Nos. 24-109, 24-110

IN THE

Supreme Court of the United States

STATE OF LOUISIANA,
Appellant,
v.
PHILLIP CALLAIS, ET AL.,
Appellees.

PRESS ROBINSON, ET AL.,
Appellants,
v.
PHILLIP CALLAIS, ET AL.,
Appellees.

On Appeal from the United States District Court for the Western District of Louisiana

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QUESTIONS PRESENTED

1. Did the district court err in concluding that Louisiana's Congressional District 6 is an unconstitutional racial gerrymander?
2. Did the district court err in requiring that the Legislature's enacted map satisfy the first *Gingles* precondition to survive strict scrutiny?
3. Did the district court err in depriving the Legislature of sufficient breathing room to account for political considerations that resulted in a less compact district than necessary to satisfy §2 of the Voting Rights Act?
4. Did the district court err in relying on extra-record evidence and ignoring the evidence in the record on SB8's respect for communities of interest in concluding that SB8 failed to satisfy strict scrutiny?
5. Did the district court abuse its discretion by unnecessarily expediting the proceedings in this complex, fact-intensive case?

PARTIES TO THE PROCEEDING

Appellants are Press Robinson, Edgar Cage, Dorothy Nairne, Edwin René Soulé, Alice Washington, Clee Earnest Lowe, Martha Davis, Ambrose Sims, Davante Lewis, the Louisiana State Conference of the NAACP, and Power Coalition for Equity and Justice. Appellants were Intervenor-Defendants below.

Appellees are Phillip Callais, Bruce Odell, Elizabeth Ersoff, Albert Caissie, Daniel Weir, Joyce Lacour, Candy Carroll Peavy, Tanya Whitney, Mike Johnson, Grover Joseph Rees, Rolfe McCollister, and Lloyd Price. Appellees were Plaintiffs below.

The Defendant below was Nancy Landry in her official capacity as Louisiana Secretary of State.

Additional Intervenor-Defendants below were the State of Louisiana (together with Secretary Landry, "State Defendants"); and, with respect to the remedial phase, Edward Galmon, Sr., Ciara Hart, Norris Henderson, and Tramelle Howard, and Ross Williams ("*Galmon* Intervenors").

RULE 29.6 DISCLOSURE STATEMENT

The Louisiana State Conference of the NAACP is a nonprofit membership organization. There are no parents, subsidiaries and/or affiliates of the Louisiana State Conference of the NAACP that have issued shares or debt securities to the public.

Power Coalition for Equity and Justice is a nonprofit coalition of community organizations. There are no parents, subsidiaries and/or affiliates of the Power Coalition for Equity and Justice that have issued shares or debt securities to the public.

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INTRODUCTION

After the district court and two panels of the Fifth Circuit unanimously concluded in *Robinson v. Ardoin* that Louisiana's 2022 congressional redistricting plan ("HB1") likely violated §2 of the Voting Rights Act ("VRA"), Louisiana redrew its congressional map to create an additional district that would provide Black Louisianians an equal opportunity to elect candidates of their choice. Although it could have adopted one of the illustrative maps offered in *Robinson*, which that court found were reasonably configured and were not drawn in a racially predominant manner, Louisiana exercised its redistricting prerogative to draw a different plan that "reflect[ed] the State's policy judgments on where to place new districts and how to shift existing ones." *Perry v. Perez*, 565 U.S. 388, 393 (2012). Louisiana's Legislature and Governor devised a map ("SB8") that balanced several political and policy goals: safeguarding certain members of Louisiana's powerful congressional delegation; preserving two districts in north Louisiana for favored incumbents; protecting commercial and community interests along the Red River corridor; and resolving the pending §2 litigation. In so doing, the Legislature sought to avoid a court-imposed map that was unlikely to reflect its policy priorities. SB8's new majority-Black district ("CD6") drew more than 70% of its population from the same areas where the *Robinson* court had identified racial vote-dilution, but achieving Louisiana's goals required the district to take a less compact form than the *Robinson* illustrative maps and include areas in northwest rather than northeast Louisiana.

Contravening the bedrock principle that "[r]edistricting is 'primarily the duty and responsibility of the State.'" *Perry*, 565 U.S. at 392 (citation omitted), a divided

three-judge district court held that Louisiana's effort to prioritize nonracial political and policy considerations, in the context of drawing a §2-compliant map, amounted to a racial gerrymander. In ruling that race predominated in the design of CD6, the panel majority failed to hold Appellees to their demanding burden of "ruling out the competing explanation that political considerations dominated the legislature's redistricting efforts" by proving that race "*drove* a district's lines." *Alexander v. S.C. State Conf. of the NAACP,* 602 U.S. 1, 9-10 (2024) (emphasis in original). Instead, the majority started from the erroneous premise that the Legislature's decision to create an additional opportunity district for Black voters necessarily constituted racial predominance, regardless of the Legislature's good-faith (and undisputed) political reasons for configuring CD6 the way it did. In so doing, the panel ignored this Court's guidance that the intentional creation of a majority-minority district is not in itself proof of racial predominance, and that states may consider "racial data" for the "lawful purpose" of §2 compliance. *Id*. at 22. Misapprehending the applicable legal standard, the court did not "rule out" Louisiana's political priorities as the driver of CD6's shape; it simply disregarded them.

Having erroneously determined that strict scrutiny was applicable, the district court then faulted Louisiana for pursuing its policy goals when it set about remedying the §2 violation identified in *Robinson*. The panel majority in effect insisted that, to be narrowly tailored, a §2 remedial district must have the "least possible amount of irregularity in shape," despite this Court's rejection of such a standard as "impossibly stringent." *Bush v. Vera*, 517 U.S. 952, 977 (1996) (plurality opinion). It then invalidated CD6 because, in the majority's view, its noncompact configuration did not pass muster under the *Gingles* framework, ignoring

the overwhelming evidence that CD6's "unusual shape" was entirely the product of the Legislature's pursuit of its political goals, not racial considerations.

The panel majority at once supplanted the Legislature's redistricting authority and sought to retry the *Gingles* findings from *Robinson*, which had the concurrence of seven federal judges and had already found that complying with §2 would not require Louisiana to draw a noncompact district. In thus overriding the Legislature's policy priorities, the panel was heedless of this Court's oft-repeated caution that states must have "breathing room" in complying with the VRA so that they are not "trapped between the competing hazards of liability under the Voting Rights Act and the Equal Protection Clause." *Bethune-Hill v. Va. St. Bd. of Elec.*, 580 U.S. 178, 196-197 (2017) (cleaned up). The majority's legally flawed opinion disrupts the careful balance this Court has fashioned to avoid that trap. Under this Court's precedent, establishing §2 liability requires an illustrative district that is *both* majority minority *and* consistent with traditional redistricting principles, allaying concerns that a remedial district would necessarily require racial predominance or raise equal protection concerns. And where, as here, those strict requirements for §2 liability have been met, this Court's precedent protects the states' proper role in the redistricting process by giving them considerable leeway to draw remedial districts in the first instance.

The district court's disregard for these principles "ask[s] too much from state officials charged with the sensitive duty of reapportioning legislative districts." *Bethune-Hill*, 580 U.S. at 195-196. If left uncorrected, the panel's decision will further inject the federal courts into the redistricting process and deprive states

of the necessary flexibility to take account of other legislative priorities when they act to remedy identified violations of federal law. The Court should reverse the decision below and remand with instructions to enter judgment for the State of Louisiana and Appellants.

OPINIONS BELOW

The order and injunction are available at 2024 WL 1903930 and Juris. Stat. App. ("J.S.A.")128a. Additional rulings being appealed include the following orders from *Callais v. Landry*, No. 3:24-cv-122 (W.D. La. 2024): Scheduling Order Consolidating the Preliminary Injunction Hearing With Trial on Merits, J.S.A.8a; Order on Motion to Intervene as Defendants and Transfer, J.S.A.13a; and Order Denying Motion to Continue Trial with Opposition and Motion to Deconsolidate the Preliminary Injunction Hearing, J.S.A.34a.

JURISDICTION

This appeal is from the three-judge district court's injunction prohibiting Louisiana from conducting any elections using SB8. The district court had jurisdiction under 42 U.S.C. §§ 1983 and 1988, and 28 U.S.C. §§ 1331, 1343(a)(3), and 1343(a)(4), and the panel was constituted under 28 U.S.C. § 2284. Appellants timely filed their notice of appeal on May 1, 2024. This Court has jurisdiction under 28 U.S.C. § 1253.

CONSTITUTIONAL AND STATUTORY PROVISIONS

This appeal involves the Equal Protection Clause of the Fourteenth Amendment, the Fifteenth Amendment, and §2 of the Voting Rights Act, 52 U.S.C. § 10301, which are reproduced at J.S.A.706a, 708a, and 709a, respectively.

STATEMENT OF THE CASE

A. Federal Courts Hold that Louisiana's 2022 Congressional Map Likely Violates §2 of the VRA.

Following the 2020 census, Louisiana redrew its six congressional districts. The census revealed that Louisiana's White population had declined, as it has since the 1990s, while its Black population had grown and now made up approximately one-third of the State's population. On March 30, 2022, the Legislature adopted a redistricting plan ("HB1") that, like its predecessor, included only one district in which Black voters had an opportunity to elect their preferred candidates. *See Robinson v. Ardoin* (*Robinson I*), 605 F. Supp. 3d 759, 768 (M.D. La. 2022).

