*, Respondent asserts the presence of an adequate and independent state-law ground (“AISG”). *Opp.*, at 14–17. In a footnote, the Missouri Supreme Court held that Secretary Hoskins waived his federal constitutional arguments because his certificate of insufficiency on the referendum could not incorporate an attached Attorney General opinion by reference. *App.*, at 5a n.5; *see also id.* at 599a (Secretary’s Certificate); *id.* at 600a–606a (Attorney General’s Opinion). It is undisputed that the Missouri Supreme Court *first* applied this “rule” in this case. *Opp.*, at 16–17. This “rule”—which Respondent expressly disclaimed at trial and did not argue below—appears in no statute. This “waiver” ruling is, unfortunately, a transparent attempt by the Missouri Supreme Court to insulate its decision from this Court’s review—something this Court consistently disallows. *See, e.g., NAACP v. Flowers*, 377 U.S. 288, 297 (1964) (finding it “wholly unacceptable” for the respondent to assert AISG when state “courts have not heretofore applied their rules respecting the preparation of briefs

² https://www.stltoday.com/news/local/government-politics/article_e84fc694-888c-493d-947b-db809e7e9781.html.

with the pointless severity shown here”). The Secretary’s answer made the federal legal arguments; the trial court accepted them; and they were briefed and argued at the Missouri Supreme Court. *See App.*, at 39a–46a; 257a–58a, 311a–13a, 323a–29a, 599a, 604a–606a, 1391a–97a, 1490a–1501a, 1570a–82a. That is not waiver.

Additionally and bizarrely, the Missouri Supreme Court said that Secretary Hoskins’s referendum certificate *could not* rely on federal law—leaving him with no state-court avenue to raise federal constitutional defenses. *Id.*, at 5a n.5. This Court’s precedents require litigants to comply “only” with “firmly established and regularly followed state practice.” *Ford v. Georgia*, 498 U.S. 411, 423–24 (1991) (quotation omitted). But Respondent does not even bother to explain how Applicant could have preserved his federal arguments here. That’s because there was no alternative state-law procedure. Finding an AISG here would abrogate a host of precedents and give state courts free rein to invent novel state-law procedural rules on the fly to obstruct this Court’s review of federal constitutional questions.

Second, Respondent insists Applicant would not obtain any relief from a stay. Not so. The State’s consistent position—in Secretary Hoskins’s certification decision, before Missouri’s courts, and before this Court—is that federal law requires it to use the same congressional map for the General Election that it used in the Primary Election. *App.*, at 257a–58a, 311a–13a, 323a–29a, 599a, 604a–606a, 1490a–1501a. Only the Missouri Supreme Court’s injunction is stopping that. If this Court grants a stay, the State will use the HB 1 map for the 2026 General Election. A stay thus provides full relief. It really is that simple.

On the merits, Respondent largely dodges Applicant's arguments and relies on misdirection. Start with the Elections Clause claim. Respondent suggests that he is merely defending the same statewide referendum vote this Court allowed in *Ohio ex rel. Davis v. Hildebrant*, 241 U.S. 565, 566 (1916). Opp., at 23–26. But neither *Hildebrant* nor any prior judicial decision *ever* sanctioned what Respondent bundles into the concept of “referendum.” There is a huge difference between a statewide vote, which *Hildebrant* considered, 241 U.S. at 566—and a small minority of voters voiding a congressional map *before* any statewide vote by submitting a signed petition. It is telling that Respondent can cite no example in American history where the latter, profoundly antidemocratic scenario occurred. See Opp., at 23–28.

Respondent also barely tries to defend the constitutionality of a court dramatically altering a congressional map between a completed primary election and a general election—disenfranchising hundreds of thousands of primary votes in the process. He relies heavily on this Court's decision in *Rodriguez v. Popular Democratic Party*, 457 U.S. 1 (1982), which held that state parties can replace candidates who die or are found ineligible after a primary election. *Id.* at 14. As *Rodriguez* itself acknowledges, that is nothing like a judicial order rendering a primary election utterly pointless and, by judicial fiat, forcing a blatantly unequal “general election.” *Id.* at 10. The trial court found that such an injunction would “materially” disadvantage hundreds of thousands of Missourians in the upcoming election. App., at 45a. That finding has never been contested—not by Respondent,

and not by the Missouri Supreme Court. Instead, the Missouri Supreme Court treated that finding and the U.S. Constitution as “irrelevant.” *Id.* at 5a n.5, 12a n.8.

Finally, Respondent fails to meaningfully contest the other stay factors. Respondent does not dispute this case is cert-worthy. On irreparable harm, Respondent does not challenge the Secretary’s careful, math-backed explanation for why, absent relief, Missouri will be forced to violate UOCAVA.

Nor does Respondent rebut the Secretary’s explanation of the equities. Respondent does not dispute that the chaos present here dwarfs that in *any* of this Court’s *Purcell*-related cases. Stay Appl., at 2. Respondent just thinks—despite this Court’s order in *Malliotakis v. Williams*, 146 S. Ct. 809 (2026)—that state courts have free rein to void primary elections and derail imminent general elections. Opp., at 36. And while Respondent acknowledges that the trial court, a 25-year veteran election official, and the Secretary all question whether it is even *possible* to comply with the Missouri Supreme Court’s order, Opp., at 38–39, Respondent insists that does not matter because Secretary Hoskins should have rejected his referendum petition faster, *id.* at 35–37. Respondent’s account of the Secretary’s actions is slanted and implausible. But *even if* it is entirely correct, Respondent does not explain how that could justify disenfranchising hundreds of thousands of innocent Missourians, derailing political campaigns, burdening election officials, and jeopardizing Missouri’s ability to hold a timely federal election. It cannot. If *Purcell*-related concerns ever justified a stay, this is the case.

The Court should grant an administrative stay and a full stay pending appeal.

I. Respondent's threshold procedural arguments fail and endorse giving state courts a blank check to insulate their decisions from this Court's review.

A. The Missouri Supreme Court's manufactured AISGs do not obstruct this Court's review.

This Court plays an essential role in reviewing federal constitutional questions arising from state courts. *See Cohens v. Virginia*, 19 U.S. 264, 309 (1821). Yes, when state-court decisions rest on independent and *adequate* state-law grounds, this Court lacks jurisdiction. *Cardinale v. Louisiana*, 394 U.S. 437, 438 (1969). But this Court has rejected—many times—assertion of an AISG when state procedural rules are “unacceptably burdensome.” R. Fallon et al., *Hart and Wechsler's: The Federal Courts and the Federal System*, at 538–39 (7th ed., 2015) (collecting cases, including *Lee v. Kemna*, 534 U.S. 362 (2002); *Osborne v. Ohio*, 495 U.S. 103, 123–25 (1990); *Douglas v. Alabama*, 380 U.S. 415 (1965); *Shuttlesworth v. City of Birmingham*, 376 U.S. 339 (1964); *Int'l Longshoremen's Ass'n, AFL-CIO v. Davis*, 476 U.S. 380 (1986)).

That is easily true here because it would have been *impossible* for Applicant to comply with the Missouri Supreme Court's newly invented procedural rules. Indeed, the court's two attempts to manufacture AISGs contradict each other and cut off all review of Applicant's federal constitutional defenses.

Start with the first AISG—the so-called “waiver.” In a footnote, the Missouri Supreme Court asserted that the Secretary “waived” his federal arguments. App., 5a n.5. The reason? For the time ever—a point Respondent does not and cannot dispute, Opp., at 16–17—the court held that the Secretary's referendum certificate must preserve all potential federal constitutional defenses that he may raise in future

litigation. *Id.* And even though the Secretary's certificate incorporated by reference attached an Attorney General opinion that raised the federal constitutional defenses he now raises in this case, *id.* at 599a–605a, the Missouri Supreme Court deemed that insufficient to preserve the federal defenses, *id.* at 5a n.5. Because the federal constitutional arguments were not pasted into the certificate itself, the Missouri Supreme Court deemed them waived in this subsequently-filed case. *Id.* Respondent now argues that this is an AISG. Opp., at 15.

Even in isolation, this novel “rule” is hard to take seriously. It would be one thing if Missouri never raised any of the arguments that it now makes before this Court. See, e.g., *Cardinale*, 394 U.S. at 438. But Missouri raised these arguments *as defenses* in its answer, in its trial brief, in its briefing and argument before the Missouri Supreme Court, and in the Missouri Attorney General's opinion letter expressly incorporated into the Secretary's certificate of insufficiency. See App., at 257a–58a, 311a–13a, 323a–29a, 599a, 604a–606a, 1391a–97a, 1409a–14a, 1490a–1501a, 1570a–82a. The trial court also agreed with and adopted *all* of Missouri's federal constitutional defenses in its judgment. *Id.*, at 39a–46a.

