

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	ii
INTRODUCTION	1
BACKGROUND.....	2
ARGUMENT.....	6
I. <i>Purcell</i> Precludes Plaintiffs’ Extraordinary Request for Preliminary Relief ...	6
II. Plaintiffs Are Unlikely to Succeed on the Merits.	8
A. Plaintiffs cannot prove discriminatory purpose.....	8
1. The 2026 Plan was politically motivated, not racially motivated.	13
2. Plaintiffs’ proffered evidence is not evidence of racial motivation.	15
a. Using census data is not evidence of discrimination.	16
b. An NPR interview is not evidence of discrimination.	18
c. Plaintiffs’ remaining circumstantial evidence is not evidence of discrimination under <i>Arlington Heights</i>	19
3. Plaintiffs’ experts do not disentangle race and politics.....	21
B. Plaintiffs have not established any discriminatory effect.	25
III. The balance of the equities and public interest do not favor Plaintiffs.....	26
CONCLUSION.....	26

TABLE OF AUTHORITIES

Cases

<i>Abbott v. LULAC</i> , 146 S. Ct. 418 (2025).....	1, 2, 7, 15, 17, 18, 19, 20, 23
<i>Abbott v. Perez</i> , 585 U.S. 579 (2018).....	9, 10, 12, 14, 19, 25
<i>Alexander v. S.C. Conf. of the NAACP</i> , 602 U.S. 1 (2024).....	2, 4, 9, 10, 11, 12, 13, 16, 22, 24
<i>Allen v. Milligan</i> , 146 S. Ct. 1377 (2026).....	1, 2, 7, 11, 21, 22, 23, 25
<i>Allen v. Milligan</i> , 599 U.S. 1 (2023).....	14
<i>Ardoin v. Robinson</i> , 142 S. Ct. 2892 (2022).....	1
<i>Brnovich v. Democratic Nat’l Comm.</i> , 594 U.S. 647 (2021).....	17, 18
<i>Enchant Christmas Light Maze & Market Ltd. v. Glowco, LLC</i> , 958 F.3d 532 (6th Cir. 2020).....	6, 25
<i>GBM v. Sec’y of State of Ala.</i> , 992 F.3d 1299 (11th Cir. 2021).....	19
<i>Gill v. Whitford</i> , 585 U.S. 48 (2018).....	8
<i>Gonzales v. Nat’l Bd. of Med. Exam’rs</i> , 225 F.3d 620 (6th Cir. 2000).....	25
<i>Hunt v. Cromartie</i> , 526 U.S. 541 (1999).....	17
<i>Hunter v. Underwood</i> , 471 U.S. 222 (1985).....	12, 15

<i>League of Women Voters of Fla. Inc. v. Fla. Sec’y of State,</i> 66 F.4th 905 (11th Cir. 2023).....	19
<i>Lichtenstein v. Hargett,</i> 489 F. Supp. 3d 742 (M.D. Tenn. 2020)	25
<i>Louisiana v. Callais,</i> 146 S. Ct. 1131 (2026).....	2, 3, 4, 8, 9, 10, 11, 13, 14, 17, 19, 20, 21, 22, 24, 25
<i>McCleskey v. Kemp,</i> 481 U.S. 279 (1987).....	18
<i>Merrill v. Milligan,</i> 142 S. Ct. 879 (2022).....	1, 7, 14
<i>Miller v. Johnson,</i> 515 U.S. 900 (1995).....	12
<i>Pers. Adm’r of Massachusetts v. Feeney,</i> 442 U.S. 256 (1979).....	8, 9, 12
<i>Purcell v. Gonzalez,</i> 549 U.S. 1 (2006).....	1
<i>Reynolds v. Sims,</i> 377 U.S. 533 (1964).....	7
<i>Robinson v. Callais,</i> 144 S. Ct. 1171 (2024).....	1, 7
<i>Tenn. State Conf. of NAACP v. Lee,</i> 746 F. Supp. 3d 473 (M.D. Tenn. 2024)	8, 9, 10, 12, 15, 17, 18, 19, 20, 21, 24
<i>Tennessee NAACP v. State of Tennessee Governor,</i> No. 26-0591-II (Davidson Cnty. Ch. Ct. May 7, 2026)	1
<i>Thompson v. DeWine,</i> 976 F.3d 610 (6th Cir. 2020)	25
<i>United States v. O’Brien,</i> 391 U.S. 367 (1968).....	18

<i>Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.</i> , 429 U.S. 252 (1977).....	9, 18
<i>White v. Regester</i> , 412 U.S. 755 (1973).....	8, 24
<i>Wilson v. Williams</i> , 961 F.3d 829 (6th Cir. 2020)	25
<i>Yang v. Shenzhen Hongfangrui Tech. Co.</i> , 2023 WL 8370407 (E.D. Mich. Dec. 4, 2023)	5
Statutes	
2026 Tenn. Pub. Chs. 1-4, 2d Extra. Sess	4
52 U.S.C. §20302(a)(8)	4
Rules	
Fed. R. Civ. P. 4(m)	5
Secondary Sources	
2026 Congressional Redistricting: Revised District Boundaries, Tenn. Sec’y of State, https://perma.cc/FT9X-EH7C	5
Statement of Sen. Marsha Blackburn, <i>Redraw Tennessee’s Lines Now, Making Tenn. America’s true conservative leader begins with a new map</i> (May 1, 2026), https://perma.cc/ZAQ5-X3RR	3
Tenn. Office of the Governor, <i>Proclamation</i> (May 1, 2026), https://perma.cc/2KEE-RQC7	3
<i>Tennessee Political Parties Voice Opinions on Congressional Redistricting Map</i> , WBBJ TV (May 7, 2026), https://perma.cc/NW8U-ZNU2	3

INTRODUCTION

Tennessee enacted new congressional districts more than six weeks ago. Election officials updated 1.9 million voter files to implement the districts. Twenty-eight new candidates qualified. Counties finalized ballots and sent them overseas, as federal law requires. That federal deadline passed yesterday. *See* Ex. 1, Dodd Decl. ¶¶19-27.