Two groups of plaintiffs, including Appellants here, challenged HB1 under §2 of the VRA and sought a preliminary injunction. *See id*. at 771-772. They alleged that HB1 diluted Black Louisianians' votes by packing a substantial part of the Black population into one district, while fracturing the rest across multiple districts in the northern and central parts of the State. *Id.* The State of Louisiana and the legislative leaders of both chambers of the State Legislature intervened as defendants. *Id*. at 768-769. The *Robinson* court held a five-day evidentiary hearing that included testimony from seven fact witnesses, oral testimony and written reports from fourteen experts, and hundreds of exhibits. *See generally id*. at 777-817. Plaintiffs presented seven illustrative congressional maps, each containing a new majority-Black district centered in Baton Rouge and the central Louisiana parishes of West Baton Rouge, St. Landry, Pointe Coupee,

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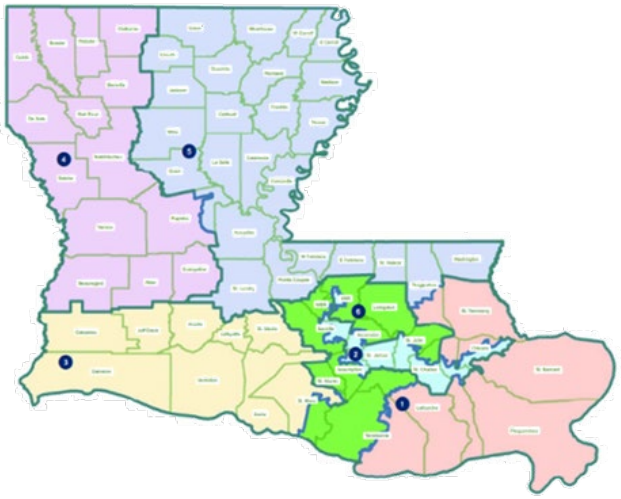
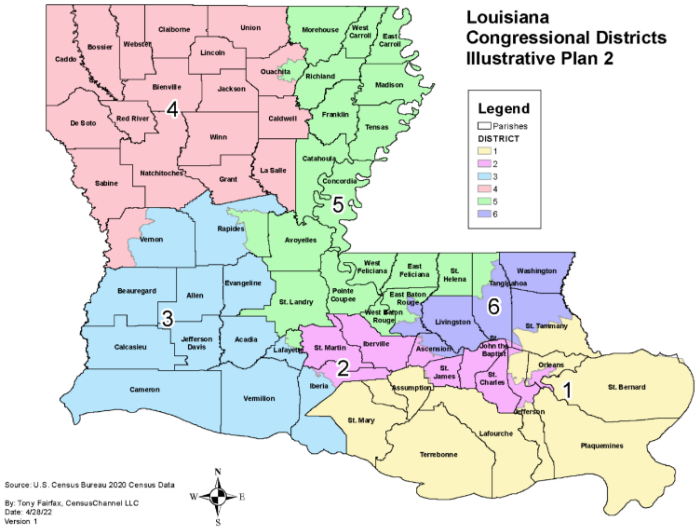
HB1 (2022 Enacted Map)

Doc.17-7 at 16



***Robinson* Illustrative Map**

605 F. Supp. 3d at 785



Avoyelles, and parts of Rapides and Lafayette, and from there extending north to the Delta region and east to the Florida Parishes in varying configurations, mirroring HB1's Congressional District 5 ("CD5"). *Id.* at 781-785.

In June 2022, the *Robinson* district court granted the preliminary injunction motion. *Id*. at 766. In a 152-page opinion based on the extensive preliminary injunction record, the court found that the plaintiffs had established the preconditions for §2 liability under *Thornburg v. Gingles*, 478 U.S. 30 (1986), and that, under the totality of the circumstances, Black Louisianians had less opportunity than members of the White majority to participate in the political process and to elect candidates of their choice. *Robinson I*, 605 F. Supp. 3d at 820-852.

The *Robinson* court found that Louisiana's Black population satisfied the first *Gingles* precondition because it was sufficiently large and geographically compact to form a voting majority in two congressional districts drawn consistent with traditional redistricting principles. *Id.* at 820-831. The court rejected defendants' contentions that race predominated in the creation of the plaintiffs' seven illustrative maps. *Id*. at 831-839. It found that compared to HB1, the illustrative maps split fewer parishes and municipalities, were more compact, and joined together communities of interest that HB1 divided, and that plaintiffs' map-drawers had appropriately balanced race with other districting considerations without allowing racial considerations to predominate. *Id*. With respect to the second and third *Gingles* preconditions, the court further concluded that Black voters in Louisiana vote as a cohesive bloc but that, outside of Louisiana's sole majority-Black district, their preferred congressional candidates are

invariably defeated by White racial bloc voting. *Id*. at 839-844. Finally, turning to the totality of the circumstances, the court found that historical and contemporary discrimination against Black Louisianians, among other factors, demonstrated that HB1 diluted their votes on account of race in violation of §2. *Id*. at 844-852. The court concluded that plaintiffs were likely to prevail on their §2 claim at trial. *Id*. at 851. It preliminarily enjoined implementation of HB1 and commenced remedial proceedings.

A unanimous Fifth Circuit motions panel denied defendants' request for a stay pending appeal, ruling they were unlikely to prevail in their appeal of the *Robinson* preliminary injunction. *Robinson v. Ardoin* (*Robinson II*), 37 F.4th 208, 215 (5th Cir. 2022). This Court granted certiorari before judgment, stayed the district court's injunction, and directed that the case be held in abeyance pending its decision in *Allen v. Milligan*, a §2 case from Alabama. *See Ardoin v. Robinson*, 142 S. Ct. 2892 (2022). With the *Robinson* injunction stayed, Louisiana held the 2022 elections under HB1.

After handing down its opinion in *Milligan*, *see* 599 U.S. 1 (2023), this Court, over Louisiana's objection, dismissed the writ of certiorari, lifted the stay, and remanded the case to the Fifth Circuit "for review in the ordinary course and in advance of the 2024 congressional elections." *Ardoin v. Robinson*, 143 S. Ct. 2654 (2023).

On remand, the Fifth Circuit merits panel unanimously upheld the district court's ruling that HB1 likely violated §2. *Robinson v. Ardoin* (*Robinson III*), 86 F.4th 574, 583 (5th Cir. 2023). The panel affirmed the district's court's finding that plaintiffs' illustrative majority-Black districts were reasonably configured

and consistent with traditional redistricting principles. *Id.* at 591-592. Like the district court and the 2022 motions panel, the court rejected defendants' argument that, because plaintiffs' illustrative maps were "designed with the goal of achieving a second majority-minority district of at least 50 percent [Black voting-age population (BVAP)]," race had predominated in their creation. *Id*. at 593. The court held that the "target of reaching a 50 percent BVAP was considered alongside and subordinate to the other race-neutral traditional redistricting criteria *Gingles* requires [including] communities of interest, political subdivisions, parish lines, culture, religion, etc." *Id*. at 595. The Fifth Circuit also affirmed the district court's finding of racially polarized voting and its analysis of the totality of the circumstances and concluded that "[t]he district court's preliminary injunction … was valid when it was issued." *Id.* at 595-599.

Although the court recognized that the threat of irreparable harm supporting the preliminary injunction was "still present," it held that interlocutory relief was no longer necessary in light of the time remaining before the 2024 election. *Id.* at 600. The court therefore vacated the injunction and remanded the case with instructions to allow the Legislature an opportunity to enact a remedial map and requiring that, if the legislature did not do so by January 2024, "then the district court is to conduct a trial," and thereafter, if plaintiffs prevailed, "to adopt a different districting plan for the 2024 election." *Id*. at 602.

B. Louisiana Adopts a Map to Resolve the *Robinson* Litigation, Protect Incumbents, and Unite Interests Along the Red River.

In January 2024, Louisiana's newly elected Governor called the Legislature into special session to "legislate relative to the redistricting of the Congressional

districts of Louisiana." J.S.A.294a. In an address to the Legislature, the Governor, who had participated in the State's defense of HB1 as Attorney General, called on legislators to enact a map that would promote the State's political goals, respect traditional redistricting principles, and avoid a court-imposed remedial map. J.S.A.60a-62a, 82a-84a, 125a-127a, 560a-561a. Louisiana's Attorney General, who had also participated in the *Robinson* litigation as the State's Solicitor General, testified at a legislative hearing that the State had exhausted its avenues for defending HB1 in the courts and that continued litigation would result in a court-ordered map. J.S.A.352a-355a. She further advised legislators that in developing a new map to comply with §2, they could consider race but should prioritize other factors and not allow race to predominate. J.S.A.355a-357a.

Legislators understood that if they did not act, the *Robinson* court was likely to impose a map, and that a court-imposed map likely would resemble the maps proposed by plaintiffs, which included a compact second majority-Black district connecting Baton Rouge with the Delta in northeast Louisiana. *See* J.S.A.48a, 81a, 90a, 93a. Rather than accede to a court-drawn map that the Legislature would have little control over, the State opted to forgo a trial and instead remedy—on its own terms—the §2 violation the courts had identified.

While the Legislature resolved to address the §2 violation identified in *Robinson* and avoid a court-drawn remedy, "politics drove" the specific design of the remedial district adopted in the 2024 special session, with race a "secondary consideration" to ensure §2 compliance. J.S.A.395a (testimony of Senator Glen Womack, SB8's sponsor). The Legislature considered six congressional

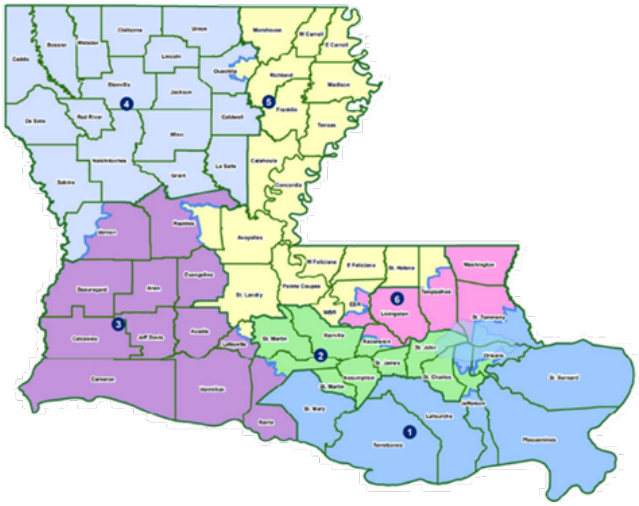
maps during the session. Five included two majority-Black districts, each preserving the historically majority-Black Congressional District 2 ("CD2"), based in New Orleans, and each, like the *Robinson* illustrative maps, creating a second majority-Black district based in Baton Rouge and central Louisiana and including varying parts of the state to the north. J.S.A.585a-607a, 608a-630a, 631a-659a, 660a-686a, 687a-696a. One such plan, Senate Bill 4 ("SB4," also known as the "Price-Marcelle Plan") closely mirrored the illustrative plans proffered by plaintiffs in *Robinson*, joining the common district core with the Delta region. J.S.A. 660a-686a. Like the *Robinson* illustrative plans, SB4 had a higher compactness score and split fewer parishes than HB1 and would have created an additional majority-Black district in CD5, currently represented by Representative Julia Letlow, a member of the House Appropriations Committee. *See* J.S.A. 101a-102a, 672a, 674a-676a; Doc.181-9 at 12.