Moreover the Missouri Supreme Court's new rule makes no sense. It requires the Secretary to anticipate future legal challenges *before they are filed* and preemptively address *future defenses* in his certificate. App., 5a n.5. Unsurprisingly, before last Thursday, the Missouri Supreme Court had *never* suggested the Secretary's certificate (or any legal document) could not incorporate by reference, or that the Secretary had to include all future federal legal defenses in the certificate.

That is why Respondent never argued this point in any lower court. Remarkably, Respondent explicitly disclaimed this argument at trial:

[T]he Secretary's certificate of insufficiency included in a letter, styled as an opinion of the Attorney General. That's something that I have not seen before. *I don't know that there's anything particularly wrong with it, but there's an opinion there.* App., at 1273a–1274a (emphasis added). Nevertheless, the Missouri Supreme Court relied on an argument Respondent expressly waived to invent a new waiver rule. When the court suggested it would invent this procedural rule during oral argument, the Secretary's counsel promptly noted: “[M]y friend clearly and expressly waived this argument in trial court.” Oral Argument, at 19:02–20:51.³ Yet, without addressing the obvious waiver, the Missouri Supreme Court created a new rule anyways—that the Secretary cannot incorporate an attached Attorney General opinions by reference. App., at 5a.

Altogether, the novelty of the Missouri Supreme Court's waiver dooms Respondent's AISG argument because “only a ‘firmly established and regularly followed state practice’ may be interposed by a State to prevent subsequent review by this Court of a federal constitutional claim.” *Ford*, 498 U.S. at 423–24 (citation omitted); see *NAACP v. Patterson*, 357 U.S. 449, 457–58 (1958) (procedural rule not AISG where “petitioner could not fairly be deemed to have been apprised of [a procedural rule's] existence”). Of course, if the Secretary had *any* notice that the Missouri Supreme Court would disregard his federal defenses due to incorporation

³ <https://www.courts.mo.gov/contentitem.jsp?id=120533&case=SC101805>.

by reference, he could have easily copied-and-pasted the Attorney General's attached opinion into his certificate of insufficiency. Federal constitutional rights do not depend on somehow divining the need for a couple additional keystrokes. *See Staub v. City of Baxley*, 355 U.S. 313, 320 (1958).

Even more remarkably, at the same time the Missouri Supreme Court fabricated its new "waiver" rule, it contradicted that rule with *another new rule*. App., 5a n.5. That court's opinion simultaneously holds that the Secretary's certificate *cannot* consider federal constitutional arguments and that only state-law arguments may be invoked to reject a referendum. *Id.* So even if Secretary Hoskins had copied-and-pasted the federal arguments he incorporated by reference into the certificate, the Missouri Supreme Court would have held he erred in considering those arguments. *See id.* Indeed, neither the Missouri Supreme Court nor Respondent have explained how Secretary Hoskins *could have* preserved his federal constitutional arguments. That's because there was no other way. The Missouri Supreme Court's catch-22 does not merely put Applicant between a rock and a hard place; it asks him to walk through a solid rock.

Under the circumstances present here, the Missouri Supreme Court's newly invented procedural rules cannot obstruct this Court's review of federal questions using the AISG doctrine. "Whatever springes the State may set for those who are endeavoring to assert rights that the State confers, the assertion of Federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice." *Davis v. Wechsler*, 263 U.S. 22, 24 (1923). Sure, state courts may require

litigants asserting federal rights to comply with *established*, reasonable, and available state-law rules. *Ford*, 498 U.S. at 423–24. But they cannot invent burdensome new rules on the fly, cut off any path to assert federal constitutional arguments, and expect this Court to abdicate its duty to ensure compliance with federal law.

B. Applicant only needs a stay to obtain relief.

Respondent claims that Applicant’s injuries would not be redressed by a stay—but only an injunction. *Opp.*, at 18–20. This is so, Respondent reasons, because Article III, Section 52(b) of the Missouri Constitution retroactively voided the HB 1 map (effectively making it disappear) when the Missouri Supreme Court certified Respondent’s referendum petition on Thursday. *See id.* This strange state-law disappearing act does not obstruct this Court’s review.

To start, the Secretary’s merits arguments target the disappearing act itself. The substance of the Secretary’s defense is that the Missouri Supreme Court’s injunction, issued under Article III, Section 52(b) of the Missouri Constitution, is unconstitutional as applied to federal congressional maps. *Stay Appl.*, at 15, 17–18; *App.*, at 257a–58a, 311a–13a, 599a, 604a, 1490a–1501a. If this Court agrees and stays the Missouri Supreme Court’s injunction, it would make no sense to say the HB 1 map no longer exists—because Article III, Section 52(b) would itself be invalid as applied here. That has been the Secretary’s position throughout this litigation, *id.*, and that is why he will enforce the HB 1 map if this Court stays the Missouri Supreme Court’s injunction.

In any event, state-law legal fictions cannot blind this Court to the reality that the Missouri Supreme Court's injunction violates the U.S. Constitution by disenfranchising voters in the Primary Election. The Primary Election occurred—as it *must*—under state law. Mo. Rev. Stat. §§ 115.307, 115.339. It is an “integral” part of Missouri’s process for choosing federal congressional candidates. *Missouri ex rel. McClellan v. Kirkpatrick*, 504 S.W.2d 83, 86 (Mo. 1974) (citing Mo. Const. art. VIII, § 3); *Pollard v. Bd. of Police Comm’rs*, 665 S.W.2d 333, 340 (Mo. 1984) (“The primary, moreover, is an integral part of the electoral process.” (citing *United States v. Classic*, 313 U.S. 299 (1941); *Smith v. Allwright*, 321 U.S. 649 (1944))). Missouri’s Primary is therefore a fundamental part of the manner by which federal representatives are “chosen ... by the People” of Missouri—which implicates Article I, Section 2 of the U.S. Constitution. *Classic*, 313 U.S. at 318–19. State law cannot force this Court to pretend that election did not occur—which would only allow the Missouri Supreme Court to plainly circumvent federal rights. *See Moore v. Harper*, 600 U.S. 1, 34–35 (2023) (“As in other areas where the exercise of federal authority or the vindication of federal rights implicates questions of state law, we have an obligation to ensure that state court interpretations of that law do not evade federal law.”).

* * *

In short, both of Respondent’s threshold state-law procedural arguments boil down to the same point: This Court should ignore federal constitutional defenses and

give state courts unchecked power to insulate their own rulings from review. That is not, and has never been, the law.

II. This Court is likely to grant review and reverse.

A. The Elections Clause forbids discarding a duly-enacted congressional map based on a referendum petition signed by just 3.3% of a State's voters.

Respondent does not dispute that the Secretary faced a circumstance that no other State's chief election officer has faced before in American history: A campaign to suspend Missouri's congressional map—*not* through a referendum vote—but through a referendum petition, which only needs signatures from just 3.3% of Missouri's registered voters. Mo. Const. art. III, § 52(a). Respondent's exploitation of the Missouri Constitution's suspension of legislation pending a referendum vote, Mo. Const. art. III, § 52(b), is profoundly anti-democratic and patently unconstitutional under the Elections Clause. If this Court permits Respondent's tactic here, and permits state courts to suspend *federal* congressional maps even a month after the Primary Election, that will sound the death knell of the Elections Clause.

Respondent makes a few contrary arguments, but all fail.

1. For the first time in this litigation, Respondent challenges the Secretary's standing to raise federal defenses under the Elections Clause. Opp., at 21–22. This is clearly wrong. To start, this Court has recognized that “a relator [suing] on behalf of the State” can invoke this Court's appellate jurisdiction over state-court decisions implicating the Elections Clause. *Lance v. Coffman*, 549 U.S. 437, 442 (2007) (citing *Smiley v. Holm*, 285 U.S. 355 (1932); *Hildebrant*, 241 U.S.

565). And here, the Secretary is the stand-in for the entire State because he is Missouri's chief elections officer. See Mo. Const. art. IV, § 14. An order against him binds the entire State, which is why Respondent sued only the Secretary and why the Missouri Supreme Court's injunction *against him* changes Missouri's congressional map. App., at 13a–14a, 61a.