Plaintiffs request a preliminary injunction to unwind those completed election preparations based on their claim, absent any evidence, that the districts are unconstitutional. That request comes too late. *See Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam). Plaintiffs' delay is inexplicable. Some of the same Plaintiffs sued in state court *the same day* the districts took effect, followed by speedy preliminary-injunction proceedings and a decision.¹ Yet for this federal case, Plaintiffs waited. Meanwhile, the new districts became the status quo. Dodd Decl. ¶19. Reverting to old districts would make compliance with state and federal laws for absentee ballots "impossible." *Id.* ¶27. And it would place early voting, beginning July 17, "in serious jeopardy." *Id.* *Purcell* precludes Plaintiffs' eleventh-hour request. *See, e.g., Allen v. Milligan*, 146 S. Ct. 1377, 1381 (2026); *Abbott v. LULAC*, 146 S. Ct. 418, 419 (2025); *Robinson v. Callais*, 144 S. Ct. 1171 (2024); *Ardoin v. Robinson*, 142 S. Ct. 2892 (2022); *Merrill v. Milligan*, 142 S. Ct. 879 (2022).

¹ *See Tennessee NAACP v. State of Tennessee Governor*, No. 26-0591-II (Davidson Cnty. Ch. Ct. May 7, 2026) (Emergency Pet.).

Nor is there a constitutional basis for such relief. The State’s goal was an open and obvious political goal, not a racial one: to send nine Republicans to Washington.² That political goal was not unique to Tennessee. States from California to New York redistricted mid-decade. Like those States, Tennessee redistricted knowing that control of Congress is up for grabs in the upcoming 2026 elections. That was the “intent” —to ensure “a Republican majority” in Congress.³

Plaintiffs offer no evidence sufficient to refute that political goal. Plaintiffs’ going theory presumes bad faith—that Tennessee’s overtly *political* motivation was just “thinly veiled” racial discrimination, Mem. 1, contrary to everything the Supreme Court has said about presuming good faith. *See Alexander v. S.C. Conf. of the NAACP*, 602 U.S. 1, 10-11 (2024); *Louisiana v. Callais*, 146 S. Ct. 1131, 1156-57 (2026); *Allen*, 146 S. Ct. at 1381; *Abbott*, 146 S. Ct. at 419. Plaintiffs have not met their “special burden” to “disentangle” Tennessee’s obvious political motivation from some secretly harbored racial motivation. *Callais*, 146 S. Ct. at 1156-57 (quotation marks omitted). Plaintiffs’ motion must be denied.

BACKGROUND

Two years ago, the Supreme Court confirmed that a State may prioritize nonracial considerations in redistricting without being faulted for racial gerrymandering. *Alexan-*

² Ex. 3, Sen. Judiciary Comm. Tr. 6:24-7:2 (May 6, 2026) (Sen. Stevens).

³ *Id.* at 70:7-11 (Sen. Stevens).

der, 602 U.S. at 20-21. And two months ago, the Court again clarified that States may advance their “political goals” in redistricting without being faulted for vote dilution under §2 of the Voting Rights Act. *Callais*, 146 S. Ct. at 1155-57.

A. With those clarifications, Tennessee convened a special session to redistrict in May ahead of the 2026 congressional primary elections in August.⁴ Tennessee Senator Marsha Blackburn called upon the State to enact a “9-0 map,” make Tennessee “America’s conservative leader,” and “cement[] President Trump’s America First agenda.”⁵ The resulting plan did just that. The Legislature replaced Tennessee’s existing 2022 Plan, favoring Republicans in eight districts, with the 2026 Plan, favoring Republicans in all nine districts. *See* Ex. 2, Barber 10, fig. 3 (visualizing partisan lean of 2026 Plan); *see also id.* at 11, fig. 4 (comparing partisan lean).

The Legislature made clear that it shared Senator Blackburn’s political goal. In the words of Senator John Stevens, the bill’s sponsor: “Tennessee is a conservative state,”

⁴ *See* Tenn. Office of the Governor, *Proclamation* (May 1, 2026), <https://perma.cc/2KEE-RQC7>.

⁵ Statement of Sen. Marsha Blackburn, *Redraw Tennessee’s Lines Now, Making Tenn. America’s true conservative leader begins with a new map* (May 1, 2026), <https://perma.cc/ZAQ5-X3RR>.

“congressional representation in Washington should reflect that,” and the new “map ensures” that it does.⁶ As the Senate Majority Leader put it, the “battle for control of Congress is about far more than politics.”⁷ It’s a fight for policymaking, “preserving economic opportunity, protecting our communities, and defending the principles that make this country strong,” “for secure borders, public safety, and responsible government.”⁸

The State also took the opportunity to redistrict without using any racial data.⁹ That was a conscious choice to “reduc[e] the risk of future legal challenges” and “protect[] the state from costly litigation,”¹⁰ like racial gerrymandering challenges brought in Louisiana, *Callais*, 146 S. Ct. 1131, or South Carolina, *Alexander*, 602 U.S. 1.

B. Also as part of the special session, the Legislature repealed a statute prohibiting mid-decade redistricting, modified candidate-qualifying requirements and reopened candidate qualifying, and appropriated \$3.1 million for state and county officials to implement the 2026 Plan. 2026 Tenn. Pub. Chs. 1-4, 2d Extra. Sess. The additional funding

⁶ Ex. 3, Sen. Judiciary Comm. Tr. 6:24-7:1 (Sen. Stevens).

⁷ *Tennessee Political Parties Voice Opinions on Congressional Redistricting Map*, WBBJ TV (May 7, 2026), <https://perma.cc/NW8U-ZNU2>.

⁸ *Id.*

⁹ Ex. 4, House Congressional Redistricting Comm. Tr. 68:1-3 (May 6, 2026) (Speaker Sexton) (“[T]he map that was generated was based on population and politics, no racial data was used, and no incumbents were paired together.”); *id.* at 80:15-18 (Speaker Sexton) (similar); Ex. 5, Sen. Floor Sess., 2d Extra. Sess., 3d Day, Tr. 40:13-15 (Sen. Stevens) (“This map ... modernizes Tennessee’s redistricting process by removing racial data from the map-making process entirely.”).

¹⁰ Ex. 3, Sen. Judiciary Comm. Tr. 69:12-14 (Sen. Stevens); *see also id.* at 68:19-22 (Sen. Stevens) (similar).

paid for overtime and additional staff, expedited vendor services, notices to voters, and training, signage, and voter education. Dodd Decl. ¶13.