A second proposed map, SB8, was the Governor's preferred plan. J.S.A.60a-62a, 107a-109a. Under SB8, CD6, represented by Representative Garret Graves, has a majority-Black voting-age population. J.S.A.309a. Like CD5 in SB4 and the *Robinson* illustrative maps, CD6 is anchored in Baton Rouge and central Louisiana. The parishes CD6 shares in whole or in part with the additional majority-Black district in those plans account for about 77.5% of CD6's total population and about 73.0% of its Black population. J.A.333-336. But instead of connecting those common parishes with parishes in the Delta to the northeast and the Florida Parishes to the east, as SB4 and the *Robinson* illustrative maps had done, CD6 proceeded northwest up the Red River and Interstate 49, connecting the district core with Natchitoches Parish, much of DeSoto

Parish, and part of the City of Shreveport in Caddo Parish. J.S.A.314a.

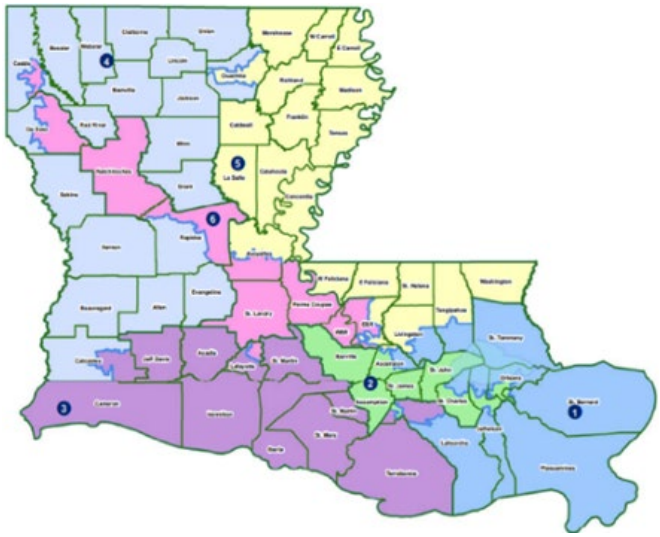
SB4 (Price-Marcelle Plan)

J.S.A.677a



SB8 (2024 Enacted Map)

Doc.183-10 at 15

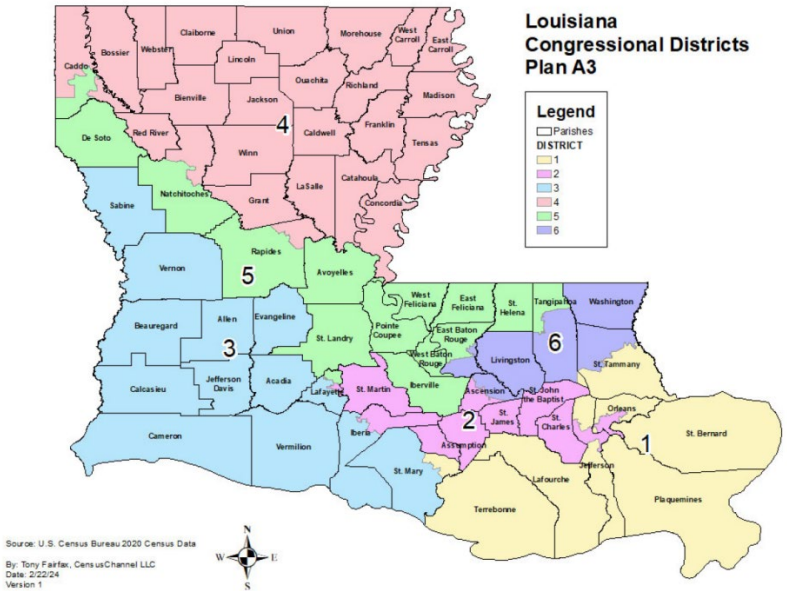


In adopting this configuration, the Legislature and the Governor sought to protect favored Republican incumbents, including House Speaker Johnson, Majority Leader Scalise, and Representative Letlow, J.S.A.45a-46a, 422a-423a, and to place Representative Graves, a political rival of the Governor, into a now more-competitive CD6, leaving him vulnerable. J.S.A.61a. The Legislature also sought to preserve two existing districts in north Louisiana, CD4, represented by Speaker Johnson, and CD5, represented by Representative Letlow. *See, e.g.*, J.S.A.40a, 401a. Preserving those two districts while simultaneously ensuring that Representative Graves, and not Representative Letlow, was drawn into the new majority-Black district required the placement of CD6 along the Red River instead of in the Delta. It also required ensuring that the historic core of CD4, both north and south of the Red River, remained contiguous. Doc.185 at 156. Legislators highlighted how this configuration had the additional advantage of allowing them to join into a single district various interests shared by communities along the Red River and I-49 corridor that had historically been divided, including the two campuses of historically Black Southern University, healthcare resources, commerce, and key industries such as timber. J.S.A.421a, 452a-457a.

Comparing SB8 with a similar map introduced as HB12 during the February 2022 redistricting special session (and referred to at trial as "Plan A3") illustrates the care with which the Legislature drew CD6's lines to achieve all their goals. J.A.337. Like SB8, HB12 included a majority-Black district along the Red River (designated CD5 in that map). Unlike SB8, HB12's Red River district extended to the Texas border, bisecting the state. HB12's district configuration,

HB12 (2022 "Plan A3")

J.A.337

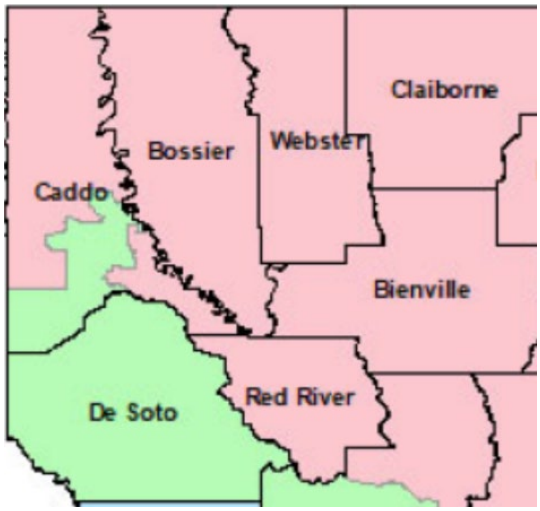


including the configuration of its second majority-Black district, was more geographically compact and split fewer parishes than SB8. But HB12's compact configuration necessitated the pairing of Speaker Johnson and Representative Letlow in a single north Louisiana district. Doc.185 at 156. To create two districts in north Louisiana without jeopardizing Representative Letlow's reelection prospects (by drawing her, rather than Representative Graves, into a more politically competitive majority-Black district, as SB4 had done), SB8 connected Bossier Parish and rural northwest Louisiana to the rest of historical CD4, with its military bases in the west of the state. J.S.A.482a. That left the Delta Parishes in the northeast to remain the core of Representative Letlow's district. This configuration required DeSoto

Parish to be split and required Caddo Parish to be split in a more irregular shape compared with HB12. Doc.185 at 156.

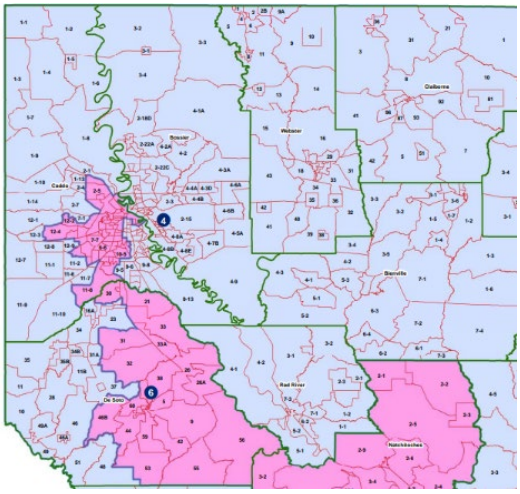
DeSoto/Caddo in HB12

J.A.337 (cropped)



DeSoto/Caddo in SB8

Doc.183-10 at 23



Senator Womack stated that SB8 was the "only map [he] reviewed" that would both comply with the rulings of the *Robinson* courts and "accomplish[] the political goals" he sought to achieve in protecting Louisiana's powerful congressional delegation. J.S.A.440a-443a. Senator Womack and other SB8 proponents also highlighted the interests tied together along the Red River and I-49 corridor in CD6, whose residents share economic and agricultural interests, educational and healthcare institutions, and commercial infrastructure. J.S.A.421a, 452a-457a.

By the time of its final passage, SB8 reflected only one amendment, which added a single parish split, bringing the total number of parish splits to sixteen. J.S.A.105a-107a, 699a-705a; Doc.181-2 at 5-6; J.A.334-336. That amendment, supported by Senator Heather Cloud, was adopted for the express nonracial purpose of returning part of her State Senate district in Avoyelles Parish to Representative Letlow's congressional district. J.S.A.105a-107a; Doc.181-2 at 5-6. Other amendments, including one that would have increased CD6's Black population at the cost of additional parish splits, were rejected. *See* Doc.183-22 and Doc.183-23. In the end, SB8 had one additional parish split compared to HB1 (the 2022 plan), and several more than alternative plans that created two majority-Black districts but did not achieve the Legislature's political goals.

Parishes Split by Legislative Redistricting Plans

Congressional Plan	Parish Splits
HB1 (2022 Enacted) J.A.370	15
HB12 (Plan A3) J.A.337	12
SB4 (Price-Marcelle) J.S.A.677a	11
SB8 (2024 Enacted) J.A.333	16

On January 19, the Legislature passed SB8 with a strong bipartisan majority: Over 80 percent of legislators present voted in favor of the bill. J.A.141a. The Governor signed SB8 into law on January 22. *Id*.