Independently, the Secretary has standing because he is injured by a state-court order to violate the U.S. Constitution. See *ASARCO Inc. v. Kadish*, 490 U.S. 605, 617–24 (1989). To be clear, the Secretary did not *initiate* this action; he is a defendant—sued in his official capacity because he represents the *entire State* in this context. See App., at 13a–14a, 61a; Mo. Const. art. IV, § 14. Now that the Missouri Supreme Court has ignored his federal constitutional defenses and ordered him to violate the U.S. Constitution, the Secretary has standing to appeal to this Court. “[A]s a result of the state-court judgment, th[is] case has taken on such definite shape that [the Secretary is] under a defined and specific legal obligation”—namely holding a congressional election under Missouri's 2022 map instead of the HB 1 map. *ASARCO*, 490 U.S. at 618. Even if the Secretary somehow lacked standing to bring his defenses as claims in the first instance, *but see Lance*, 549 U.S. at 442 (citing *Smiley*, 285 U.S. 355; *Hildebrant*, 241 U.S. 565), *ASARCO* establishes that the Secretary may appeal the state-court injunction “sought and secured by respondent[], along with the relief that may flow from that ruling, [a]s invalid under federal law.” 490 U.S. at 618.

This rule is essential to guarding the Supremacy Clause. Respondent's contrary position—that the Secretary lacks standing to appeal an adverse state injunction issued in violation of federal law—would blast a hole through the Supremacy Clause. States could easily bypass virtually any provision of the U.S. Constitution, without this Court's review, simply by resorting to “government by injunction” against state officials tasked with enforcing the court's order. But “this Court is responsible for assuring that state courts will not be the final arbiters of important issues under the federal constitution.” *Id.* at 621 (quoting *Minnesota v. Nat'l Tea Co.*, 309 U.S. 551, 557 (1940)). This Court should reject Respondent's remarkable contention that—under Article III—this Court somehow *lacks jurisdiction* to review an injunction ordering a state official to take action that violates the U.S. Constitution and federal law. *See Bd. of Ed. of Cent. Sch. Dist. No. 1 v. Allen*, 392 U.S. 236, 241 n.5 (1968) (State officials had standing because “they are in the position of having to choose between violating their oath [to support the U.S. Constitution] and taking a step—refusal to comply with [state law]—that would be likely to bring their expulsion from office.”).

Respondent's invocation of *Bethune-Hill* is thus multiply inapt. *Opp.*, at 22. That case involved an attempt by *one house of the state legislature* to speak for the entire legislature. *Virginia House of Delegates v. Bethune-Hill*, 587 U.S. 658, 663–64 (2019). That is not the case here. The Secretary is speaking on behalf of the State. And so is the Attorney General, who possesses authority to litigate on the State's behalf “in any proceeding or tribunal in which the state's interests are

involved.” Mo. Rev. Stat. § 27.060; *see also Missouri ex rel. Nixon v. Am. Tobacco Co.*, 34 S.W.3d 122, 135–36 (Mo. 2000) (holding that the Attorney General has broad authority to represent the General Assembly as she sees fit). “In this regard, [Missouri] has adopted an approach resembling that of the Federal Government, which centralizes the decision whether to seek certiorari by reserving litigation in this Court to the Attorney General and the Solicitor General.” *Bethune-Hill*, 587 U.S. at 664 (cleaned up). *Bethune-Hill* made clear that Virginia’s Attorney General had authority to seek certiorari in defense of the State’s Elections Clause interests (even if the Virginia House of Delegates could not). *Id.* So *Bethune-Hill* confirms—rather than undermines—Applicant’s standing to invoke the Elections Clause here.

2. Respondent’s Elections Clause merits defense boils down to two propositions, both of which are wrong.

First, Respondent insists this Court already blessed what the Missouri Supreme Court did in *Hildebrant*, 241 U.S. 565. *Opp.*, at 23–26. That is mistaken. Neither *Hildebrant* nor *any other case in U.S. history until now* addressed or sanctioned what Respondent wants—3.3% of voters voiding a map in an election year *before* a statewide vote. Yes, as Respondent notes, the Ohio Constitution’s referendum provision also has a suspension provision (though Applicant is unaware of anyone ever attempting to wield it like Respondent did here). But that suspension provision was not at issue in *Hildebrant*. *Hildebrant* arose in a non-election year and no one contended that a small minority of citizens could force the use of their preferred map for two years. 241 U.S. at 566–67. As Chief Justice Roberts

explained, “[t]he result of the [referendum vote] was to send” the redistricting question back to “the *Ohio Legislature*.” *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm’n* (“AIRC”), 576 U.S. 787, 840 (2015) (Roberts, C.J., dissenting) (emphasis in original). Even if this Court grants this application, Respondent will have that same opportunity.

Unable to point to any historical precedent, Respondent mostly relies on a sleight-of-hand. Because this Court blessed a particular type of referendum process in *Hildebrant*, Respondent claims it must bless *any* referendum arrangement—even one that is applied in a dramatically different way than the one it considered before. Opp., at 23–26. But just because this Court has sanctioned A (a statewide referendum vote) does not mean it must sanction C where $C=A+B$, and B is a profoundly antidemocratic freezing mechanism this Court never endorsed. And to be clear, many States have referenda where laws are *not* frozen before statewide popular votes. See *Alaska v. Allen*, 625 P.2d 844, 846 (Alaska 1981) (“[T]he filing of a referendum petition does not suspend the effect or operation of the act referred.” (cleaned up)); *Barnes v. Maryland ex rel. Pinkney*, 204 A.2d 787, 793 (Md. 1964); *Nevada v. Howard*, 248 P. 44, 45–46 (Nev. 1926). Thus, Respondent is wrong to suggest that pre-statewide vote freezing mechanisms are inherently intertwined with an endorsement of statewide referendum votes. Opp., at 23–26. And again, no one in *Hildebrant* contended that a small minority of citizens could void a map *before* a statewide vote. See 241 U.S. at 566 (case played out in non-election year).

Second, Respondents point to *Moore*, *AIRC*, and *Hildebrant* for a remarkably broad proposition—that state constitutions can delegate the state legislature’s redistricting authority *in any manner whatsoever*. Opp., at 23–24. This Court, however, has never so “abdicate[d]” its duty to review Elections Clause claims. *Moore*, 600 U.S. at 39 (Kavanaugh, J., concurring). Here, as in many contexts, this Court consults history, and this Court has upheld state judicial review and gubernatorial vetoes on that basis. See *Moore*, 600 U.S. at 19–22; *Smiley*, 285 U.S. at 368–69. It has also upheld statewide referenda votes and independent redistricting commissions—because those at least plausibly promote democratic values. See *AIRC*, 576 U.S. at 797–98; *id.* at 816–17; *id.* at 822–24. None of those cases remotely resemble this one. And the fact that Respondent cites zero historical analogues for his radical approach is a “telling indication of [a] severe constitutional problem.” *Free Enterprise Fund v. Public Co. Accounting Bd.*, 561 U.S. 477, 505–06 (2010) (quoting 537 F.3d. 667, 669 (D.C. Cir. 2008) (opinion of Kavanaugh, J.)).

Under Respondent’s ahistorical approach, however, anything goes. A State could permanently empower the Chair of the Republican Party to draw congressional maps. Or perhaps a State could empower just one person to unilaterally void a congressional map (at any time) by submitting a piece of paper. The implausibility of those hypotheticals confirms that Respondent’s absolutist approach is wrong.

And notably, Respondent does not dispute that—if his legal theory is accepted—the Missouri General Assembly’s authority over redistricting will be effectively destroyed. He does not dispute that it is easy for political groups to obtain

signatures to submit referendum petitions. Stay Appl., at 20. Nor does he contest that political groups will be incentivized to suspend the State’s congressional map every time Missouri redistricts. See *id.* And he acknowledges this could happen after the decennial Census, when the old map has the wrong number of seats. Opp., at 26. The only reassurance he offers is that the General Assembly could enact an emergency clause, *id.*, but that requires two thirds of both legislative houses and searching judicial review, Mo. Const. art. III, § 29. That unrealistic escape-hatch is cold comfort for the General Assembly.⁴

* * *

In opposing the Secretary’s Elections Clause claim, Respondent chants federalism “like a mantra.” *SEC v. Jarkey*, 603 U.S. 109, 138 (2024). But federalism is not advanced by allowing 3.3% of a State’s voters to unilaterally override a state legislature. And on the federal side of the balance, federalism is undermined when state courts can disrupt imminent federal elections. This Court should not

⁴ Unable to defend Respondent’s reading of this Court’s precedent, an amicus resorts to 2 U.S.C. § 2a(c) and 2c. Campaign Legal Center Br., at 12–14. Respondent never raised this argument below. Amicus is also wrong. *AIRC* held that § 2a(c) “permits” use of redistricting commissions in addition to referenda. 576 U.S. at 809. But that is no different than what this Court has already approved under the Elections Clause. And no Court has read the Elections Clause or § 2a(c) to permit just 3.3% of voters to suspend a State’s duly-enacted congressional map one month *after* a primary election. To do so would put § 2a(c) at war with the U.S. Constitution for the reasons Missouri has argued.