The additional funding allowed state and local election officials to fully implement the 2026 Plan and finalize ballots sufficiently in advance of the 2026 primary elections, as federal law requires. *See* Dodd Decl. ¶¶13-16, 19, 21, 24; 52 U.S.C. §20302(a)(8). The Division of Elections made information about the 2026 districts available on its website shortly after the 2026 Plan’s enactment. *Id.* ¶15. Candidates were immediately notified about the revised qualifying deadlines and requirements. *Id.* ¶16. A “voter look-up” function went live on May 7, allowing voters to identify their congressional district simply by typing in their address. *Id.* ¶15.¹¹ The next week, 28 new Democratic, Republican, and Independent candidates qualified to appear on upcoming primary ballots. *Id.* ¶20. Counties worked overtime to implement the 2026 Plan and update more than 1.9 million voter records. *Id.* ¶19. They have already notified tens of thousands of voters, with more to come. *Id.* The state- and federally mandated deadline to send ballots overseas has now passed. *Id.* ¶¶21-24. Counties have already begun programming election equipment in preparation for early voting, beginning July 17. *Id.* ¶26.

C. Plaintiffs sued on May 13, Dkt.1, amended their complaint on June 5, Dkt. 30

¹¹ 2026 Congressional Redistricting: Revised District Boundaries, Tenn. Sec’y of State, <https://perma.cc/FT9X-EH7C>.

("FAC"), and did not move for a preliminary injunction until June 9, Dkt. 31.¹² Plaintiffs claim that the 2026 Plan "was adopted with the purpose of disadvantaging Black voters" in violation of the Fourteenth and Fifteenth Amendments. FAC ¶194.

ARGUMENT

A "preliminary injunction is an extraordinary and drastic remedy." *Enchant Christmas Light Maze & Market Ltd. v. Glowco, LLC*, 958 F.3d 532, 539 (6th Cir. 2020) (quotation marks omitted). Plaintiffs must make a clear showing that they are (1) "likely to succeed on the merits," (2) "likely to suffer irreparable harm," that (3) "the balance of equities tips in [their] favor," and (4) "an injunction is in the public interest." *Id.* at 535-36 (quotation marks omitted). Plaintiffs make no such showing.

I. *Purcell* Precludes Plaintiffs' Extraordinary Request for Preliminary Relief.

Election officials have implemented the 2026 Plan, new candidates have qualified, ballots have been finalized and mailed, and absentee voting has begun. Dodd Decl. ¶¶19, 24. A preliminary injunction, enjoining the use of the 2026 Plan, would make it impossible for the State to conduct the primary elections as scheduled in August. Election officials have worked around the clock to update over 1.9 million voter records; a preliminary

¹² Plaintiffs have not yet served Defendants with a summons. Defendants have not waived the service requirements, and Defendants thus reserve the right to contest the Court's jurisdiction. If Plaintiff does not serve a summons "within 90 days after the complaint is filed" this case "must" be dismissed. Fed. R. Civ. P. 4(m). Absent proper service, this Court lacks jurisdiction to impose injunctive relief. *See Yang v. Shenzhen Hongfangrui Tech. Co.*, No. 23-CV-13001, 2023 WL 8370407, at *1 (E.D. Mich. Dec. 4, 2023) (collecting cases).

injunction would require those officials reassign those 1.9 million voters and revert to the 2022 Plan. *Id.* ¶19. Election officials have finalized ballots with newly qualified candidates; a preliminary injunction would require those officials to revisit which candidates are qualified and in what districts, and re-create and re-approve new ballots. *Id.* ¶21. Election officials have already mailed those ballots overseas, as state and federal law require; a preliminary injunction would make it “impossible” to comply with those laws. *Id.* ¶27. And election officials have already begun preparing for early voting; a preliminary injunction would place early voting “in serious jeopardy.” *Id.*

At this point, reverting to the 2022 Plan is not “feasible without significant cost, confusion, and hardship.” *Merrill*, 142 S. Ct. at 881-82 (Kavanaugh, J., concurring). Time and again, the Supreme Court has cautioned that a State’s redistricting plan cannot be enjoined on the eve of an election. *See, e.g., Allen*, 146 S. Ct. at 1381; *Abbott*, 146 S. Ct. at 419 (2025); *Robinson*, 114 S. Ct. 1171. Just as it was error to upend election preparations in Texas, Alabama,¹³ and Louisiana, it would be error to stop Tennessee’s.

Plaintiffs diminish the State’s interest in an orderly election as mere “administrative convenience” and devote less than a paragraph to *Purcell*. Mem. 18-19. They say that

¹³ Plaintiffs contend Alabama’s 2023 Plan was “longstanding” compared to Tennessee’s “new one.” Mem. 18 n.5. As some of Plaintiffs’ same counsel argued in *Allen*, Alabama’s 2023 Plan has not been used in any election. *Milligan* Resp. at 42, 46, *Allen v. Milligan*, No. 25A1314 (June 1, 2026). Given court orders in that case at the time of the stay, state officials had not even implemented that plan into the State’s election systems. *Id.* at 43. More fundamentally, “States are free to decide for themselves whether last-minute changes to an election are in their best interests.” *Allen*, 146 S. Ct. at 1381.

the State's supposed "discriminatory intent necessarily means that the state has not acted in good faith," and so equity requires an injunction. Mem. 18-19. Those cursory arguments look nothing like the Supreme Court's recent applications of *Purcell*. See, e.g., *Abbott*, 146 S. Ct. at 419. Even where the Court ultimately found fault in a State's redistricting plan, stays have issued. See, e.g., *Merrill*, 142 S. Ct. 879; *Robinson*, 144 S. Ct. 1171; accord *Reynolds v. Sims*, 377 U.S. 533, 585 (1964) (emphasizing federal courts must sometimes stay their hand even in the face of constitutional claims). It follows here—where there is no constitutional violation—a preliminary injunction would offend *Purcell*.