C. Appellees Challenge the Legislature's Remedial Map as a Racial Gerrymander.

Nine days later, unhappy with Louisiana's resolution of the *Robinson* litigation, Appellees, a group of self-described "non-African-Americans," filed this lawsuit against the Secretary of State, challenging SB8 under the Equal Protection Clause. Appellees alleged that SB8, and specifically CD6, is an unconstitutional racial gerrymander.

Appellees moved for a preliminary injunction on February 7. J.S.A.145a. That same day, Appellants moved to intervene, citing their strong interest in defending the remedial map adopted as a result of the *Robinson* courts' rulings and the harm Appellants would suffer if Appellees were successful in striking down SB8 and replacing it with a congressional map that once again diluted their votes. J.S.A.13a. The

State and the other group of plaintiffs in *Robinson* also moved to intervene. J.S.A.13a-14a.

Before deciding the intervention motions, the district court granted Appellees' request to advance the trial on the merits and consolidate it with the preliminary-injunction hearing. J.S.A.8a. The Secretary of State, the only other party at the time, did not oppose that request and ultimately put on no defense of SB8 at all. *E.g.*, Doc.82 (The Secretary of State "takes no position on the merits of Plaintiffs' Motion for Preliminary Injunction."). As to Appellants' intervention motion, the district court initially granted permissive intervention limited to the remedial phase of the case. J.S.A.19a. On reconsideration, the district court found that Appellants' interests were not adequately represented with respect to two merits issues—whether race was the predominant factor in the creation of SB8 and, if so, whether SB8 satisfied strict scrutiny—and granted intervention at the liability phase as to those issues. J.S.A.23a-24a.

Three weeks later, on April 8–10, and after denying Appellants' motion to deconsolidate the preliminary-injunction hearing and trial, the district court held a three-day trial, allotting each side only eight hours to put on its case. J.S.A.28a, 34a, 146a. All the legislators who testified confirmed that the Legislature was motivated by a desire to protect favored incumbents and to comply with court rulings in *Robinson*. Community members attested that SB8 protected communities of interest, and expert witnesses rebutted Appellees' argument that only race could explain SB8's configuration. *See* J.S.A.66a-68a, 72a-77a, 117a-119a, 225a; Doc.184 at 185-214, Doc.185 at 156. Appellees offered no direct evidence that racial considerations played a role in any specific line-

drawing decision; and no evidence suggesting that race played *any* role in the Legislature's preference for SB8 over more compact plans with two Black-opportunity districts such as SB4.

On April 30, a divided district court ruled for Appellees. J.S.A.129a. The majority held that the Legislature's acknowledged desire to resolve the *Robinson* litigation and comply with the VRA was sufficient to find that race was the predominant factor in the configuration of CD6. The court concluded:

> District 6 was drawn primarily to create a second majority-Black district that [the Legislature] predicted would be ordered in the *Robinson* litigation after a trial on the merits. Thus, it is clear that race was the driving force and predominant factor behind the creation of District 6.

J.S.A.173a n.10.

The panel majority so concluded even though it acknowledged the "undisputed" evidence "that political considerations—the protection of incumbents—played a role in how District 6 was drawn," J.S.A.164a, and that "this case presents evidence of 'mixed motives' in creating District 6—motives based on race and political considerations." J.S.A.168a, 172a, 173a. The majority also acknowledged that in such a "mixed motive" case, a district's "bizarre shape" could arise from "a 'political motivation as well as a racial one.'" J.S.A.168a (quoting *Cooper v. Harris*, 581 U.S. 285, 308 (2017)). Nevertheless, the court found that because "the State first made the decision to create a majority-Black district," race necessarily predominated.

The court ignored testimony that SB8 was the only map that would both achieve the State's political goals

and resolve the *Robinson* litigation. While acknowledging that the Legislature drew SB8 to protect favored incumbents, the court concluded that "increas[ing] the BVAP of District 6 to over 50 percent was not required" to achieve this objective. J.S.A.175a. The district court offered no account of the Legislature's rejection of plans that created a second Black-opportunity district and better adhered to traditional redistricting principles and the Legislature's other redistricting criteria than either SB8 or HB1, and therefore overlooked the fact that those plans would not have accomplished Louisiana's political goals. J.S.A.674a-676a; Doc.181-9 at 8-13. Neither Appellees nor the district court identified any alternative map showing that the State could have *both* created a second Black-opportunity district *and* accomplished the Legislature's political and policy goals. *See generally* J.S.A.128a.

Having determined that strict scrutiny should apply, the panel majority held that the Legislature's use of race in crafting SB8 was not narrowly tailored to remedy a likely §2 violation. The majority acknowledged that VRA compliance is a compelling interest. J.S.A.175a. The court reasoned, however, that the State's compelling interest in §2 compliance "does not support the creation of a district that does not comply with the [*Gingles*] factors … or traditional districting principles." J.S.A.177a.

Based on that reasoning, the court concluded that "the State … has not met its burden of showing that District 6 satisfies the first *Gingles* factor." J.S.A.182a. The court rested that conclusion almost entirely on its assessment of SB8's treatment of communities of interest. Relying upon a range of extra-record materials and its own views of the Louisiana communities worthy of protection, the majority concluded that CD6 "violates

the traditional north-south ethno-religious division of the State," J.S.A.185a; *see also* J.S.A.185 n.12, 186a-187a, and concluded that SB8 "divides some established communities of interest from one another while collecting parts of disparate communities of interest into one voting district," J.S.A.187a. Tellingly, the court cited no record evidence to support that conclusion and disregarded the copious and unrebutted testimony from legislators and residents of the new district that CD6 united communities with shared interests along the Red River and the I-49 corridor that had historically been divided. J.S.A.66a-68a, 72a-77a, 117a-119a, 225a.

The majority did not—and conceded that it could not on the record before it—conclude that it would be impossible to create a second reasonably configured Black-opportunity congressional district. J.S.A.189a. This left uncontroverted the *Robinson* court's finding, upheld by the Fifth Circuit, that such a district could be lawfully drawn. *Robinson III*, 86 F.4th at 593-595.

SUMMARY OF ARGUMENT

The district court erred from the outset in concluding that race predominated in the design of CD6, because its decision was incorrectly grounded on the notion that the Legislature's intent to comply with §2 and resolve the *Robinson* ligation *ipso facto* made race predominant over all other considerations. This Court has repeatedly rejected that premise. *E.g.*, *Bethune-Hill*, 580 U.S. at 191-192; *Vera*, 517 U.S. at 958; *see also Milligan*, 599 U.S. at 34, n. 7. Moreover, the *Robinson* courts had already found that a second majority-Black district could, in fact, be created consistent with traditional redistricting principles and without race predominating. *Robinson III*, 86 F.4th at 595; *Robinson I*, 605 F. Supp. 3d at 831-839. The district court had no basis or authority to question that finding and did not

do so. J.S.A.189a; *Celotex Corp. v. Edwards*, 514 U.S. 300, 313 (1995).

On account of its flawed starting point, the district court failed to accord the requisite strong presumption of good faith to the Legislature's political and policy objectives. The court disregarded the copious record evidence that the Legislature designed CD6 specifically to protect favored incumbents, preserve representation for north Louisiana, and join communities with shared interests along the Red River. It likewise overlooked Louisiana's rejection of the reasonably-configured alternatives offered in *Robinson* and in the special session precisely because those plans were inconsistent with its political goals. In light of Louisiana's politics defense, the presumption of good faith required the panel to draw the inference that the State's political considerations were the true basis for CD6's specific contours "when confronted with evidence that could plausibly support multiple conclusions." *Alexander*, 602 U.S. at 9 (citation omitted). But the panel did not hold Appellees to the "high bar" of proving that "race for its own sake" was the Legislature's "dominant and controlling" motive in selecting SB8, and its analysis failed to "rule out" Louisiana's political goals as the predominant factors motivating the design of CD6. *See id*. at 10, 24. The panel's myopic focus on Louisiana's decision to comply with the *Robinson* courts' §2 rulings neglected the holistic assessment of the specific challenged district that is required when assessing claims of racial gerrymandering. *Bethune-Hill*, 580 U.S. at 191-192. The district court's legally and factually erroneous racial predominance analysis warrants reversal.

Further, the panel's strict scrutiny analysis misapplied the applicable legal standards and deprived Louisiana

of any "breathing room" in its effort to comply with §2—contrary this Court's oft-repeated cautions. *Bethune-Hill*, 580 U.S. at 195-196; *see also Ala. Legis. Black Caucus v. Alabama* (*ALBC*), 575 U.S. 254, 278 (2015); *Bartlett v. Strickland*, 556 U.S. 1, 23 (2009); *Vera*, 517 U.S. at 977. The panel's narrow tailoring analysis ignored the findings in *Robinson* that the *Gingles* preconditions had been satisfied, which was all that was required to provide Louisiana with a strong basis in evidence that a second Black-opportunity district was required. Nevertheless, the district court demanded that Louisiana independently prove the necessity of complying with §2 by showing that SB8 satisfied the *Gingles* standard and concluded that the plan was not narrowly tailored because CD6 did not conform to the first *Gingles* precondition. That ruling misconstrues the "good reasons" standard and warrants reversal. Under that standard, narrow tailoring requires only that a district created to further the compelling state interest of VRA compliance "substantially address[] the potential liability and [not] deviate substantially from a hypothetical court-drawn § 2 district *for predominantly racial reasons*." *Vera*, 517 U.S. at 994 (O'Connor, J., concurring) (cleaned up). CD6 satisfies the "good reasons" standard because it substantially addressed the specific, identified violation of §2 found in *Robinson*. Unlike cases in which this Court has evaluated enacted redistricting plans under the *Gingles* framework, CD6 drew well over 70% of its population from areas of the state coincident with where the *Robinson* courts found racial vote dilution, and any deviation from traditional redistricting principles was driven by politics, not race.

The court further erred in basing its *Gingles* analysis on improperly considered evidence and the court's own policy preferences, thereby superseding the Legislature's

choice to unite interests and communities in CD6 that were divided in prior maps. *Cf. Easley v. Cromartie* (*Cromartie II*), 532 U.S. 234, 257 (2001) (courts must exercise "extraordinary caution" to avoid "treading upon legislative prerogatives").