Amicus’s reading of § 2c fares no better, and has never been endorsed by any court. Amicus cites no judicial precedent—at any level—that has ever read § 2c to *require* courts to enforce state redistricting laws. Section 2c was enacted as part of the Uniform Congressional District Act of 1967 to abolish the use of at-large congressional districts in certain circumstances. That is plainly what its text accomplishes. See 2 U.S.C. § 2c. Amicus twists the text beyond recognition by insisting that § 2c somehow gives States a blank check to redistrict *however* they want and *whenever* they want.

leave a fundamental pillar of the federal government vulnerable to such cavalier treatment. *See Moore*, 600 U.S. at 39 (Kavanaugh, J., concurring) (reaffirming federal courts will not “abdicate[e]” review under the Elections Clause).

B. The Missouri Supreme Court’s injunction—issued a month *after* the Primary Election—violates the U.S. Constitution.

Respondent does not dispute that the Missouri Supreme Court’s order renders the Primary Election pointless—disenfranchising hundreds of thousands of voters. He also does not dispute the trial court’s finding that hundreds of thousands of Missourians will “possess materially less voting power than voters whose district remained the same because the former group would have to select from candidates they never had the opportunity to” “support” or “oppose” through voting “in the primary.” App., at 20a, 45a–46a. From either of those undisputed premises, it follows that the order under review violates the Equal Protection Clause. *See United States v. Mosley*, 238 U.S. 383, 386 (1915); *Am. Party of Tex. v. White*, 415 U.S. 767, 795 (1974); *Gray v. Sanders*, 372 U.S. 368, 379 (1963).

Attempting to rebut this point, Respondent leans almost completely on this Court’s decision in *Rodriguez v. Popular Democratic Party*, 457 U.S. 1 (1982). Opp., at 28–32. But *Rodriguez* helps—rather than harms—the Secretary’s position. There, an incumbent in the Puerto Rico legislature passed away while in office. 457 U.S. at 3. Puerto Rico had a procedure for “filling interim vacancies.” *Id.* at 5. Specifically, the late incumbent’s party would appoint a replacement “without the necessity of a full-scale special election.” *Id.* This Court rejected a claim that the State’s failure to host a special election resulted in an equal protection violation

because it advantaged the late incumbent's political party. *Id.* at 12. However, this Court carefully noted that nothing in its opinion should be understood to apply to elections:

To be sure, *when a state ... has provided that its representatives be elected*, ‘a citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction.’ However, the Puerto Rico statute at issue here does not restrict access to the electoral process or afford unequal treatment to different classes of voters or political parties. *All qualified voters have an equal opportunity to select a district representative in the general election.*

Id. at 10 (emphasis added) (quoting *Dunn v. Blumstein*, 405 U.S. 330, 336 (1972); citing *Gray v. Sanders*, 372 U.S. at 379–380). Thus, *Rodriguez* explicitly affirms that the Equal Protection Clause squarely applies here—where all “qualified voters” in Missouri will *not* “have an equal opportunity to select a district representative in the general election”—because voters moved by the court’s order are disadvantaged compared to those not moved. *Id.*

Respondent’s invocation of circuit precedent fares no better. *Donatelli v. Mitchell* recognizes the exact distinction that *Rodriguez* itself recognizes: “The Court in *Rodriguez* found no equal protection violation [because] ... ‘[a]ll qualified voters ha[d] an equal opportunity to select a district representative in the general election.’” 2 F.3d 508, 517 (3d Cir. 1993) (quoting *Rodriguez*, 457 U.S. at 10). That will not be true in Missouri if voters are forced to vote under a different map on Election Day (assuming that a timely election will occur at all). *Republican Party of Oregon v. Keisling* is also inapposite. 959 F.2d 144 (9th Cir. 1992). That case concerned a

voting claim under the First Amendment, not the Fourteenth Amendment—as the court made clear in its opinion. *Id.* at 145.

Later, in a footnote, Respondent asserts that the Secretary “cannot show that staying the judgment below is necessary to prevent an equal protection violation without first establishing that Missouri law leaves no other lawful means of addressing the alleged mismatch”—such as through statutes providing for party nomination of alternative candidates. *Opp.*, at 40 n.9 (Mo. Rev. Stat. § 115.363). It is astonishing that Respondent believes that—in order to avoid an equal protection violation—Missouri should simply ignore the Primary results and have parties decide which candidates to nominate instead. That would flagrantly violate Article I, Section 2 (even under Respondent’s incorrect telling). *See Classic*, 313 U.S. at 318–19. But in any event, permitting parties to nominate replacement candidates will be impossible as of today at 5:00 p.m. Mo. Rev. Stat. § 115.379.1–.2. Under Missouri Law, “[w]henver a candidate for nomination or election to an office is disqualified after 5:00 p.m. on the eighth Tuesday prior to a ... general election ... , his or her name shall be printed on the ... ballot, as the case may be.” *Id.* § 115.379.2. “The election and canvass shall proceed, and, if a sufficient number of votes are cast for the disqualified candidate to entitle him or her to nomination or election had the candidate not become disqualified, a vacancy shall exist on the general election ballot.” *Id.* Applicant is aware of no party that, in the midst of the State’s ongoing chaos, has nominated a replacement congressional candidate to run under the new districts. Instead, both Democrat and Republican nominees are still

wondering whether they are, in fact, running in the General Election—where absentee ballots will be transmitted in just 12 days. *See* Jack Harvel, *Court ruling raises questions about Missouri primary winners under a different map*, Kansas City Star (Sept. 4, 2026).⁵

Respondent also offers no persuasive rebuttal to Article I, Section 2—even while suggesting that Missouri should discard *all* 1.2 million primary votes to avoid an Equal Protection violation. Opp., at 40 n.9. Article I, Section 2 “applies to the entire process by which federal legislators are chosen.” *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 227 (1986). This process includes the Primary and General Elections. *See Classic*, 313 U.S. at 318–19. Yet Respondent suggests that so long as Missourians had a right to vote in *a* Primary, that is *good enough* to satisfy their right to have their ballots counted. Opp., at 32–33.

But Missourians are deprived of their right to “cho[o]se” *their* representative when they are cut off from an integral aspect of Missouri’s process for selecting representatives. U.S. Const. art. I, § 2; *see Mosley*, 238 U.S. at 386. “It is simply inconsistent with the concept of election of Representatives by districts that a candidate should be chosen in part by persons outside the district elected to these posts as such.” *Montano v. Lefkowitz*, 575 F.2d 378, 385 (2d Cir. 1978) (Friendly, J.). As Judge Friendly aptly put it, “[i]f the state provides a primary election to select party candidates for the House of Representatives, the voters in each district are entitled to participate in it on the same basis both of equality and of independence

⁵ <https://www.kansascity.com/news/politics-government/article317133985.html>.

from other districts having possibly divergent interests that they enjoy in the election itself.” *Id.* at 385–86. There is “no constitutional justification” for using candidates selected from districts “which have no relationship to the congressional district where the [general] election is to be held.” *Id.* at 386. Respondent asks this Court to simply “close [its] eyes to [this] fact.” *See Classic*, 313 U.S. at 319.

The Missouri Supreme Court’s injunction violates Article I, Section 2 by forcing hundreds of thousands of Missouri’s voters to consider nominees in the General Election that they had no opportunity to select in the Primary. App., at 20a, 45a. Indeed, as one voter attested, “I did not vote—nor could have—for either of [my general-election candidates] in the primary election.” App., at 1670a. The Missouri Supreme Court’s injunction thus plainly cuts off voters from the right to choose *their* representative. *Contra* U.S. Const. art. I, § 2.

III. The other stay factors overwhelmingly favor a stay.

Much on the remaining stay factors is undisputed. To start, Respondent does not dispute that this case is cert-worthy. *See Does 1-3 v. Mills*, 142 S. Ct. 17, 17–18 (2021) (Barrett, J., concurring in denial of stay). It obviously is—as Missouri’s ability to hold a timely federal election is jeopardized.