II. Plaintiffs Are Unlikely to Succeed on the Merits.

To prevail on their constitutional vote-dilution claim, Plaintiffs must "prove two elements: a discriminatory *purpose* and a discriminatory *effect*." *Tenn. State Conf. of NAACP v. Lee*, 746 F. Supp. 3d 473, 499 (M.D. Tenn. 2024). "Discriminatory purpose" requires proving the State acted "because of" race, not merely with an "awareness" of racial "consequences." *Pers. Adm'r of Massachusetts v. Feeney*, 442 U.S. 256, 279 (1979) (quotation marks omitted); *Lee*, 746 F. Supp. 3d at 502. Discriminatory effect requires proving districts are not "equally open" or provide "less opportunity" for minority voters. *White v. Regester*, 412 U.S. 755, 766 (1973). That inquiry must account for "the State's combination of permissible criteria," including politics. *Callais*, 146 S. Ct. at 1155-56. Rather than prove

either element here, Plaintiffs prove *political* purpose with a *political* effect on Democrats. That is no basis for a preliminary injunction.¹⁴

A. Plaintiffs cannot prove discriminatory purpose.

It is “plaintiffs’ burden to overcome the presumption of legislative good faith and show” the legislature as a whole “acted with invidious intent.” *Abbott v. Perez*, 585 U.S. 579, 605 (2018). Proving invidious intent requires proving “the legislature drew the maps for a specific purpose (or with a specific intent): ‘to minimize or cancel out the voting potential of’ voters of a certain race or ethnicity.” *Lee*, 746 F. Supp. 3d at 501.

That showing of invidious intent cannot be made with evidence about a law’s effects alone. Some laws might have an “overwhelmin[g]” effect on one group, *Feeney*, 442 U.S. at 260, but that “impact alone is not determinative,” *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266 (1977). Take a “capital-punishment law [that] disparately affects minority defendants,” or a hiring preference for veterans that overwhelmingly favors men. *Lee*, 746 F. Supp. 3d at 502. Plaintiffs must show the legislature acted “‘because of’ this racial effect” or *because of* a desire “to harm women[],” not merely that legislators were aware of these disparate effects. *Id.* at 502. If, more likely, the legislature

¹⁴ As for Plaintiffs’ standing, a plaintiff may challenge only “the boundaries of the particular district in which he resides.” *Gill v. Whitford*, 585 U.S. 48, 66 (2018). A single plaintiff may not obtain “statewide” relief—for instance, an injunction precluding the use of all districts statewide. *Id.* at 66-68, 73. At this stage, Plaintiffs appear to seek relief localized to their challenged districts. See FAC pp.55-56 ¶¶D.

enacted such laws because of a desire “to deter crime” or “to help veterans,” plaintiffs have not proved invidious purpose. *Id.*

Relevant here, redistricting to advance a political goal will have racial effects when “race and partisan preference are highly correlated.” *Alexander*, 602 U.S. at 6; *Callais*, 146 S. Ct. at 1158; *see, e.g., Alexander*, 602 U.S. at 20 (“there is strong evidence that the district’s BVAP of 17% was simply a side effect of the legislature’s partisan goal”). It is undisputed race and party are highly correlated in Tennessee. *See Barber Decl.* 23-33. It would be clear error, transgressing the presumption of good faith owed to legislatures,¹⁵ to conflate Tennessee’s politically motivated redistricting with racially motivated redistricting simply because politically motivated changes to districts might have racial effects too. *See, e.g., Alexander*, 602 U.S. at 10-11; *Callais*, 146 S. Ct. at 1157-58, 1163.

So that a legislature’s stated *political* purpose is not speciously conflated with some allegedly secret racial purpose, redistricting plaintiffs bear a “special burden.” *Callais*, 146 S. Ct. at 1156-57 (quotation marks omitted); *accord Alexander*, 602 U.S. at 11 (requiring the same “especially stringent” evidentiary burden). Where, as here, “a State defends its districting scheme on the ground that it was drawn for partisan purposes,” not racial pur-

¹⁵ That presumption of good faith applies in this vote-dilution case, no less than any other redistricting case. *See Abbott*, 585 U.S. at 603-05; *Lee*, 746 F. Supp. 3d at 504. Courts must “draw the inference that cuts in the legislature’s favor” when evidence “could plausibly support multiple conclusions.” *Lee*, 746 F. Supp. 3d at 494.

poses, plaintiffs must “disentangle” politics and race. *Callais*, 146 S. Ct. at 1156-57 (incorporating *Alexander*, 602 U.S. at 9-11). Plaintiffs may satisfy that “disentanglement burden by offering an alternative map that achieves all the State’s objectives—including partisan advantage and any of the State’s other political goals—at least as well as the State’s map.” *Id.* at 1157. But absent such evidence, and “[i]f either politics or race could explain a district’s contours, the plaintiff has not cleared its bar.” *Id.* at 1157.

Excusing Plaintiffs from that “disentanglement burden,” *id.*, in this vote-dilution case would be error. The Supreme Court just clarified that “special burden” applies in vote dilution cases arising under §2 of the Voting Rights Act—where only “evidence giving rise to a *strong inference* of intentional discrimination is required.” *Callais*, 146 S. Ct. at 1163 (emphasis added). It necessarily follows that in this constitutional case, where evidence *proving* intentional discrimination is required, Plaintiffs bear at least the same burden. *See id.* at 1157, 1163. Indeed, since *Callais*, the Supreme Court’s stay in *Allen* faulted the district court for preliminarily enjoining Alabama’s congressional plan without holding Plaintiffs to that burden for “both claims,” including a claim of unconstitutional discrimination: “[A]s to *both claims*, the District Court’s analysis departed from *Callais*. Under *Callais*, the District Court was required to deny relief unless the plaintiffs’ alternative map

performed ‘just as well’ with respect to all of the State’s constitutionally permissible districting criteria.” *Allen*, 146 S. Ct. at 1381 (emphasis added) (quoting *Callais*, 146 S. Ct. at 1156).¹⁶

Nor is there any reason to think Plaintiffs’ disentanglement burden is any less “stringent” than it would be in a racial gerrymandering case. *Alexander*, 602 U.S. at 11. Plaintiffs suggest (at 6) that their burden is relaxed because they “need not show that race was the sole or predominant factor,” unlike racial gerrymandering cases. Compare *Alexander*, 602 U.S. at 7-8, with *Hunter v. Underwood*, 471 U.S. 222, 228 (1985) (requiring race to be a “substantial or motivating factor” for intentional discrimination). While the claims are “analytically distinct,” *Alexander*, 602 U.S. at 38, both arise from the same Fourteenth Amendment, both require Plaintiffs to overcome the presumption of good faith, and both require proof of a racial purpose, not simply racial “side effect[s].” *Id.* at 9-11, 20; *Lee*, 746 F. Supp. 3d at 502; *Abbott*, 585 U.S. at 605. Both require Plaintiffs to mind “[t]he distinction between being *aware* of racial considerations and being *motivated* by them.” *Miller v. Johnson*, 515 U.S. 900, 916 (1995) (emphasis added) (citing *Feeney*, 442 U.S. at 279). And as