The district court's strict scrutiny ruling denies states leeway to remedy §2 violations in accordance with their policy priorities. If allowed to stand, the court's decision would further embroil federal courts in state redistricting decisions and ensnare states in endless cycles of collateral litigation. The panel's erroneous application of strict scrutiny was reversible error.

Finally, the panel abused its discretion when it consolidated the extraordinarily expedited preliminary injunction hearing with a trial on the merits. That decision deprived Appellants of the opportunity to fully present their case and warrants vacating the decision below and remanding the case for a trial.

ARGUMENT

I. The Panel's Racial Predominance Analysis Failed to Credit the Legislature's Political Goals in Drawing SB8 and Did Not Disentangle Race and Politics.

The "racial predominance inquiry concerns the actual considerations that provided the essential basis for the lines drawn." *Bethune-Hill*, 580 U.S. at 189. That inquiry requires a "holistic analysis" of the specific challenged district to identify "the legislature's predominant motive for the design of the district as a whole." *Id.* at 191-192. In a holistic racial predominance analysis, "the decision to create a majority-minority district … is merely one of several essential ingredients." *Vera*, 517 U.S. at 962.

Plaintiffs asserting racial gerrymandering claims face an "especially stringent" evidentiary burden because they must overcome the "starting presumption that the legislature acted in good faith." *Id.* at 10-11. "When confronted with evidence that could plausibly support multiple conclusions" regarding the State's redistricting choices, the presumption of good faith "directs district courts to draw the inference that cuts in the legislature's favor." *Id*.

Furthermore, where, as here, a state asserts that the "actual considerations" driving its redistricting choices were political, racial gerrymandering plaintiffs face "special challenges." *Alexander*, 602 U.S. at 9 (citation omitted). "To prevail, a plaintiff must 'disentangle race from politics' by proving that 'the former *drove* a district's lines.'" *Id.* (citation omitted). This is a "high bar." *Id.* at 10. It requires the challengers to "rule out the possibility that politics drove the districting process" and establish that "race for its own sake" was the legislature's "dominant and controlling rationale in drawing its district lines." *Id*. at 10, 24 (cleaned up). "If either politics or race could explain a district's contours, the plaintiff has not cleared its bar." *Id*. at 10.

The district court's conclusion that race predominated in SB8 neglected the "actual considerations" that drove the lines of CD6 and misapplies these legal standards. *Id.* at 9 (citation omitted). Starting with the legally flawed presumption that the Legislature's intent to remedy the §2 violation identified in *Robinson* meant that race predominated, the court compounded its errors by failing to conduct the required "holistic analysis" of the challenged district, *Cromartie II*, 532 U.S. at 241, forswearing the "presumption that the legislature acted in good faith," and instead improperly drawing inferences against the Legislature to

support its preordained racial-predominance conclusion, *Alexander*, 602 U.S. at 10. In so doing, it failed to hold Appellees to the "high bar" for overcoming the State's defense, supported by uncontroverted evidence from the legislative record, that incumbent protection, preserving strong representation for north Louisiana, and uniting communities with shared interests—and not race—drove CD6's specific lines. *See id.* at 7, 10. Finally, the court turned *Alexander*'s alternative-map principle into an empty rhetorical exercise that ignored the legal and political context against which CD6 was drawn. *See id.* at 10-11.

This misapplication of the principles governing racial gerrymandering challenges constitutes a reversible error of law. *See Gingles*, 478 U.S. at 79 (clear error review "does not inhibit an appellate court's power to correct errors of law, including those that may infect a so-called mixed finding of law and fact, or a finding of fact that is predicated on a misunderstanding of the governing rule of law.") (cleaned up). Moreover, where, as here "the trial … was not lengthy and the key evidence consisted primarily of documents and expert testimony," and when "[c]redibility evaluations played a minor role" (or, as here, no role), "an extensive review of the District Court's findings, for clear error, is warranted." *Cromartie II*, 532 U.S. at 243. The district court's legal and factual errors fatally undermine its finding that race predominated in the construction of SB8. Reversal is warranted.

A. The District Court Erroneously Construed Louisiana's Intent to Comply with §2 of the VRA as Dispositive of Racial Predominance.

In reaching the conclusion that race was the Legislature's predominant motive in drawing SB8, the

district court discarded the district-specific analysis essential to assessing claims of racial gerrymandering, instead presuming that race predominates whenever a state draws districts to comply with §2. This Court has repeatedly rejected that approach.

In *Bush v. Vera*, this Court explained that "the decision to create a majority-minority district [is not] objectionable in and of itself." 517 U.S. at 962. That precept reflects a recognition that "the legislature always is *aware* of race when it draws district lines." *Shaw v. Reno* (*Shaw I*), 509 U.S. 630, 646 (1993). Indeed, complying with §2 "demands consideration of race," *Milligan*, 599 U.S. at 30–31 (quoting *Abbott v. Perez*, 585 U.S. 579, 587 (2018)), but such "race consciousness does not lead inevitably to impermissible race discrimination," *Shaw I*, 509 U.S. at 646. For that reason, "[s]trict scrutiny does not apply merely because redistricting is performed with consciousness of race, [or] to all cases of intentional creation of majority-minority districts." *Vera*, 517 U.S. at 958. Contrary to the district court's view, even when a state is "committed from the outset to creating majority-minority districts," it does not automatically follow that race predominates over other considerations in its map-drawing. *Id*. at 962. Rather, strict scrutiny applies only where "the State subordinated traditional race-neutral districting criteria … to racial considerations." *Alexander*, 602 U.S. at 7 (citing *Miller v. Johnson*, 515 U.S. 900, 916 (1995)). This Court has continually reaffirmed that principle. *E.g.*, *Bethune-Hill*, 580 U.S. at 192 ("the use of an express racial target" is just one factor courts consider as part of a "holistic analysis" of racial predominance); *Cromartie II*, 532 U.S. at 241 ("Race must not simply have been *a* motivation for the drawing of a majority-minority district, but the

'*predominant* factor' motivating the legislature's districting decision.") (cleaned up).

In assuming racial predominance simply because the Legislature sought to create a new majority-Black district that would remedy an identified §2 violation, the panel majority discarded the careful balance this Court has struck to harmonize its §2 and racial gerrymandering precedent. Under *Gingles*, a §2 plaintiff must present an illustrative map with a "'reasonably configured'" majority-minority district "respecting compactness principles and other traditional districting criteria." *Milligan*, 599 U.S. at 43 (Kavanaugh, J., concurring). By requiring plaintiffs to present a reasonably configured illustrative district, the first *Gingles* precondition ensures that legislatures need not create "unusually shaped districts, without concern for traditional districting criteria" to comply with §2. *Id*. Respecting this balance means that §2 districts need not ordinarily be subject to strict scrutiny, which "helps achieve *Shaw*'s basic objective of making extreme instances of gerrymandering subject to meaningful judicial review," *Miller*, 515 U.S. at 928-929 (O'Connor, J., concurring), and, outside of those instances, avoids the "serious intrusion on the most vital of local functions" that racial gerrymandering cases represent. *Alexander*, 602 U.S. at 7 (citation omitted).

The district court cast aside these principles and erroneously treated Louisiana's goal of complying with §2 and avoiding a court-imposed plan in *Robinson* as dispositive evidence that race was "clear[ly]" the Legislature's predominant motive. J.S.A.173a n.10. If allowed to stand, the district court's decision would subject every district drawn to comply with §2 to a charge of racial gerrymandering, depriving legislatures of the remedial flexibility this Court has repeatedly

recognized they must have and further injecting the federal courts into the redistricting process. *See, e.g.*, *Bartlett*, 556 U.S. at 23 (states may choose their own way of complying with §2). In this way, the district court erred as a matter of law in finding racial predominance.

B. The Majority Failed to Conduct a Holistic Analysis of CD6 or Account for Evidence that Political Motivations Dictated CD6's Particular Contours.

Because it viewed Louisiana's objective of remedying the §2 violation identified in *Robinson* not as "one of several essential ingredients," but as the *only* districting decision that mattered in its analysis of racial predominance, J.S.A.173a-174a, the panel majority failed to conduct the requisite holistic assessment of CD6's district lines. Its analysis failed to account for several crucial and uncontested facts, and as a result, failed to holistically account for all of the considerations that drove the design of CD6 or disentangle racial considerations from political ones in assessing the actual reasons for the specific configuration the Legislature chose. Its finding that race predominated in the design of CD6 is thus clearly erroneous.

First, it is uncontested that Louisiana redrew its congressional map in direct response to the finding in the *Robinson* litigation that HB1 violated §2, and "to avoid a trial on the merits" that, given the Fifth Circuit's ruling, the State was likely to lose. J.S.A.171a. It is also uncontested that complying with those rulings and remedying the likely VRA violation identified in *Robinson* were not the Legislature's only objectives when it set out to develop a new map. J.S.A.164a. If they had been, the State could have adopted one of the *Robinson* illustrative plans or a similar districting

configuration, such as SB4. Those plans, as the *Robinson* district court found and as the Fifth Circuit agreed, were reasonably configured and were created without race predominating. *Robinson I*, 605 F. Supp. 3d at 820-839; *Robinson II*, 37 F.4th at 223; *Robinson III*, 86 F.4th at 593-595. The court below did not reach a different conclusion, J.S.A.189a, and indeed lacked the authority or any evidentiary basis to second-guess the Fifth Circuit's affirmance of a sister district court's findings in this regard. *See Celotex Corp.*, 514 U.S. at 313. In other words, according to the only courts to reach a conclusion on the issue, creating an additional majority-Black congressional district necessitated neither a noncompact configuration nor racially predominant line-drawing.

Despite the availability of the *Robinson* maps, however, the Legislature consciously chose "a different map than the plaintiffs in the [*Robinson*] litigation have proposed." J.S.A.394a. Instead of adopting a map that mirrored the *Robinson* illustrative plans, with a reasonably configured majority-Black district connecting Baton Rouge and central Louisiana to the Delta Parishes, the Legislature chose the less-compact SB8, in which the new Black-opportunity district connected Baton Rouge and central Louisiana to Shreveport in the northwest. J.S.A.660a-686a, 687a-696a. Why did the Legislature choose the least compact of congressional plans under consideration? As Senator Womack explained—and as is plain on the face of the legislative and trial record—the sole reason for preferring that particular design of CD6 was that it accomplished the legislative majority's political goals while the *Robinson* plans did not. The district court agreed these facts, too, were undisputed. J.S.A.164a, 172a-174a & n.10. According to Senator Womack, and unrebutted at trial,

SB8 was the only plan the Legislature considered that accomplished *all* of its goals. J.S.A.440a-443a.