Respondent also does not contest the Secretary’s irreparable harm analysis. Stay Appl., at 32–38. The Secretary’s declaration spells out the math of why the Missouri Supreme Court’s order will force Missouri to violate the federal election calendar. App., at 1665a–1668a (citing 2 U.S.C. § 7; 52 U.S.C. § 20302). Respondent provides no response. Respondent instead confusingly states that the Secretary’s request for relief in advance of UOCAVA disproves his claim. Opp., at 39 n.8.

Obviously not. The HB 1 districts were just in place. Voters are assigned to those congressional districts; ballots have been tested and printed; if this Court grants a stay, voting will start on time. If the Court denies a stay, it will not. The impending violation of UOCAVA alone justifies a stay.

Turning to the equities, Respondent also does not really disagree with Applicant's account of how *he* would be affected by a stay. Stay Appl., at 5. Even if this Court grants this application, Respondent will get his statewide vote on the HB 1 map. That is what he has publicly insisted his referendum campaign is primarily about. See, e.g., at 1244a. And Respondent does not dispute that Missouri has its own *Purcell* principle (a fact he knew about from the beginning of his campaign), nor does he dispute that the Missouri Supreme Court inexplicably just ignored that principle. Stay Appl. at 36–37 (citing *Hadley v. Junior Coll. Dist. of Metro. Kan. City*, 460 S.W.2d 1, 2–3 (Mo. 1970)). The fact that the Missouri Supreme Court “impermissibly distort[ed]” state law by ignoring *Hadley* is yet another violation of the Elections Clause justifying a stay. *Bush v. Gore*, 531 U.S. 98, 115 (2000) (Rehnquist, C.J., concurring); accord *Moore*, 600 U.S. at 39 (Kavanaugh, J., concurring) (endorsing Chief Justice Rehnquist's approach in *Bush v. Gore*).

At the same time, Respondent only barely contests the State's claim that it is facing a “federal election-administration disaster.” Stay Appl., at 1. Respondent cites a newspaper article where two election officials suggest that they can switch maps, though they acknowledge “[i]t will take some work.” Kacen Bayless, ‘We will be ready.’ Jackson County says it will comply with Supreme Court map ruling, The

Kansas City Star (Sept. 4, 2026).⁶ Against that, Respondent ignores the trial court's finding that it would be "impossible" to switch maps, App., at 52a; the affidavit of an election official with 25-years' experience of running Missouri elections, *id.*, at 1024a–27a; and the Secretary of State's declaration, *id.*, at 1665a–1668a. Respondent also ignores his own counsel's acknowledgment to the press that the losers of the Primary Election could try to challenge their losses in the Primary Election. See Jacob Barker, *A 'crisis' in Missouri elections? Supreme Court puts the blame on one state official*, St. Louis Post Dispatch (Sept. 6, 2026).⁷

Regardless, this Court *knows* how chaotic the fallout in Missouri is. This Court has repeatedly recognized that court orders to change congressional maps are extraordinarily disruptive. That is why this Court has repeatedly stayed court orders that have changed congressional maps even months before upcoming elections. See *Abbott v. LULAC*, 146 S. Ct. 418, 419 (2025) (per curiam); *Malliotakis*, 146 S. Ct. 809 (staying New York court order several months before primary election). Whereas this Court stayed an order changing Alabama's congressional map seven weeks before the start of mail-in voting, *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring in grant of stay), mail-in voting starts in Missouri in just eleven days, 52 U.S.C. § 20302(a)(8). Of course, if a federal court had enjoined Missouri's congressional map last Thursday, this Court would deem it frivolous under

⁶ <https://perma.cc/9CN3-3KP4>.

⁷ https://www.stltoday.com/news/local/government-politics/article_e84fc694-888c-493d-947b-db809e7e9781.html.

Purcell and summarily stay the injunction. Notably, Respondent does not dispute that the chaos present here dwarfs that in any of this Court's *Purcell*-related cases.

Respondent instead offers three other responses. *First*, Respondent tries to minimize the Missouri Supreme Court's unprecedented order by citing two cases, *Busbee v. Smith*, 549 F. Supp. 494 (D.D.C. 1982), and *Vera v. Bush*, 933 F. Supp. 1341 (S.D. Tex. 1996), where—according to Respondent—courts invalidated an “existing map after the primary had taken place” and even though “no new map had been drawn.” *Opp.*, at 40. But Respondent severely misinterprets these decisions.

Busbee was a pre-clearance action—“commenced by the State of Georgia”—under Section 5 of the Voting Rights Act. 549 F. Supp. at 497. The court's decision affected only two of Georgia's districts, not the entire congressional map. *Id.* at 518–19. The court “retain[ed] jurisdiction” over the action to promptly establish a new redistricting “plan” with Georgia's input. *Id.* at 518. It also established a detailed schedule for hosting a *primary* and a general election in the two affected districts—preventing a mismatch between the primary and general electorates. *Id.* at 519–20. That is nothing like what the Missouri Supreme Court did here.

Respondent also misunderstands *Vera*. Respondent claims that *Vera* enjoined Texas's “map” after a primary and “without a remedial map.” *Opp.*, at 40. But that court did not invalidate the entire Texas congressional map; it made modest changes that “affected” a small number of districts relative to the State's size. 933 F. Supp. at 1342. Further, to avoid the violations of Article I, Section 2 and the Equal Protection Clause present here, that court held that voters in the “affected

congressional districts will participate in an open primary conducted along with the 1996 presidential elections,” and with “runoff elections [to] be held [on] December 10, 1996” “if necessary.” *Id.* No such order exists here; and Missouri does not see how it could ignore the federal election calendar without a federal court order. *Cf. id.* The chaos here thus dwarfs even *Vera*—the most chaotic judicial election order Respondent could find.

Second, Respondent suggests that *Purcell* is irrelevant when a state court destabilizes a federal election. *Opp.*, at 36–37. But this Court already suggested otherwise in *Malliotakis*, when this Court stayed a disruptive state court order three months before the June 2026 Primary Election New York. *See* 146 S. Ct. 809; *id.* at 811 (Alito, J., concurring in grant of stay) (recognizing that stay restored lawful status quo that existed before state court decision).

And once again, the implications of Respondent’s extreme theory prove too much. Under his approach, a state court could change the congressional map in the middle of mail voting—or two days before Election Day—and this Court would be powerless to act. The *Purcell* principle’s primary rationale—preventing disruption to federal elections “in the thick of election season,” *Democratic National Committee v. Wisconsin State Legislature*, 592 U.S. 1039, 1041 (2020) (Roberts, C.J., concurring)—fits better here than in any other *Purcell*-related case. No reasonable equitable principle suggests this Court should categorically blind itself to state courts destabilizing federal elections.

Third, Respondent mimics the Missouri Supreme Court and insists that this Court should ignore severe consequences to punish Secretary Hoskins's handling of the referendum petition. Opp., at 35–37. This inequitable argument fails.

To start, Respondent's account of the Secretary's actions is incomplete and implausible. It is undisputed that the Secretary confronted a scenario never encountered before in Missouri or any other State—an effort to exploit state law by a tiny minority of voters to freeze a duly enacted congressional map before any statewide vote. Faced with this unprecedented effort, Secretary Hoskins handled Respondent's referendum petition exactly as Missouri law instructs him to do. He promptly sent the hundreds of thousands of signatures Respondent gathered to all the county election officials for signature verification. See Mo. Rev. Stat. § 116.130. That takes a long time. That is why state law gives everyone until August 4—the day of the Primary Election—to finish the job. Mo. Rev. Stat. § 116.150.3. By the time all of Missouri's county election officials completed review in the summer of 2026, Missouri *already* faced an imminent primary election. Rejecting the referendum petition then would have placed *that election* in chaos. *Contra Hadley*, 460 S.W.2d at 2–3.

But assume that Respondent is correct and Secretary Hoskins acted improperly in deferring his rejection of the referendum petition until the state-law deadline. So what? Respondent seems to think that punishing Secretary Hoskins *personally* somehow justifies inflicting catastrophic harms on all of Missouri, unrelated political campaigns, election officials, and voters across the State. But this

Court has invoked *Purcell* to grant stays even when state governments are alleged to have engaged in *illegal* behavior—like racial discrimination. *See Merrill*, 142 S. Ct. 879–80. By contrast, no one here alleges Secretary Hoskins *broke the law*. At most, taking everything Respondent says as true, Secretary Hoskins took advantage of a state-law deadline to improve his chances of defending a law enacted by the state legislature.⁸ *See* Mo. Rev. Stat. § 116.150. Applying equity, any potential transgression cannot justify punishing an entire State, election officials, campaigns, and millions of voters—who likely will not be able to participate in a timely federal election absent a stay. *See App.*, at 52a.