¹⁶ Plaintiffs contend that reference to *Callais* in *Allen* “reflected the intertwining of the Section 2 and constitutional claims.” Mem. 5 n.3. But here—little different than plaintiffs’ request for an additional majority-minority district in *Allen*—Plaintiffs fault the 2026 Plan for “dismantling the state’s only majority Black congressional district.” Mem. 1. And here—like *Allen*—Plaintiffs must account for “the State’s constitutionally permissible districting criteria” before divining a racial motivation. *Allen*, 146 S. Ct. at 1381.

Alexander observed, Plaintiffs' burden is *more* demanding in the following way: "A plaintiff pressing a vote-dilution claim cannot prevail simply by showing that race played a predominant role in the districting process. Rather, such a plaintiff must show that the State enacted a particular voting scheme as a purposeful device to minimize or cancel out the voting potential of racial or ethnic minorities." 602 U.S. at 38. That is, Plaintiffs must prove the legislature as a whole acted "*because of*" a plan's racial impact, not merely "in spite of" it. *Feeney*, 442 U.S. at 279. Here, just as in a racial gerrymandering case, Plaintiffs cannot prevail with their arguments based on the racial effects of redistricting alone. *Id.*; accord *Alexander*, 602 U.S. at 20.

Anything less would not "hold[] the plaintiffs to their burden of overcoming the presumption of good faith and proving discriminatory intent." *Abbott*, 585 U.S. at 605. It is the presumption of good faith that demands disentangling race from politics. *Alexander*, 602 U.S. at 11. Just as for other types of redistricting claims, litigants cannot prove racial purpose with proof of only political purpose, lest federal courts become "a tool for advancing a partisan end," *Callais*, 146 S. Ct. at 1163, or "weapons of political warfare," *Alexander*, 602 U.S. at 11 (quotation marks omitted).

1. The 2026 Plan was politically motivated, not racially motivated.

All evidence in this case points to a *political* purpose, not any racial purpose. The stated "intent" was to send nine Republicans to Washington and ensure "a Republican majority" in the U.S. House. *Supra* pp.2-4. The resulting 2026 Plan favors Republicans in

all nine districts by at least a 7-point margin (measured by past election results). Barber Decl. 10-11. The 2026 Plan effectuates that Republican advantage by spreading the State’s two most populous and most Democratic counties—Davidson and Shelby County—across three districts “and joining them with Republican voters in the more suburban and rural counties of the state.” *Id.* at 9-12.

Far from any “express acknowledgment that race played a role in the drawing of district lines,” *Alexander*, 602 U.S. at 8, legislators emphasized that they *removed* racial data from the process. *Supra* p.4. They did so to mitigate litigation risk. *Id.* That was no hypothetical concern after other States faced costly litigation for claims that they used race *too much* in recent redistricting legislation. *Callais*, 146 S. Ct. 1131; *Alexander*, 602 U.S. 1. It was “entirely reasonable and certainly legitimate” for Tennessee to take the opportunity to redistrict without racial data and thereby mitigate “expensive and time consuming” litigation. *Abbott*, 585 U.S. at 608. In the Speaker’s words, the Legislature considered only “population and politics.” *Id.* The allegations in Plaintiffs’ own complaint confirm that *political* motivation. See FAC ¶¶5, 75; see also *id.* ¶¶12, 20, 23, 114, 121, 156-57, 159.

The timing of redistricting, after *Callais*, is not the smoking gun Plaintiffs contrive. E.g., Mem. 2 (“The sole predicate for redistricting was the just-issued *Callais* decision[.]”). Before *Callais*, uncertainty prevailed about whether States could advance nonracial redistricting priorities, including politics, without being faulted for unintended vote dilution under §2 of the VRA. See, e.g., *Allen v. Milligan*, 599 U.S. 1 (2023) (affirming Alabama likely

violated §2 by failing to draw an additional majority-minority district in its 2021 congressional plan); *see Merrill*, 142 S. Ct. at 882-83 (Roberts, C.J., dissenting) (“it is fair to say that *Gingles* and its progeny have engendered considerable disagreement and uncertainty regarding the nature and contours of a vote dilution claim”). After *Callais*, it is now clear that States may advance their political goals and not have them mistaken for unlawful vote dilution. *See Callais*, 146 S. Ct. at 1155-57. With that clarification, Tennessee advanced its political goal of enacting the “9-0 map” that Senator Blackburn and others said was essential to preserving a Republican majority in Congress. *Supra* pp.3-4. Only in the upside-down world could Tennessee be faulted for invidious discrimination by advancing that political goal and redistricting without racial data, all to mitigate accusations that the State used race *too much*. *Supra*, pp.2-4.

2. Plaintiffs’ proffered evidence is not evidence of racial motivation.

Despite Tennessee’s open and obvious political motivation, Plaintiffs contend the Legislature harbored a secret and sufficiently “substantial or motivating” racial purpose. *Hunter*, 471 U.S. at 225. The evidence offered comes nowhere close. At every step, Plaintiffs presume bad faith. They contort a single legislator’s floor colloquy into a tacit admission that legislators used race. Mem. 4, 12. They divine invidious intent from a single legislator’s NPR interview. Mem. 8. And their remaining evidence offered as evidence of racial purpose under *Arlington Heights*, Mem. 13-17, has already been rejected as too thin a reed upon which to find racial purpose. *See Lee*, 746 F. Supp. 3d at 505-06.

a. Using census data is not evidence of discrimination.

Plaintiffs fault legislators for admitting they used “only Census data” to redistrict. Mem. 4, 12. Tennessee’s legislators *must* have used race as a proxy for partisanship, so goes their theory, because Census data contains racial data but not past election returns. *Id.* at 12. That’s a textbook example of presuming bad faith. *See Abbott*, 146 S. Ct. at 419 (finding “the District Court failed to honor the presumption of legislative good faith by construing ambiguous direct and circumstantial evidence against the legislature”). Plaintiffs’ narrative ignores repeated statements that the Legislature redistricted based on “population and politics” and advanced a political goal without even consulting racial data. *See supra*, pp.2-4. If the presumption of good faith means anything, it means presuming these statements were true. *See Alexander*, 602 U.S. at 36.