These uncontested and unrebutted facts leave only one plausible view of the record: Nonracial considerations predominantly motivated the selection of SB8 over more compact maps. Specifically, the record establishes that the Legislature's incumbency protection goals were the primary factor driving the specific configuration of CD6 to connect the seven parishes shared with the *Robinson* illustrative plans with northwest Louisiana via the Red River rather than with the Delta Parishes, and motivated several of the parish splits found in SB8. The district court reached a contrary conclusion because it had already made up its mind that none of these facts mattered. In the court's view, the goal of complying with §2 trumped them all. *See* J.S.A.173a-174a. The court's superficial analysis of the evidence was anything but holistic and its factual findings were therefore clearly erroneous. It ignored the existence of the *Robinson* illustrative maps and SB4, offered no explanation for the Legislature's rejection of those maps or its preference for the less-compact configuration of CD6 in SB8, and pointed to no evidence that race played any role in that choice—much less a predominant role.

Although it paid lip-service to its obligation to disentangle race and politics, the district court's disentanglement analysis consists only of the conclusory assertion that race "had a qualitatively greater influence" than politics on the configuration of SB8's majority-Black district because "the State first made the decision to create a majority-Black district and, only then, did political considerations factor into the State's creation of District 6." J.S.A.174a. But that is not the holistic, district-specific assessment this Court's

precedent requires. On the contrary, it merely shows that race (and specifically compliance with federal law) was one consideration among others—a fact that is not enough on its own to establish racial predominance. *See supra*. That is, although it acknowledged that political considerations *had* "factor[ed] into the State's creation of CD6," the court never explained specifically *how* they did so or whether the features of CD6 the court viewed as evidence of racial predominance were necessary to achieve the Legislature's political goals. *See id.*; *see also infra* Part I.C.

Rather than conduct the required "holistic" inquiry into the "actual considerations that provided the essential basis" for the specific configuration of CD6, the majority reviewed CD6's contours in isolation, divorced from the legal and political context in which they were developed. *Bethune-Hill*, 580 U.S. at 189, 192. In the process, the court did the opposite of what the presumption of good faith requires. It started its racial predominance analysis with the presumption that the Legislature's stated incumbent protection goals were "not credible." *See*, *e.g.*, J.S.A.173a n.10. It reached that conclusion not because those goals were not advanced by the configuration of CD6, but because the court believed the Legislature would not have pursued them in the specific manner reflected in CD6 if it were not also attempting to comply with §2. J.S.A.173a-174a. But it is undisputed that the Legislature need not have pursued VRA compliance in the specific manner reflected in CD6 were it not also seeking to achieve its political objectives. It is precisely because the Legislature was pursuing both these goals that the court was required to afford it a presumption of good faith and to engage in a "sensitive" inquiry to disentangle them. *Alexander,* 602 U.S. at 43. That is, the observation that the Legislature was attempting

to accommodate both racial and political considerations should have been the beginning of the racial predominance inquiry, not, as the majority treated it, the end.

The majority's failure to disentangle race and politics is exemplified in its misplaced reliance on a heatmap offered by Appellees' expert showing the location of concentrated populations of Black Louisianians around the state. From the fact that a number of these areas were drawn into CD6, the court drew the inference that "the unusual shape of the district reflects an effort to incorporate as much of the dispersed Black population as was necessary to create a majority-Black district." J.S.A.170a. That conclusion simply does not follow from the evidence and is contrary to the presumption of good faith to which the Legislature was entitled. While there is no dispute that the Legislature sought to create a remedial §2 district and that doing so required that the district include Black communities, it is uncontroverted that an unusual district shape was not *necessary* to create a second majority-Black district. *See Robinson I*, 605 F. Supp. 3d at 831-39.

Nor did the Legislature reject more compact maps for *racial* reasons. *Cf. Vera*, 517 U.S. at 969 (finding racial predominance where the state rejected more compact map for avowedly racial reasons). The court simply ignores the evidence that the "unusual shape" of CD6 was adopted to accomplish the Legislature's political goals, including Senator Womack's explanation that CD6's northwesterly orientation was necessary to allow the preservation of Representative Letlow's district, centered in the Delta, and Speaker Johnson's district, centered in northwest and west Louisiana. J.S.A.440a-443a. The court also ignored the other

nonracial factors legislators cited in support of this configuration, including the educational links between Shreveport and Baton Rouge, the healthcare resources and hospitals shared by residents of the district, and the significant commercial interests tied together in CD6. J.S.A.252a, 421a, 452a-457a. In other words, while drawing the areas identified in Appellees' heatmap into CD6 may have resulted in it being majority-Black, that fact does not "rule out" that incumbent protection and safeguarding shared interests primarily drove the district's specific configuration. *Alexander*, 602 U.S. at 24. Only by ignoring the evidence that SB8 was "the only map … that accomplished the [Legislature's] political goals" could the district court find otherwise. J.S.A.394a.

The court's treatment of what it calls "direct evidence of the Legislature's motive" similarly lacked specificity. J.S.A.171a. That evidence consisted primarily of generalized statements by legislators acknowledging the finding in the *Robinson* litigation that HB1 violated §2 and their belief that SB8 remedied that violation. It shows no more than that the Legislature intended to comply with the rulings of the *Robinson* courts, which, as explained above, is insufficient standing alone to establish racial predominance. *Cf. Cromartie II*, 532 U.S. at 253 (bill sponsor's statement that redistricting plan adopted after a decade of VRA litigation sought "racial and partisan balance" insufficient as direct evidence of racial predominance). Moreover, the district court ignored Senator Womack's explanation that race was only a "secondary consideration" after politics in the design of SB8 and cited no direct evidence that race was the reason for any particular district line, parish split, or other district-specific decision. Indeed, the only direct evidence concerning the reasons for a specific parish split—that of Avoyelles Parish—

revealed that it was split for political reasons. J.S.A.105a-107a, 699a-705a; Doc.181-2 at 5-6. When the record is viewed without the improper presumption that the Legislature's intentional creation of a majority-Black district itself constituted racial predominance, the purported direct and circumstantial evidence of racial motivations from the legislative record falls far short of establishing that race predominated in the design of CD6 or overcoming the presumption of good faith.

The panel's reliance on CD6's superficial resemblance to a district struck down nearly three decades earlier in *Hays v. Louisiana* likewise provides no insight into the "actual considerations" that drove the configuration of CD6 in 2024. *See* J.S.A.142a-143a (citing 936 F. Supp. 360, 368 (W.D. La. 1996)). Upon examination, *Hays* proves readily distinguishable on precisely this question. In *Hays*, the court concluded that race predominated because the cartographer admitted that he "concentrated virtually exclusively on racial demographics and *considered essentially no other factor* except the ubiquitous constitutional 'one person-one vote' requirement." 936 F. Supp. at 368 (emphasis added). Here, in contrast, the uncontroverted facts demonstrate that the specific design of CD6 was driven predominantly by the Legislature's expressed incumbent-protection motivation. At the very least, politics played a substantial role, and under *Alexander*, the district court should have drawn the inference in favor of the Legislature. 602 U.S. at 9-10; *see also Cromartie II*, 532 U.S. at 257.

In sum, because of its erroneous application of this Court's racial gerrymandering standards, the district court never held Appellees to the "high bar" to disentangle race and politics as factors in the creation

of CD6. *Alexander*, 602 U.S. at 9-10. Without accounting for *all* the Legislature's motives in crafting the particular contours of CD6, the court's analysis "says little or nothing about whether race played a *predominant* role comparatively speaking." *Cromartie II*, 532 U.S. at 253 (emphasis in original). The district court failed to credit or meaningfully assess the uncontroverted evidence that the Legislature devised CD6 for the specific purpose of accomplishing its political and policy goals and that those objectives alone drove its preference for SB8 over more compact plans, rendering its factual findings clearly erroneous. *Id.* at 249-258 (holding the district court's conclusion that race predominated in the State's redistricting clearly erroneous, in part, because the district court failed to consider all the record evidence).

C. The Panel Misapplied *Alexander's* Alternative Map Guidance.

The panel's cavalier dismissal of the Legislature's good faith pursuit of incumbent-protection objectives also led it to misapply this Court's guidance that "[w]ithout an alternative map, it is difficult for [racial gerrymandering] plaintiffs to defeat our starting presumption that the legislature acted in good faith." *Alexander*, 602 US. at 10. Because Appellees failed to present any appropriate alternative maps, the "presumption of legislative good faith direct[ed]" the district court to draw the inference the State's political considerations were the true basis for CD6's specific design. *See id.* But the court converted the alternative map inquiry into meaningless formality, divorced from the practical and legal constraints the Legislature faced when it devised CD6.

"By showing that a rational legislature, driven only by its professed mapmaking criteria, could have

produced a different map with 'greater racial balance,' an alternative map can perform the critical task of distinguishing between racial and political motivations." *Alexander*, 602 U.S. at 34 (citation omitted). Here, Appellees never introduced such an alternative map, which "should [have been] interpreted by [the] district court[] as an implicit concession that [Appellees] cannot draw a map that undermines the legislature's defense that the districting lines were 'based on a permissible, rather than a prohibited, ground.'" *Id*. at 35. Instead of drawing this adverse inference, however, the panel suggested that an alternative map *could have been drawn* that met the Legislature's goal of protecting specific incumbents *without* creating a second majority-Black district. J.S.A.175a ("the Legislature's decision to increase the BVAP of District 6 to over 50 percent was not required to protect incumbents").