* * *

In applying equity, the Court should not lose sight of the bigger picture. This Court has recognized that orders to alter congressional maps are disruptive even several months *before* an upcoming primary election. *Abbott*, 146 S. Ct. at 419; *Malliotakis*, 146 S. Ct. 809; *Merrill*, 142 S. Ct. at 880 (Kavanaugh, J., concurring in grant of stay). Here, the order under review voids a primary. It leaves election officials, candidates, and voters scrambling and unsure what to do with voting starting in just *eleven days*. The equities are more lopsided here than in any other

⁸ Respondent also heavily emphasizes the Attorney General’s mundane observation that challenged election rules are more likely to stay in effect as an election approaches. *Opp.*, at 35–36. Any election lawyer knows that, which is why *Democracy Docket* (founded by Marc Elias, founder of the firm representing Respondent) observed back in *March* that basic equity would likely require Missouri to use the HB 1 map for the 2026 General Election. *App.*, at 1244a–1245a.

case where this Court has granted a stay in an election-related case. The Court can and should end this chaos.

CONCLUSION

The Court should grant an immediate administrative stay and a stay pending appeal as soon as possible.

September 8, 2026

Respectfully submitted,

CATHERINE L. HANAWAY
MISSOURI ATTORNEY GENERAL

/s/ Louis J. Capozzi, III

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**U.S. District Court
Eastern District of Missouri (St. Louis)
CIVIL DOCKET FOR CASE #: 4:26-cv-01424-SRC**

Onder et al v. State of Missouri et al
Assigned to: Chief District Judge Stephen R. Clark
Cause: 42:1983 Civil Rights Act

Date Filed: 09/04/2026
Jury Demand: None
Nature of Suit: 441 Civil Rights: Voting
Jurisdiction: Federal Question

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A88

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*in his official capacity as Missouri
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Date Filed	#	Docket Text
09/04/2026	<u>1</u>	COMPLAINT against defendant All Defendants Non-Jury Demand,, filed by Robert Onder, Debra Havens, Patricia Thomas, Brattin Richard. (Attachments: # <u>1</u> Exhibit Exhibit 1, # <u>2</u> Exhibit Exhibit 2, # <u>3</u> Exhibit Exhibit 3, # <u>4</u> Civil Cover Sheet Civil Cover Sheet, # <u>5</u> Form Civil Complaint Form, # <u>6</u> Form Disclosure Statement, # <u>7</u> Form Original Filing Form)(Ellinger, Marc) (Entered: 09/04/2026)
09/04/2026	<u>2</u>	MOTION for Preliminary Injunction <i>and</i> TRO by Plaintiffs Debra Havens, Robert Onder, Brattin Richard, Patricia Thomas. (Attachments: # <u>1</u> Supplement Memorandum of Law in

		Support)(Ellinger, Marc) (Entered: 09/04/2026)
09/04/2026	3	MOTION to Expedite by Plaintiffs Debra Havens, Robert Onder, Brattin Richard, Patricia Thomas. (Ellinger, Marc) (Entered: 09/04/2026)
09/04/2026	4	Exhibit List <i>Verifications of Complaint</i> by Plaintiffs Debra Havens, Robert Onder, Brattin Richard, Patricia Thomas. (Attachments: # 1 Exhibit Brattin Verification, # 2 Exhibit Thomas Verification, # 3 Havens Verification)(Ellinger, Marc) (Entered: 09/04/2026)
09/05/2026		Case Opening Notification. Judge Assigned: Chief U.S. District Judge Stephen R. Clark. (KXS) (Entered: 09/05/2026)
09/05/2026	5	NOTICE of Filing Deficiency re 1 Complaint,. In accordance with Eastern District of Missouri Local Rules and the Case Management/Electronic Case Filing (CM/ECF) Procedures Manual, a filing deficiency has been identified as follows: Notice of Process Server form and summonses as to each defendant not filed. This deficiency must be filed in the case record immediately by filing the Notice of Process Server with summonses attached as exhibits. (JWD) (Entered: 09/05/2026)
09/05/2026	6	NOTICE OF PROCESS SERVER by Plaintiffs Debra Havens, Robert Onder, Brattin Richard, Patricia Thomas Process Server: Rufus Harmon (Attachments: # 1 Summons Summons to State of Missouri, # 2 Summons Summons to Denny Hoskins)(Ellinger, Marc) (Entered: 09/05/2026)
09/05/2026		Summons Issued as to defendant Denny Hoskins, State of Missouri. The summonses were emailed to Marc H. Ellinger. (KXS) (Entered: 09/05/2026)
09/05/2026	7	ENTRY of Appearance by Louis Joseph Capozzi, III for Defendants Denny Hoskins, State of Missouri. (Capozzi, Louis) (Entered: 09/05/2026)
09/05/2026	8	ENTRY of Appearance by William James Seidleck for Defendants Denny Hoskins, State of Missouri. (Seidleck, William) (Entered: 09/05/2026)
09/05/2026	9	ENTRY of Appearance by Graham Miller for Defendants Denny Hoskins, State of Missouri. (Miller, Graham) (Entered: 09/05/2026)
09/05/2026	10	WAIVER OF SERVICE Returned Executed filed by Denny Hoskins, State of Missouri Denny Hoskins waiver signed on 9/4/2026, answer due 11/3/2026; State of Missouri waiver signed on 9/4/2026, answer due 11/3/2026. (Seidleck, William) (Entered: 09/05/2026)
09/05/2026	11	RESPONSE to Motion re 2 MOTION for Preliminary Injunction <i>and</i> TRO filed by Defendants Denny Hoskins, State of Missouri. (Capozzi, Louis) (Entered: 09/05/2026)
09/05/2026	12	MOTION to Intervene by Plaintiff People Not Politicians, Intervenor Parties Richard von Glahn, PEOPLE NOT POLITICIANS. (Attachments: # 1 Supplement SUGGESTIONS IN SUPPORT, # 2 Supplement VERIFICATION, # 3 Text of Proposed Order PROPOSED ORDER, # 4 Supplement MOTION TO DISMISS, # 5 Supplement EXHIBIT 1, # 6 Supplement EXHIBIT 2)(Cossette, Alixandra) (Entered: 09/05/2026)
09/05/2026	13	ORDER: The Court orders the parties (and any putative or actual intervenors) to, no later than 12:00 p.m. Central Daylight Time on September 7, 2026, file separate supplemental briefs analyzing (1) whether federal abstention doctrines or the Rooker-Feldman doctrine apply, see Dist. of Columbia Ct. of Appeals v. Feldman, 460 U.S. 462 (1983), and (2) the impact that a Supreme Court ruling on the pending Emergency Application for Stay and Administrative Stay Pending Appeal in Hoskins v. von Glahn, No. 26A304, would have on this case. All supplemental briefs must not exceed ten pages, double-spaced. (Response to Court due by 9/7/2026.) Signed by Chief District Judge Stephen R. Clark on 9/5/2026. (KXS) (Entered: 09/05/2026)