On Plaintiffs’ theory, the smoking gun is a floor colloquy between Representatives Clemmons and Zachary. Mem. 4. Rep. Clemmons asked Rep. Zachary whether “the census data was the sole basis for drawing these lines for 2020.” Ex. 6, House Floor Sess., 2d Extra. Sess., 3d Day, Tr. 88:7-13 (Rep. Clemmons). Rep. Zachary responded, “Yes, it is my understanding that the census was used to draft the map further based on the population.” *Id.* at 88:17-18. According to Plaintiffs (at 4), Rep. Zachary’s response is an admission “that the Census was the *only* data” used and puts the lie to legislators’ statements that they considered politics without racial data.

The more straightforward reading is less exciting: Rep. Zachary simply affirmed the questioner's statement that "census data" informed the "numbers" —*i.e.*, the population figures to create equally populated districts. *Id.* at 88:7-13. That interpretation is consistent with statements from Rep. Zachary and others that the Legislature relied on both "the census population related to the last census" *and* "politics" to produce the 2026 Plan, while filtering off racial data. *Id.* at 94:17-20; *supra*, pp.3-4.¹⁷ And that interpretation avoids the remarkable presumption that legislators acted in bad faith, lying about their political motivations to such a degree that "the legislature as an institution" was secretly motivated by race. *Callais*, 146 S. Ct. at 1156; *see also Lee*, 746 F. Supp. 3d at 504 (emphasizing presumption of good faith). At worst, Rep. Zachary's response is ambiguous and "supports multiple conclusions," in which case the presumption of legislative good faith requires the Court to "'draw the inference that cuts in the legislature's favor.'" *Lee*, 746 F. Supp. 3d at 494; *see, e.g., Abbott*, 146 S. Ct. at 419.

¹⁷ Plaintiffs assert (at 4) that the State could not consider politics because Tennessee voters do not register by party. As Dr. Barber's entire declaration illustrates, the political lean of districts is best measured using past election results, not voter-registration data. *See Barber Decl.* 5 & n.3 ("Election indices are also superior to alternative measures, such as the number of registered voters of a particular party in a district," including because "election results capture actual behavior and political preferences").

b. An NPR interview is not evidence of discrimination.

Plaintiffs argue they have “direct evidence” of discrimination from an NPR interview with Senator Brent Taylor. Mem. 8. They say the Senator’s statement—that new districts “look like Tennessee rather than just a simply large urban core district like the old district 9 was”—amounts to an admission of racial purpose. *Id.* In their expert’s view, the statement is “racially coded.” Dkt. 31-5 at 11 (Burch). For starters, a “racially coded” statement is, by definition, *not* an “[o]utright admission[] of impermissible racial motivation,” *Hunt v. Cromartie*, 526 U.S. 541, 553 (1999); *see, e.g., Brnovich v. Democratic Nat’l Comm.*, 594 U.S. 647, 688 (2021) (affirming district court’s finding that a “‘racially-tinged’ video” was not evidence “that the legislature as a whole was imbued with racial motives”). It violates the presumption of good faith to construe a passing statement about an “urban” district as evidence of racial animus. *See Abbott*, 146 S. Ct. at 419. At worst, that single passing statement from a single legislator’s NPR interview is an ambiguous statement that cannot be construed against the Legislature as a whole. *Id.*; *Brnovich*, 594 U.S. at 689 (rejecting “‘cat’s paw’ theory” for legislatures); *see also United States v. O’Brien*, 391 U.S. 367, 384 (1968).

c. Plaintiffs' remaining circumstantial evidence is not evidence of discrimination under *Arlington Heights*.

Plaintiffs' check-the-box approach to the *Arlington Heights* factors does not support a finding of intentional discrimination. Mot. 8, 13-17. The three-judge court in *Lee*, involving the same Plaintiff's challenge to Nashville-area districts, already rejected the bulk of these arguments. 746 F. Supp. at 504-06. The remainder fare no better.

Historical Background. Plaintiffs, along with Dr. McKinney (Dkt. 31-5) and Dr. Burch (Dkt. 31-6), scour the State's history for examples of past discrimination. These examples provide "little probative value." *McCleskey v. Kemp*, 481 U.S. 279, 298 n.20 (1987). Plaintiffs further purport to identify history more "'contemporaneous with the challenged decision.'" Mem. 14. But they muster only "a mix of laws, bills, or statements that have little to do with redistricting." *Lee*, 746 F. Supp. 3d at 505. They recycle allegations about the Legislature's "resolution to expel two Black representatives," FAC ¶168; Burch Decl. 5—the same allegations that *Lee* already deemed insufficient to show discriminatory purpose. 746 F. Supp. 3d at 506. They fault a "takeover" of Memphis schools, an audit of the Shelby County District Attorney's Office, the delayed removal of statues, and "police reform" all as evidence of racial discrimination for the 2026 Plan. Mem. 15; see FAC ¶¶170-75, 178. Plaintiffs' arguments on these "unrelated topics do not plausibly suggest that the whole legislature passed the legislative maps to discriminate against racial minorities." *Lee*, 746 F. Supp. 3d at 506. Nor is Plaintiffs' disagreement with the State's felon disenfranchisement law or voting-related litigation in a single county, Mem. 15,

sufficient to prove discriminatory purpose. *See, e.g., League of Women Voters of Fla. Inc. v. Fla. Sec’y of State*, 66 F.4th 905, 922-24 (11th Cir. 2023) (finding similar evidence insufficient); *GBM v. Sec’y of State of Ala.*, 992 F.3d 1299, 1325 (11th Cir. 2021); *see also Abbott*, 585 U.S. at 603-05 (emphasizing plaintiffs’ burden to overcome the presumption of good faith, even in a case involving a finding of past discrimination, and prove discriminatory intent of the whole “Legislature”). Plaintiffs must prove “the legislature as an institution was motivated by race,” which requires more than allegations about “individual member[s],” or past individual members, or county lawmakers. *Callais*, 146 S. Ct. at 1156.

