No. 23A1142

In the Supreme Court of the United States

NANCY LANDRY, SECRETARY OF STATE OF LOUISIANA, *et al.*,

Applicants,

v.

PHILLIP CALLAIS, *et al.*,

Respondents.

RESPONSE TO JOINT APPLICATION FOR EXTENSION OF TIME TO FILE JURISDICTIONAL STATEMENTS

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To the Honorable Samuel A. Alito, Jr., as Circuit Justice for the United States Court of Appeals for the Fifth Circuit:

Respondents Phillip Callais, Lloyd Price, Bruce Odell, Elizabeth Ersoff, Albert Caissie, Daniel Weir, Joyce Lacour, Candy Carroll Peavy, Tanya Whitney, Mike Johnson, Grover Joseph Rees, and Rolfe McCollister, respectfully oppose the Joint Application for Extension of Time to File Jurisdictional Statements ("Application"). Such extensions are disfavored. The Applicants do not apparently need any extension for timing purposes. They otherwise fail to demonstrate good cause: the Applicants' completely distinct complaints with the district court's various decisions will not be more efficiently handled in a single briefing schedule. The two State-related Applicant-Defendants (the State itself and the Secretary of State), who alone have standing on the merits, already share the same deadline, which is still several weeks away. The two sets of Intervenor-Applicants either lack standing to raise their appeals, or their appeals are moot, or their intervention-related issues will never need to be reached once the State's merits-based issues—which can be resolved earlier—are decided. In short, forcing the Respondents to brief each distinct group of issues all at once just intensifies Respondents' workload. It benefits no one. But it will cause over a month of needless delay. And delay is the first step towards re-creating the very *Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam), problem the State used to justify keeping its racially gerrymandered map in place for the 2024 elections.

Background

1. Respondents prevailed on their racial gerrymandering claim against Louisiana's congressional map, enacted under Louisiana SB8, in the district court.

On April 30, 2024, after the liability phase of trial, the district court found that Louisiana had egregiously gerrymandered its population in an unlawful effort to create a second Black-majority district, and enjoined the State of Louisiana from using that gerrymandered map.

2. The district court had planned to issue its remedial map roughly two weeks ago (earlier this month), but on May 15, 2024, this Court granted a Stay under *Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam), based on the State's representations that (1) an early-June remedy would come too close to the November 2024 elections, and (2) it was prepared to prosecute its direct appeal in this Court.

3. The district court has complied with the Stay. Louisiana is currently without a congressional map and will use the gerrymandered map during the 2024 congressional election. Pursuant to this Court's Stay, and unless or until jurisdictional statements are filed and the decision below is affirmed, the district court cannot proceed to the remedial phase of the trial to adopt a new map. Those proceedings will require additional evidence and briefing from the parties. The appeal of the injunction currently before this Court, the remedial proceedings in the district court, and any appeal of the remedial map seeking injunctive relief could take a significant amount of time and must conclude before the final map arrives on the Secretary of State's desk for implementation.

4. While the 2026 congressional election may seem far off, the Secretary of State's deadlines loom on the horizon. On information and belief, the Secretary may need a final map for the November 2026 election as early as October 2025.

Accordingly, the *Purcell* problem of the 2024 election could recur for the 2026 election absent resolution well in advance. Once more, Respondents could vote under an unconstitutionally racially gerrymandered map that sorts them based on race and establishes an unlawful racial quota of two majority-Black districts at the expense of other traditional criteria. An extension of time to file thereby prejudices Respondents.

Reasons to Deny the Extension

Applicants have failed to show cause. "An application to extend the time to file a jurisdictional statement is not favored." Supreme Court Rule 18.3. Accordingly, an application for such an extension requires "good cause." *Id*. As an initial matter, the Applicants do not seriously suggest that they are facing any timing or workload problems out of the ordinary course.

Beyond this, Applicants fail to show good cause to obtain this disfavored relief. They argue that the Court should extend the deadline for all parties to file to August 7—over a week after the current deadlines for any of the Applicants (and a month after the deadlines for three of the four sets of Applicants, including the key State Applicants)—to create a parallel briefing schedule. This is a clever request that avoids the appearance of seeking delay, but addresses no real need and streamlines nothing.

The Applicants have unique interests and distinct issues for appeal. Critically, only the State and Secretary of State have standing to appeal the district court's order on the merits. *Va. House of Delegates v. Bethune-Hill*, 139 S. Ct. 1945, 1951 (2019); *Hollingsworth v. Perry*, 570 U.S. 693, 705-07 (2013). They already share the same

deadline, which is still several weeks away. The merits issues which they alone can raise will resolve this entire matter. These issues will already be briefed together.

The other two sets of Applicants are the Robinson Intervenors (who did participate at trial, but only as permissive intervenors) and the Galmon Intervenors (who did not participate at trial, but were later granted leave to participate in the now-stayed remedial phase). Each set of Intervenor-Applicants claims to have distinct complaints about the timing of, and their participation in, the liability phase. The Court need not reach these issues if they are moot, and there are no live issues regarding their participation in the remedial phase, which, assuming the remedial phase was to proceed, would now be assured. Regardless, Respondents will need to address each of all four Applicants' separate Jurisdictional Statements separately. A consolidated briefing schedule aids no one, but does intensify the workload for Respondents and, as noted above, achieves a stealth delay of the proceedings.

Moreover, if the goal is merely to consolidate briefing, it is unclear why the Court should grant all Applicants an extension—rather than simply requiring them to file on the same pre-existing deadline, such as the two State Applicants' current deadline. Yet the proposed extension delays briefing for all of them—and for the Robinson Intervenors, the State, and the Secretary of State (the only Applicants who participated in the liability phase as parties) by a month or more.

Finally, the extension to August 7 is supposedly to accommodate the July 29th deadline for the very Intervenor-Applicants (the Galmons) whose reasons for appeal are the most tenuous. The Galmons weren't parties at trial. They have no standing

to "appeal" the decision on the liability phase. As noted above, they will be participating in any remedial phase, raising the question of why their complaint about intervention is not moot. Further, the Galmons continue to hedge their bets by maintaining an appeal in the Fifth Circuit (even *after* filing a notice that they would be appealing to this Court) on the *same* denial of intervention which supposedly will justify their filing of a jurisdictional statement here. For all of those reasons, the Galmons' late response deadline—should they even decide to file a jurisdictional statement, perhaps after watching how their bet plays out in the Fifth Circuit—cannot be the tail that wags the dog for all of the other Applicants.

The Respondents respectfully request that this Court deny the Application.

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