09/05/2026	14	ORDER: The Court orders the parties to, no later than 12:00 p.m. Central Daylight Time on September 6, 2026, respond to (1) the proposed intervenors' motion to intervene, doc. 12; (2) any other motions to intervene filed in the interim; and (3) the intervenors' proposed motion to dismiss, doc. 12-4. (Response to Court due by 9/6/2026.) Signed by Chief District Judge Stephen R. Clark on 9/5/2026. (KXS) (Entered: 09/05/2026)
09/06/2026	15	ENTRY of Appearance by Alexander C. Barrett for Intervenor People Not Politicians. (Barrett, Alexander) (Entered: 09/06/2026)
09/06/2026	16	ENTRY of Appearance by Jeremy A. Root for Intervenor Parties People Not Politicians, Richard von Glahn. (Root, Jeremy) (Entered: 09/06/2026)
09/06/2026	17	MOTION for Leave to File Statement in Response to this Court's Order in Excess Page Limitation by Defendants Denny Hoskins, State of Missouri. (Capozzi, Louis) (Entered: 09/06/2026)
09/06/2026	18	MOTION for Leave to Exceed Page Limitations by Plaintiffs Debra Havens, Robert Onder, Brattin Richard, Patricia Thomas. (Attachments: # 1 Proposed Order)(Ellinger, Marc) (Entered: 09/06/2026)
09/06/2026	19	RESPONSE TO COURT ORDER re 14 Order, 13 Order., by Defendants Denny Hoskins, State of Missouri. (Capozzi, Louis) (Entered: 09/06/2026)
09/06/2026	20	MEMORANDUM in Opposition re 12 MOTION to Intervene 4 <i>Motion to Dismiss</i> filed by Plaintiffs Debra Havens, Robert Onder, Brattin Richard, Patricia Thomas. (Ellinger, Marc) (Entered: 09/06/2026)
09/06/2026	21	MEMORANDUM in Opposition re 12 MOTION to Intervene 4 <i>Motion to Dismiss</i> filed by Plaintiffs Debra Havens, Robert Onder, Brattin Richard, Patricia Thomas. (Ellinger, Marc) (Entered: 09/06/2026)
09/06/2026	22	NOTICE by Intervenor Parties People Not Politicians, Richard von Glahn <i>Entry of Appearance</i> (Bax, Greta) (Entered: 09/06/2026)
09/06/2026	23	Electronic Notice re: Disclosure Statement to Intervenor People Not Politicians. Pursuant to Local Rule 2.09, every non-governmental party or intervenor which/who is not an individual must file a Disclosure Statement in any Federal Question case immediately upon entering its appearance in the case, completing Section 1 of the Court-adopted form. All such parent companies, subsidiaries or affiliates must be entered into CM/ECF where prompted. (Disclosure Statement form can be downloaded here) (ANR) (Entered: 09/06/2026)
09/06/2026	24	MOTION for Leave to File Corrected Memorandum by Plaintiffs Debra Havens, Robert Onder, Brattin Richard, Patricia Thomas. (Attachments: # 1 Proposed Order)(Ellinger, Marc) (Entered: 09/06/2026)
09/06/2026	25	MEMORANDUM in Opposition re 12 MOTION to Intervene 4 <i>Motion to Dismiss</i> filed by Plaintiffs Debra Havens, Robert Onder, Brattin Richard, Patricia Thomas. (Ellinger, Marc) (Entered: 09/06/2026)
09/06/2026	26	DISCLOSURE STATEMENT by People Not Politicians. No corporate parents or affiliates identified. (Cossette, Alixandra) (Entered: 09/06/2026)
09/06/2026	27	ENTRY of Appearance by Stephanie Bell for Plaintiffs Debra Havens, Robert Onder, Brattin Richard, Patricia Thomas. (Bell, Stephanie) (Entered: 09/06/2026)
09/06/2026	28	MOTION to Dismiss Party State of Missouri by Defendants Denny Hoskins, State of Missouri. (Attachments: # 1 Text of Proposed Order Proposed Order Granting Defendants'

		Motion to Dismiss Claims Against the State of Missouri)(Capozzi, Louis) (Entered: 09/06/2026)
09/07/2026	29	MEMORANDUM re 13 Order,, by Intervenor Richard von Glahn. (Cossette, Alixandra) (Entered: 09/07/2026)
09/07/2026	30	MEMORANDUM re 13 Order,, by Plaintiffs Debra Havens, Robert Onder, Brattin Richard, Patricia Thomas. (Ellinger, Marc) (Entered: 09/07/2026)
09/08/2026	31	NOTICE of Filing Deficiency re 29 Memorandum filed by Intervenor Parties People Not Politicians, Richard von Glahn. In accordance with Eastern District of Missouri Local Rules and the Case Management/Electronic Case Filing (CM/ECF) Procedures Manual, a filing deficiency has been identified as follows: The attorney's signature on the signature block must match the name of the e-filer. This is an informational notice and no further action is needed at this time. All future filings must be in compliance with this rule. (TLR) (Entered: 09/08/2026)
09/08/2026	32	ORDER: Accordingly, the Court grants the intervenors' 12 Motion to Intervene as Defendants. The Court directs the Clerk of Court to (1) add People Not Politicians and Richard von Glahn as Intervenor-Defendants on the docket of this case, and (2) file the intervenors' Motion to Dismiss Complaint and Combined Memorandum in Support, doc. 12-4, as a separate document, deemed filed as of the date of this Order. SEE ORDER FOR DETAILS. Signed by Chief District Judge Stephen R. Clark on 9/8/2026. (CLT) (Entered: 09/08/2026)
09/08/2026	33	MOTION to Dismiss Complaint and Combined Memorandum in Support by Intervenor Defendants People Not Politicians, Richard von Glahn. (CLT) (Entered: 09/08/2026)
09/08/2026	34	NOTICE Denial of Stay Application: by Plaintiffs Debra Havens, Robert Onder, Brattin Richard, Patricia Thomas (Ellinger, Marc) (Entered: 09/08/2026)
09/08/2026	35	MEMORANDUM AND ORDER: 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 alsodenies 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)." Signed by Chief District Judge Stephen R. Clark on 9/8/2026. (TLR) (Entered: 09/08/2026)
09/08/2026	36	Emergency NOTICE OF APPEAL by Intervenor Defendant Richard von Glahn (Cossette, Alixandra) Modified text on 9/8/2026 due to counsel filing error. (LNS). (REMARK: Document emailed to COA on 9/8/2026). (Entered: 09/08/2026)
09/08/2026	37	ENTRY of Appearance by John Michael Patton for Defendants Denny Hoskins, State of Missouri. (Patton, John) (Entered: 09/08/2026)
09/08/2026	38	Emergency MOTION to Stay re 35 Memorandum & Order,,,,, 36 Notice (Other) by Intervenor Defendant Richard von Glahn. (Cossette, Alixandra) (Entered: 09/08/2026)

09/09/2026	39	NOTIFICATION OF APPEAL AND NOA SUPPLEMENT by clerk to USCA regarding 35 Memorandum & Order. Notice of Appeal filed on 9/8/26 by Intervenor Defendant Richard von Glahn. NOTIFICATION TO COUNSEL AND PRO SE PARTY: FILE REQUEST FOR TRANSCRIPT WITH DISTRICT COURT CLERKS OFFICE.(JWD) (Entered: 09/09/2026)
09/09/2026		Filing fee received: \$ 605.00, receipt number 29607, for Notice of Appeal (JWD) (Entered: 09/09/2026)
09/09/2026	40	INITIAL NOTIFICATION FROM COA; USCA Appeal #: 26-2797 (ANR) (Entered: 09/09/2026)

PACER Service Center			
Transaction Receipt			
09/09/2026 11:06:36			
PACER Login:	alixcossette	Client Code:	
Description:	Docket Report	Search Criteria:	4:26-cv-01424-SRC
Billable Pages:	7	Cost:	0.70

UNITED STATES DISTRICT COURT

for the
Eastern District of Missouri

Robert "Bob" Onder, et al.

Plaintiff

v.

State of Missouri, et al.

Defendant

Civil Action No. 4:26-cv-01424

WAIVER OF THE SERVICE OF SUMMONS

To: Marc Ellinger

(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from 09/04/2026, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: 09/04/2026

/s/ William James Seidleck

Signature of the attorney or unrepresented party

State of Missouri and Denny Hoskins

Printed name of party waiving service of summons

William James Seidleck

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Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

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

ROBERT "BOB" ONDER, ET AL.,

Plaintiffs,

v.

Case No. 4:26-cv-01424

STATE OF MISSOURI, ET AL.,

Defendants.

**STATEMENT IN SUPPORT PLAINTIFFS' REQUEST FOR A TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Under the extraordinary circumstances of this case, Defendants agree that Plaintiffs meet the thresholds warranting a temporary restraining order and join them in requesting that this Court issue said relief. *See Nken v. Holder*, 556 U.S. 418, 434 (2009) (citation omitted). Plaintiff candidates will be forced to compete in districts in which they did not run in the Primary Election. Meanwhile, Plaintiff voters will be forced to cast general-election ballots for a different slate of candidates than they considered in the Primary Election. For the reasons detailed by Plaintiffs, that gives rise to clear-cut violations of the United States Constitution.

As explained by Plaintiffs, the Missouri Supreme Court has ordered Defendants here to conduct the upcoming General Election according to a different map than the Primary Election. Mem. in Support of TRO at 4. The Missouri Supreme Court's order patently violates federal law in several respects. Hence, Plaintiffs are likely to succeed on at least one of their claims.

First, the order violates the U.S. Constitution's Elections Clause. U.S. Const. art. I, § 4. The Clause provides that "[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof." *Id.* (emphasis added). But, the Missouri Supreme Court held that a referendum *petition*—signed by just five percent of legal voters in two-thirds of the congressional districts in the State (approximately 3.3% of the State's voters)—can suspend Missouri's duly-enacted congressional map. *See von Glahn v. Hoskins*, No. SC101805, slip op. 8–9 (Mo. Sept. 3, 2026) (quoting Mo. Const. art. III, § 52(a)). If *that* profoundly anti-democratic arrangement is permissible, little is left of the Elections Clause. *See* Mem. in Support of TRO at 5–7.