Sequence of Events. The sequence of events confirms the 2026 Plan’s *political* purpose, not a racially “invidious” one. *Lee*, 746 U.S. at 503. The Governor called upon the Legislature to redistrict in time for the midterms, *supra* p.3 n.4, like other States. *See, e.g., Abbott*, 146 S. Ct. at 419; *see* Ex. 3, Sen. Judiciary Comm. at 62:6-20 (Sen. Stevens) (describing New York and California mid-decade redistricting). Explained above, the State’s waiting until after *Callais* to redistrict does not remotely “announce an intent to discriminate,” *contra* Mem. 7. It was “entirely reasonable” for the State to avoid “expensive and time consuming” litigation, *Abbott*, 585 U.S. at 608, which was all but certain to ensue before *Callais* clarified the State could redistrict to advance a political goal without being faulted for an unintended §2 violation. *See supra*, pp.14-15.

Procedural and Substantive Departures. Plaintiffs argue that the speed of the 2026

redistricting and the Legislature's repeal of a statutory prohibition on mid-cycle redistricting suggest intentional discrimination. Mem. 16; Burch Decl. 6-7. But the "'brevity of the legislative process' in creating maps does not 'overcome the presumption of legislative good faith'—at least when the legislature had a good reason for the shortened process." *Lee*, 746 F. Supp. 3d at 504-05 (quoting *Abbott*, 585 U.S. at 610-11). The timing is just as well explained by politics—acting before the midterm elections to shore up Republicans' chances of keeping the majority—not race. *Supra* pp.2-4. Tennessee, just like other States, initiated the redistricting "[w]ith an eye on the upcoming 2026 midterm elections." *Abbott*, 146 S. Ct. at 419. That's a political motivation, not a racial one.

3. Plaintiffs' experts do not disentangle race and politics.

Rather than "disentangle" Tennessee's stated political motivations, *Callais*, 146 S. Ct. at 1157, Plaintiffs conflate that lawful political motivation with an unlawful racial motivation, without any evidence for the latter. Plaintiffs' experts purport to show that the 2026 Plan "intentionally deprives Black voters of the opportunity to elect candidates they prefer." Mem. 8. These experts' analyses suffer a common problem: They never "disentangle race from politics," *Callais*, 146 S. Ct. at 1157, so as to "'rule out the possibility' that the legislators acted for political—not racist—reasons," *Lee*, 746 F. Supp. 3d at 504. As for Dr. Moon Duchin's alternative maps "targeting party," Dkt. 30-4 at 5-6, they are useless comparators. They come nowhere close to achieving "partisan advantage ... at least as well" as the 2026 Plan. *Callais*, 146 S. Ct. at 1157; *see* Barber Decl. 15-24.

Dr. Liu. Dr. Liu does nothing more than show that black voters tended to support Democrats while white voters tended to support Republicans in past general elections. Dkt. 31-1. This supposed “racially polarized voting” analysis merely shows that race and politics are correlated. *See* Barber Decl. 27-28. “[T]he mere fact that voters of different races vote for different parties is not relevant to proving racially polarized voting patterns.” *Allen*, 146 S. Ct. at 1381. Yet Dr. Liu never “tests whether the estimated racial polarization is distinct from partisan voting.” Barber Decl. 27. His analysis thus cannot “rule out the possibility” that politics rather than race drove the redistricting. *Lee*, 746 F. Supp. 3d at 504; *see also Callais*, 146 S. Ct. at 1156-57.

Mr. Fairfax. Plaintiffs assert Mr. Fairfax showed that splitting Shelby County across districts “evinces an *intent* to reduce the BVAP” and deny opportunity. Mem. 9 (emphasis added) (citing Dkt. 31-2). But splitting Shelby County—consistent with how the 2026 Plan splits Davidson County too—can just as well be understood as a partisan design to divide “the state’s two largest concentrations of Democratic voters” roughly into thirds, “combining portions of those counties with more Republican areas.” Barber Decl. 9, 12-13 & fig. 5. Mr. Fairfax does not disentangle that political explanation from Plaintiffs’ racial one. *Contra Callais*, 146 S. Ct. at 1156-57. Nowhere in his 120-page report does Mr. Fairfax even mention “Republican” or “Democrat” partisan advantage. *See* Dkt.

31-2. “In light of the presumption of legislative good faith,” that unrebutted “possibility” of partisan explanation is “dispositive.” *Alexander*, 602 U.S. at 20.¹⁸

Dr. Duchin. Plaintiffs rely on Dr. Duchin to disentangle race from politics and conclude the 2026 Plan “cannot be explained by the State’s partisan motives,” Mem. 8 (citing Dkt. 31-4).¹⁹ According to Plaintiffs, Dr. Duchin’s party-targeted simulations “closely approximate the partisan advantage in the 2026 Plan,” but her race-targeted simulations “approximated the racial demographics of the 2026 plan.” Mem. 11-12 (concluding that “the use of racial targets was much more likely than partisan targeting”).

The description of Dr. Duchin’s partisan simulations is breathtaking. They do not “closely approximate” the 2026 Plan’s partisan advantage. *Contra* Mem. 11; Dkt. 31-4 at 5 (claiming simulations to have “Republican advantage to levels similar to the 2026 Plan”). They miss the mark every single time. Even using Dr. Duchin’s methodology—cherry-picking a single election without also considering “closer contests” to measure districts’ partisan lean—*not a single one* of millions of “partisan targeted” plans has a Republican advantage as strong as the 2026 Plan. Barber Decl. at 19-24. And for those closer election

¹⁸ Mr. Fairfax’s criticisms (Mem. 9) of the 2026 Plan’s performance compared to the 2022 Plan on compactness, political subdivision splits, and communities of interest splits show, if anything, that the State prioritized *politics* over these criteria—a “constitutionally permissible” goal. *Callais*, 146 S. Ct. at 1156.