The panel's understanding of the alternative-map inquiry is flawed for two reasons, which resulted in the court failing to hold the Appellees to their burden of disentangling race from politics. First, the district court failed to acknowledge that creating a new majority-Black district to comply with §2 and protecting favored incumbents were independent and permissible goals. Suggesting that a different map would have allowed the Legislature to achieve one without the other therefore answers the wrong question. The question the alternative map inquiry tries to answer is whether "a rational legislature" could have produced a different map that accomplished its legitimate goals "with a 'greater racial balance'" than the challenged map. *Alexander*, 602 U.S. at 34 (citation omitted). The court's purported alternative map inquiry failed to answer that question.

Second, the panel's assumption that the Legislature could have achieved its political goals through a map without a second Black-opportunity district is wrong because it ignores the existence of the *Robinson* litigation. Had the Legislature, as the court suggested, chosen a map that protected the favored incumbents but did not create an additional majority-Black district, the State would have faced a trial in *Robinson*, which it had good reason to believe it would lose. In that event, the *Robinson* court would have imposed a remedial map that almost certainly would have resembled the *Robinson* illustrative maps, which more closely align with HB1 than SB8's configuration does. *See Perry*, 565 U.S. at 393 (remedial maps must be least-change maps); *Abrams v. Johnson*, 521 U.S. 74, 84 (1997) (noting that a court-ordered remedial map need not consider incumbents or other "inherently" political concerns). That, in turn, would have meant a Black-opportunity district reaching to the Delta and including Representative Letlow, contrary to the Legislature's preferences. In other words, had Louisiana in January 2024 adopted a map such as the district court suggests (or, as Appellees have urged, simply stood by HB1), it would very likely have wound up with a court-imposed map that the Legislature had no control over and that *did not* align with the Legislature's political priorities. Thus, even the district court's garbled version of the alternative map inquiry fails to show that Louisiana had any other way to achieve its political goals and fails to establish racial predominance.

The district court failed to hold Appellees to their burden of disentangling race and politics, failed to account for the Legislature's political objectives in analyzing the configuration of CD6, and improperly treated the State's intent to remedy the §2 violation

identified in *Robinson* as dispositive evidence that race predominated. Because the uncontroverted evidence establishes that political considerations drove the design of CD6 and the Legislature's selection of SB8 over more compact alternatives, the district court's injunction should be reversed and the case dismissed.

II. The Panel Majority's Erroneous Application of Strict Scrutiny Warrants Reversal.

The district court independently erred in holding that the Legislature's consideration of race in developing SB8 did not satisfy strict scrutiny. With respect to the first part of the strict scrutiny analysis, whether the State had a compelling interest for its consideration of race, the district court assumed, consistent with this Court's precedent, that VRA compliance furnishes a sufficiently compelling interest. J.S.A.175a; *see*, *e.g.*, *Abbott*, 585 U.S. at 587 ("compliance with the VRA may justify the consideration of race in a way that would not otherwise be allowed"). Accordingly, the only issue before this Court is whether the Legislature's consideration of race in the design of CD6 was narrowly tailored to achieving VRA compliance or avoiding VRA liability. *Miller,* 515 U.S. at 920.

To show that its consideration of race was narrowly tailored, a state must have "a 'strong basis in evidence' in support of the (race-based) choice that it has made." *ALBC*, 575 U.S. at 278 (cleaned up). "[T]he requisite strong basis in evidence exists when the legislature has good reasons to believe it must use race in order to satisfy the Voting Rights Act, even if a court does not find that the actions were necessary for statutory compliance." *Bethune-Hill*, 580 U.S. at 194 (cleaned up). And "[i]f a State has good reason to think that all the '*Gingles* preconditions' are met, then so too it has

good reason to believe that §2 requires drawing a majority-minority district." *Cooper*, 581 U.S. at 302.

Although the *Robinson* litigation had already found, applying the *Gingles* framework, that HB1 diluted the votes of Black Louisianians in Baton Rouge and much of central and north Louisiana, in likely violation of §2, the district court's strict scrutiny analysis proceeded as if *Robinson* didn't exist. Rather than afford Louisiana "breathing room" to remedy the vote dilution identified in *Robinson* while also accommodating other policy priorities, the district court required the State to reestablish its strong basis in evidence by showing that CD6 was sufficiently compact to *itself* support a §2 claim under the *Gingles* framework. That is not the law.

A. The District Court Misapplied this Court's "Good Reasons" Standard by Requiring the State to Reprove the *Gingles* Preconditions.

Although Louisiana's intent to address *Robinson*'s §2 rulings was front and center in the district court's assessment of racial predominance, it conducted its strict scrutiny analysis as if the State's decision to draw a new majority-Black district had occurred in a vacuum and had to be justified anew. The panel rested its determination that CD6 was not narrowly tailored to comply with the VRA entirely on its incorrect understanding that a state's compelling interest in complying with §2 "does not support the creation of a district that does not comply with the factors set forth in *Gingles* or traditional districting principles." J.S.A.177a. Applying this erroneous legal rule, the court concluded that SB8 was not narrowly tailored because the "State simply has not met its burden of showing that District 6 satisfies the first *Gingles*

factor." J.S.A.182a. This conflation of the stringent standards for §2 liability under *Gingles* and the latitude governing a state's effort to remedy a §2 violation is manifestly contrary to this Court's precedent. So long as a state has a strong basis in evidence, as Louisiana did, for believing the *Gingles* preconditions could be satisfied, "§2 does not forbid the creation of a noncompact majority-minority district," *League of United Latin Am. Citizens v. Perry* (*LULAC*), 548 U.S. 399, 430 (2006); *see also id.* at 506 (Roberts, C.J., dissenting in part) (§2 does not "impos[e] a freestanding compactness obligation on the States"); *Vera*, 517 U.S. at 999 (Kennedy, J., concurring) ("While §2 does not require a noncompact majority-minority district, neither does it forbid it."). Thus, while race-conscious remedial action in response to potential §2 liability must "substantially address, if not achieve, the avowed purpose," *Shaw v. Hunt* (*Shaw II*), 517 U.S. 899, 915-916 (1996), states are not required "to draw the precise compact district that a court would impose in a successful § 2 challenge," *Vera*, 517 U.S. at 978, or prove again the necessity of complying with the VRA. *See*, *e.g.*, *Gingles v. Edmisten*, 590 F. Supp. 345, 379-382 (E.D.N.C. 1984) (approving the state's remedial districts in a §2 case over plaintiffs' proposed remedial districts, which were "significantly more regular in shape," because the state was entitled to serve its "primary concern to protect incumbents"), *aff'd in relevant part sub nom. Thornburg v. Gingles*, 478 U.S. 30 (1986).

The *Robinson* litigation provided the State with a strong basis in evidence to conclude that the *Gingles* preconditions could be met here: The *Robinson* district court and the Fifth Circuit had already found that the preconditions *were* met and that the *Robinson* plaintiffs were therefore likely to prevail on the merits of their §2 claim at trial. *See Robinson III*, 86 F.4th at

592, 597-599. Those courts had reviewed the preliminary injunction evidence and specifically found that an additional majority-Black district could be drawn in line with traditional redistricting principles. J.S.A.136a-137a. The Legislature was well aware of the *Robinson* litigation and what it meant for Louisiana's redistricting efforts. In calling the special session, the Governor stated, "We are here today because the Federal Courts have ordered us to perform our job." J.S.A.560a. He summarized the history of the years-long litigation and the robust defense of HB1 he had mounted as attorney general, and told the Legislature, "We have exhausted all legal remedies." J.S.A.561a.

Accordingly, in CD6, the Legislature substantially addressed the §2 violation identified in *Robinson*. Approximately 77% of the population of CD6, including about 73% of its Black population, is coincident with areas of the State where the *Robinson* courts found racial vote dilution. J.A.334-336; *cf. Shaw II*, 517 U.S. at 917 (rejecting VRA district that overlapped only 20% with area where violation could be shown); *LULAC*, 540 U.S. at 430 ("State's creation of an opportunity district for those without a § 2 right" does not remedy "its failure to provide an opportunity district for those with a § 2 right."). In addition, the legislative and trial records are replete with evidence of the common interests shared by Black voters throughout CD6 that would be enhanced by common representation. *See LULAC*, 540 U.S. at 433-435 (district satisfies §2 if minority populations in areas joined in a district share interests).

Louisiana therefore had "'good reasons to believe' it must use race" to remedy the §2 violation identified in *Robinson*, and that it had done so appropriately in

CD6. *Bethune-Hill*, 580 U.S. at 194; *see also Abbott*, 585 U.S. at 616 (litigation history provided "good reasons" to draw noncompact VRA remedial map); *Milligan*, 599 U.S. at 41 (recognizing that, "under certain circumstances," "race-based redistricting as a [§2] remedy" is permissible); *accord Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 207 (2023) (race may be considered when "remediating specific, identified instances of past discrimination that violated the Constitution or a statute"). Those good reasons existed not because the *Robinson* rulings were correct (though they were) but because—having "vigorously defended" HB1, Louisiana Juris. St. at 1—the State was entitled to rely on them for its strong basis in evidence that the VRA required it to create an additional majority-Black district. *Bethune-Hill*, 580 U.S. at 194. In fact, it is difficult to conceive of a circumstance in which a state would have a stronger basis in evidence than Louisiana had here to conclude that §2 required race-conscious remedial districting. *Cf.*, *e.g.*, *Abbott*, 585 U.S. at 616 (court's prior §2 findings provided State with "good reasons" to draw remedial district).