Second and relatedly, Defendants agree that a referendum cannot proceed against federal-congressional maps *at all* in Missouri because the Missouri Constitution contains no "positive and clear" statement authorizing that abrogation of the General Assembly's authority. *See United States v. Gradwell*, 243 U.S. 476, 485 (1917).

Third, a judicial order dramatically altering a congressional map *between* a primary and a general election violates several constitutional provisions. Article I, Section 2 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 (emphasis added). This protects the right of Missourians to select their representatives in both primary and general elections. *See United States v. Classic*, 313 U.S. 299, 318 (1941). 1.2 million Missourians participated in the State's

primary under the HB 1 map, in August 2026. *See* Compl. ¶ 78; Ex. 2 at 3. Yet the Missouri Supreme Court just threw those votes into the dustbin—requiring the winners of the primary election to run in very different congressional districts. *See* Compl. ¶ 37.

Thus, absent a stay, hundreds of thousands of voters will be forcibly switched to new districts and made to vote on general election candidates they had no role in choosing. *See* Compl. ¶¶ 38, 94–96; Ex. 2, at 4. This unprecedented disenfranchisement violates Article I, § 2, the constitutional right to vote, and the Equal Protection Clause. *See Gray v. Sanders*, 372 U.S. 368, 379 (1963) (“Once 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—whatever their race, whatever their sex, whatever their occupation, whatever their income, and *wherever their home may be* in that geographical unit.” (emphasis added)); *Classic*, 313 U.S. at 318 (“Where 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” the Constitution’s right to vote.).

Despite Plaintiffs’ clear entitlement to legal relief, the State can do nothing to remedy the situation. The Missouri Supreme Court’s order flatly prohibits the State from conducting the general election according to the HB 1 map. *See von Glahn*, slip op. 13–14 (“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 HB1 is approved by the voters at the November 2026 general election” (citing Mo. Const. art. XII, § 2(b))). Only a federal-court order can rectify that legal violation.

The equities likewise favor Plaintiffs. The Missouri Supreme Court’s order is inflicting unprecedented chaos and profound injury on Missouri. A state trial court found that holding the 2026 General Election under a different congressional map would be “impossible.” Ex. 2, at 36. This jeopardizes Missouri’s ability to hold a timely election in compliance with federal law. 2 U.S.C. § 7; see *Foster v. Love*, 522 U.S. 67, 73–74 (1997) (holding that State may not run federal election in conflict with federal timing of 2 U.S.C. § 7, which requires an election this year on November 3, 2026). And Missouri is almost certain to violate UOCAVA’s deadline for sending out absentee ballots to overseas and military ballots absent a federal-court order. See Emergency App. for Stay and Administrative Stay Pending Appeal at 33–34, *Hoskins v. von Glahn*, 26A304 (U.S. Sept. 4, 2026).

Plaintiffs and the public face their own irreparable injury. As the trial court found, changing the map will “move hundreds of thousands of voters into different districts.” Ex. 2, at 4. This includes Plaintiff voters. See Compl. ¶ 38. As Plaintiffs explain, both the candidate and voter Plaintiffs face injuries to their right to vote and right to conduct election-related activities. Mem. in Support of TRO at 9. Any time “constitutional rights are threatened or impaired, irreparable injury is presumed.” *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012). Likewise, no interest is

furthered in conducting an unlawful election. Mem. in Support of TRO at 11. To the contrary, the State wishes to comply with federal law for the benefit of *all* its voters.

Defendants are aware of no court in U.S. history ordering a State to change substantially its congressional map *after* a primary election has occurred. This destabilizing and unprecedented situation calls for extraordinary relief. The Missouri Supreme Court's order prevents the State from making this situation right. Given these circumstances and to avoid catastrophic injury to Missouri citizens, Defendants agree that Plaintiffs satisfy the requirements for a temporary restraining order and preliminary-injunctive relief. *See Nken*, 556 U.S. at 434. The Court should therefore grant Plaintiffs' requested relief to preserve the integrity of Missouri's election.

Dated: September 5, 2026

Respectfully submitted,

CATHERINE L. HANAWAY

ATTORNEY GENERAL

/s/ Louis J. Capozzi III

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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on September 5, 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.

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

STATE OF MISSOURI AND DENNY

HOSKINS,

Defendants.

**DEFENDANT’S
MOTION TO EXPEDITE CONSIDERATION OF 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 set an expedited briefing schedule on the State’s Motion to Enjoin the Missouri Supreme Court, filed contemporaneously herewith. The Missouri Supreme Court has ordered that the Secretary show cause why he should not be held in contempt prior to noon on September 9, 2026, and set a hearing on the show cause order on September 10, 2026, at 10:00 a.m. Even if the Missouri Supreme Court does not hold the Secretary in contempt, the ongoing voter confusion and disruption of preparations for the November 3, 2026 general election inflict irreparable harm on the State and threaten the constitutional rights of Missouri voters, for the reasons laid out in the suggestions in support of the State’s motion and the Court’s October 8 order.

For the foregoing reasons, Defendant respectfully requests that the Court resolve the State's Motion to Enjoin the Missouri Supreme Court as expeditiously as possible, but in any event prior to 10:00 a.m. on September 10, 2026.

Dated: September 9, 2026

Respectfully submitted,

CATHERINE L. HANAWAY

ATTORNEY GENERAL

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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

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 Intervenors have disputed those facts; Intervenors’ 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, Intervenor 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.

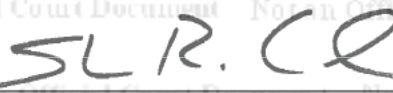
Admittedly, courts normally invoke the *Purcell* principle to caution against federal-court intervention in the election decisions of state legislatures, and no federal court has ordered the use of the 2022 map. But *Purcell* does not cut against injunctive relief here. This case presents *Purcell* in 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

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

CONGRESSMAN ROBERT “BOB”

ONDER ET AL.,

Plaintiffs,

v.

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

STATE OF MISSOURI AND DENNY
HOSKINS,

Defendants.

**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

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/s/ Louis J. Capozzi III

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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.

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

STATE OF MISSOURI and DENNY
HOSKINS,

Defendants,

RICHARD VON GLAHN, et al.,

Intervener-Defendants.

**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

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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

FORUM	DATE/TIME	TEXT	LINK
X	11:40 PM · Sep 8, 2026	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. Secretary of State Denny Hoskins, CPA @DLHoskins 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 · 10h 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	https://x.com/DLHoskins/status/2097545543580827804

X (personal)	12:21 AM · Sep 9, 2026	I look forward to my day in court. Key Rules of the Supremacy Clause, Article VI, Clause 2 of the U.S. Constitution: Federal Priority: When a valid federal law and a state law conflict, the federal law wins. State Court Duty: Judges in every state must follow federal law and the U.S. Constitution, even if state laws say otherwise. ← Post  Secretary of State Denny Hoskins, CPA @DLHoskins ... I look forward to my day in court. Key Rules of the Supremacy Clause, Article VI, Clause 2 of the U.S. Constitution: Federal Priority: When a valid federal law and a state law conflict, the federal law wins. State Court Duty: Judges in every state must follow federal law and the U.S. Constitution, even if state laws say otherwise. 12:21 AM · Sep 9, 2026 · 10.1K Views 45 52 417 18	https://x.com/DLHoskins/status/2097555969131659765
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Facebook		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 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. look forward to my day in court. Denny Hoskins's Post  Denny Hoskins 8h · 🌐 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 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. look forward to my day in court.  Supreme Court of Missouri SC101805 September 8, 2026	https://www.facebook.com/hoskinsformissouri/posts/pfbid07R3EUcdfd54FLukAgegAc8zFaL1cZnwe2vxqiYjyoYoAwKhkzDU3LMQ1J4mVufFHI
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Aaron Dorr is with **Rick Brattin** and **Denny Hoskins**.

HUGE NIGHT for my friends Congressman-to-be **Rick Brattin** and Secretary of State **Denny Hoskins**! Honored to have been fighting alongside these guys for freedom for years!

Huge win tonight! The Dems, the State Supreme Court, and the media can suck it!

<https://www.facebook.com/aaron.dorr.5/posts/pfbid02aBMJC7Y434HUBuBF3G1aiqGxBUqKtDEaW6VGBMkGcUeq9NE4NxFRdPT9VFhQYJW8l>