¹⁹ Plaintiffs cite the Supreme Court’s favorable treatment of Dr. Duchin’s methodology in Alabama’s earlier case at the Supreme Court. Mem. 11. They omit that she has since been faulted for failing to proffer an “alternative map would not perform just as well as to the State’s constitutionally permissible criteria.” *Allen*, 146 S. Ct. at 1381.

years, Dr. Duchin created millions of maps that might elect eight Republicans and one Democrat—an exercise resembling the 2022 Plan, not the 2026 Plan. *Id.* at 23 (observing “every filtered partisan-targeted simulation has at least one district in which the Republican two-party share falls below 50%” using the 2018 Senate election, while the “enacted map keeps all nine districts on the Republican side even in [that] Democratic favorable statewide election”). Relief must be denied absent an “alternative map [that] performed ‘just as well’” with the State’s 9-0 political goal. *Allen*, 146 S. Ct. at 1381; *see also, e.g., Abbott* 146 S. Ct. at 419 (faulting district court for preliminarily enjoining use of Texas congressional districts without requiring plaintiffs to “produce a viable alternative map that met the State’s avowedly partisan goals”).

The conclusion offered for Dr. Duchin’s race-based simulations is just as bad. Plaintiffs say race *must* have motivated the 2026 Plan because her race-based simulations “approximated [the plan’s] racial demographics.” Mem. 11. But that exercise was entirely circular. Barber Decl. 26. She *told* the algorithm to approximate the 2026 Plan’s racial demographics. Barber Decl. 26.²⁰ If such “circularity,” *id.*, were a valid method of showing racial intent, any plaintiff “could simply reverse-engineer” simulations designed to mirror the map’s racial demographics and then argue that, because the simulations were

²⁰ What is more, the maps Dr. Duchin produced through her “race-targeted method” (Mem. 11) also fail to achieve the 2026 Plan’s partisan advantage, *see* Barber Decl. 26, further undermining her “conclu[sion] that the use of racial targets was much more likely than partisan targeting,” Mem. 12.

race-motivated, the enacted map must be too, *Alexander*, 602 U.S. at 21. The presumption of legislative good faith “cannot be evaded with such ease.” *Id.*

B. Plaintiffs have not established any discriminatory effect.

How to prove “discriminatory effect” before *Callais* was murky. *See Lee*, 746 F. Supp. at 499. *Callais* cleared things up. The Court clarified what constitutes an unlawful effect under §2—in particular, how Plaintiffs prove districts are not “equally open” and provide “less opportunity” for minority voters. *Callais*, 146 S. Ct. at 1154-60. That clarification necessarily applies in this constitutional vote-dilution case too. Section 2’s statutory language comes “almost verbatim” from *White v. Regester*, 412 U.S. 755 (1973). *Callais*, 146 S. Ct. at 1144-45. And plaintiffs in *White* claimed unconstitutional vote dilution, 412 U.S. at 765, like Plaintiffs claim here. The Court required plaintiffs to show districts were not “equally open” and provided “less opportunity” for minority voters to participate. *Id.* at 766. *Callais* just clarified those same terms, bringing §2 in line with the Constitution. 146 S. Ct. at 1155-56. Before concluding districts provide “less opportunity,” Plaintiffs must account for the State’s “permissible criteria,” “including partisan advantage.” *Id.* at 1154-55, 1157. But here, Plaintiffs do not disentangle the 2026 Plan’s political effect from a racial one. *Supra*, Part II.A.3. While they show that black voters in the challenged area “overwhelmingly” favor Democrats, Mem. 10, they have shown nothing more than the obvious: that the 2026 Plan affects Democrats as a whole. *But see Callais*, 146 S. Ct. at 1154-

55. There is no “clear showing” required for the “extraordinary and drastic remedy” they seek. *Glowco*, 958 F.3d at 539.

III. The balance of the equities and public interest do not favor Plaintiffs.

Plaintiffs’ lack of any “likelihood of success on the merits” is “usually fatal.” *Gonzales v. Nat’l Bd. of Med. Exam’rs*, 225 F.3d 620, 625 (6th Cir. 2000). Especially so here, where the balance of the equities and public interest is so strongly in Defendants’ favor. Because Defendants are government officials, these factors “merge.” *Wilson v. Williams*, 961 F.3d 829, 844 (6th Cir. 2020). It is “in the public interest” to enforce the State’s democratically enacted laws, *Thompson v. DeWine*, 976 F.3d 610, 619 (6th Cir. 2020), and “any time” such a law is enjoined, the State “suffers a form of irreparable injury,” *Lichtenstein v. Hargett*, 489 F. Supp. 3d 742, 787 (M.D. Tenn. 2020) (cleaned up). The “inability” to conduct elections under a “duly enacted” redistricting plan “clearly inflicts irreparable harm” on the State. *Abbott*, 585 U.S. at 602 n.17. All the more here, where a preliminary injunction will stop the State’s “ongoing efforts to conduct its imminent 2026 congressional elections under maps that its elected representatives selected.” *Allen*, 146 S. Ct. at 1381. Reverting to the 2022 Plan this close to Tennessee’s primary elections is nothing short of impossible. *Supra*, Part I.

CONCLUSION

For all these reasons, the Court should deny Plaintiffs’ motion.

Dated: June 23, 2026

Respectfully submitted,

JONATHAN SKRMETTI
Attorney General and Reporter

/s/ Zachary L. Barker
ZACHARY L. BARKER (BRP #035933)
Senior Assistant Attorney General

ANDREW DENNING (BPR #042208)
Assistant Attorney General
Office of the Tennessee Attorney General
P.O. Box 20207
Nashville, Tennessee 37202-0207
Phone: (615) 532-7400
Zachary.barker@ag.tn.gov
Andrew.denning@ag.tn.gov
(615) 532-4098

TAYLOR A.R. MEEHAN (PHV forthcoming)
BRYAN K. WEIR (PHV forthcoming)
THOMAS A. WILSON (PHV forthcoming)
SOREN GEIGER (PHV forthcoming)
Consovoy McCarthy PLLC
1600 Wilson Blvd., Suite 700
Arlington, VA 22209
taylor@consovoymccarthy.com
bryan@consovoymccarthy.com
orogers@consovoymccarthy.com

Counsel for Defendants

CERTIFICATE OF SERVICE

I certify that the foregoing Notice was filed electronically on June 23, 2026. A true and correct copy of that filing was forwarded via the Court's CM/ECF system upon the following:

Van Davis Turner, Jr.
Turner Field, PLLC
2650 Thousand Oaks Boulevard
Ste 2325
Memphis, TN 38118
901-290-6610
Fax: 901-290-6611
Email: vturner@turnerfeildlaw.com

/s/ Zachary L. Barker
ZACHARY L. BARKER
Senior Assistant Attorney General