Under these circumstances, the State was not required to satisfy the *Gingles* preconditions a second time before it could adopt a remedial plan that addressed the §2 violation identified in *Robinson* but that, for entirely political reasons, departed from traditional redistricting principles in ways the illustrative plans used to prove that violation had not. *Cf. Singleton v. Allen*, No. 2:21-cv-1291-AMM, 2023 WL 5691156, at *45 (N.D. Ala. Sept. 5, 2023), *stay denied sub nom. Allen v. Milligan*, 144 S. Ct. 476 (2023) ("[W]e reject the assertion that the Plaintiffs must reprove

Section Two liability under *Gingles*" to challenge the state's remedial plan).[1]

This is not a case in which the state enacted a majority-minority district and then asserted compliance with the VRA as a defense to a racial gerrymandering claim in the absence of a prior court decision finding a likely VRA violation and with little to no pre-enactment analysis of the need for a remedial district in the area where the state drew it. *E.g.*, *Cooper*, 581 U.S. at 301; *Vera*, 517 U.S. at 977. In such cases, courts review the district enacted by the State under *Gingles* to determine, in the first instance, whether the state's asserted fear of VRA liability had a strong basis in evidence supporting the majority-minority district it drew. *See, e.g., Cooper*, 581 U.S. at 302-303 (analyzing *Gingles* III where the Legislature had no pre-enactment strong basis in evidence for concluding the VRA required race-based redistricting); *Vera*, 517 U.S. at 977-979 (same with respect to *Gingles* I). But this Court has never demanded that a state tasked with remedying a specific, identified §2 violation must reprove the violation where, as here, the state already has a strong basis in evidence from a prior court decision, affirmed on appeal, finding that *Gingles* I could readily be satisfied in substantially the same geographic area where the remedial district was drawn. *Cf. Abbott*, 585 U.S. at 616 (prior finding that Texas's plan violated §2 provided good reasons for the state to draw noncompact remedial district).

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[1] Any other rule would deprive states of flexibility and wreak havoc on judicial economy, inviting collateral attacks on any §2 remedial map not imposed by a court after a final, non-appealable judgment. This would further embroil federal courts in redistricting decisions, creating uncertainty for election administrators and voters as district lines change from year to year.

The district court reached its decision that SB8 did not survive strict scrutiny under the legally erroneous view that a §2 remedial map must—in all circumstances—satisfy *Gingles* I by deviating as little as possible from traditional redistricting principles. This deprived the State of latitude to draw noncompact districts to pursue its *nonracial* policy preferences. This Court should reverse.

B. The District Court's Application of Strict Scrutiny Improperly Denied the State Leeway to Remedy an Identified §2 Violation in Accordance with Its Political and Policy Preferences.

The "strong basis (or 'good reasons') standard provides breathing room to the State to adopt reasonable compliance measures" to remedy potential §2 violations. *Cooper*, 581 U.S. at 293 (citing *Bethune-Hill*, 580 U.S. at 195-196) (cleaned up). "Electoral districting is a most difficult subject for legislatures, requiring a delicate balancing of competing considerations." *Bethune-Hill,* 580 U.S. at 187 (citing *Miller v. Johnson*, 515 U.S. 900, 915 (1995)); *see also White v. Weiser*, 412 U.S. 783, 795-796 (1973) ("Districting inevitably has sharp political impact and inevitably political decisions must be made by those charged with the task."). Sensitivity to the complexity of redistricting decisions is especially important where a state is attempting—with requisite "good reasons"—to comply with the VRA.

Because of the complexity of this process and the myriad considerations that go into legislative redistricting decisions, this Court has afforded states "broad discretion in drawing districts to comply with the mandate of §2." *Shaw II*, 517 at 917 n.9; *see also Bartlett*, 556 U.S. at 23 ("§2 allows States to choose their own method of complying with the Voting Rights

Act"); *Vera*, 517 U.S. at 978 ("States retain a flexibility that federal courts enforcing § 2 lack"). Accordingly, so long as the use of race substantially addresses a §2 violation for which it has a strong basis in evidence, a state has "breathing room" to balance legal obligations with political priorities. *Shaw II*, 517 U.S. at 915-916.

This Court has repeatedly emphasized the importance of this principle. For example, in the preclearance context, this Court has held that "[t]he law cannot insist that a state legislature, when redistricting, determine *precisely* what percent minority population §5 demands." *ALBC*, 575 U.S. at 278 (emphasis in original). Likewise, a map drawn to satisfy §2 need not win endless "beauty contest[s]" against rival maps to accord with the Equal Protection Clause. *Vera*, 517 U.S. at 977. By the same token, "§2 does not forbid the creation of a noncompact majority-minority district," *LULAC*, 548 U.S. at 430, and this Court has accordingly rejected as "impossibly stringent" a requirement that a district drawn to comply with the VRA have the "least possible amount of irregularity in shape." *Vera*, 517 U.S. at 977; *see also LULAC*, 548 U.S. at 494 (Roberts, C.J., dissenting) (§2 does not prohibit a legislatively enacted plan that "loses on style points" compared to more compact alternatives).

This flexibility is especially important when a state is redrawing a map to serve its independent, nonracial purposes along with VRA compliance, as Louisiana did here. Louisiana acted well within its permissible breathing room when it enacted SB8. There was no evidence that race was a factor at all in the Legislature's choice to extend CD6 along the Red River to the northwest rather than along the Mississippi River to the northeast, much less that race was considered in CD6's specific lines more than necessary

to substantially remedy the identified §2 violation. By ignoring the good reasons to draw CD6 provided by the rulings in *Robinson* and instead requiring the State to again prove the need for §2 compliance, the district court failed to provide the Legislature requisite breathing room and improperly displaced its prerogative to balance myriad considerations as it also sought to comply with federal law.

C. The District Court Clearly Erred in Finding that SB8 Fails to Maintain Communities of Interest, Negating Its Strict Scrutiny Analysis.

Separately, the factual findings underpinning the district court's conclusion that SB8 fails to satisfy *Gingles* were flawed in two respects. First, the court abused its discretion by relying on improperly considered extra-record evidence concerning communities of interest. Second, it clearly erred in finding that SB8 divided communities of interest because it ignored the unrebutted evidence of the communities of interest joined in CD6 that *was* in the record.

In concluding that SB8 fails strict scrutiny, the majority disregarded legislators' stated policy choices concerning the interests and communities they chose to unite in CD6 as well as the testimony of community members who live in CD6, and instead substituted its own preference that the Acadiana region should be kept together. J.S.A.184a-186a. However, the panel majority failed to cite a *single* piece of admitted evidence defining the boundaries of Acadiana or suggesting it should have held greater significance for the Legislature than the interests unified in CD6 that were identified in the legislative testimony. J.S.A.184a-188a. Indeed, as Judge Stewart notes in his dissent, the district court's treatment of Acadiana as

sacrosanct runs contrary to historical precedent: The parishes composing Acadiana have been routinely split among congressional districts since the 1970s, most recently in HB1. J.S.A.244a-252a (Stewart, J. dissenting).

Troublingly, to support its findings and without notice to the parties, the majority relied on an unsupported and possibly apocryphal quote from former Governor and Senator Huey Long in the 1930s, J.S.A.186a-187a, which no party had introduced let alone laid an appropriate foundation for, as well as other extra-record books, articles, websites, and the factual findings in the nearly three-decade old *Hays* case. J.S.A.184a-187a. The panel majority abused its discretion in considering these materials: They were neither admissible nor the proper subject of judicial notice. *United States v. Beaulieu*, 369 F. Supp. 3d 655, 672 (E.D. La. 2019) ("it is not appropriate to take judicial notice of contested facts."). The court also abused its discretion when it failed to adhere to Federal Rule of Evidence 201(e), which requires notice to the parties before a court takes judicial notice of adjudicative facts. Fed. R. Evid. 201(e); s*ee also Funk v. Stryker Corp.*, 631 F.3d 777, 778 (5th Cir. 2011) (exercise of judicial notice reviewed for abuse of discretion).

Compounding this error, the district court ignored the evidence that *was* in the record, including trial testimony concerning the interests and communities joined in SB8. *Id*. The district court entirely disregarded the extensive *admitted* testimony of four fact witnesses—all lifetime residents of Louisiana who reside or work in CD6—attesting to the communities of interest tied together in the new district. These witnesses testified about numerous interests shared

by residents of the district, including shared educational and hospital systems in Shreveport, Mansfield, Natchitoches, and Alexandria, religious networks connecting Natchitoches, Shreveport, Alexandria, Lafayette, and Baton Rouge, and public utility systems directly overlapping with the district. J.S.A.66a-68a, 72a-77a, 117a-119a, 225a. The court also failed to consider the legislative record, including statements by SB8's sponsor, identifying these same shared interests tying CD6 together. J.S.A.252a, 421a, 453a.

With no properly considered support for the district court's factual finding that CD6 improperly divides Acadiana, that finding is clearly erroneous. The court's failure to consider contrary evidence showing that CD6 in fact unites communities with shared interests from one end of the district to the other renders it doubly erroneous. Moreover, the court's conclusion that CD6 fails to satisfy the first *Gingles* precondition—and, consequently, strict scrutiny—was based almost entirely on its erroneous findings concerning communities of interest. In contrast to the nearly four pages devoted to that redistricting principle, the panel devoted only a single paragraph to each of the two other principles it considered: compactness and respect for political subdivisions and natural boundaries. J.S.A.188a-189a. Thus, without its clearly erroneous finding that SB8 divides communities of interest, the district court's ruling that SB8 fails strict scrutiny cannot stand and must be reversed.

III. The Court Below Abused Its Discretion in Consolidating Trial with the Preliminary Injunction.

The district court abused its discretion when it consolidated the preliminary injunction hearing with the trial on the merits pursuant to Federal Rule of

Civil Procedure 65(a)(2). Accordingly, even if its racial gerrymandering conclusions had been correct on the limited record developed during the extraordinarily expedited proceedings below, the district court's injunction should be vacated and the case remanded for discovery and a trial on the merits.

While Appellants' and the State's intervention motions were pending, Appellees moved for a schedule that advanced the trial on the merits and consolidated it with the preliminary injunction hearing. Doc.43. At that point, Appellants were not parties to the case and could not object to consolidation because the district court had not yet ruled on their intervention motion. The only other party to the case, the Secretary of State, did not oppose the motion and took no position on the merits of Appellees' racial gerrymandering claims. *See* Doc.82. In other words, *none* of the parties defending SB8 on its merits had an opportunity to object to consolidation. *But see Pughsley v. 3750 Lake Shore Drive Co-op. Bldg.*, 463 F.2d 1055, 1057 (7th Cir. 1972) (Stevens, J.) ("[T]he parties should be given a clear opportunity to object"). Nevertheless, the district court granted Appellees' motion and set trial to begin only 68 days after the complaint was filed. Doc.63. The court aggravated this error by first granting Appellants intervention only at the remedial stage, inhibiting their ability to participate in discovery on liability. When the court finally allowed Appellants to intervene at the liability phase, only twenty-four days remained before trial. The breakneck pace of the district court's schedule impeded Appellants' ability to conduct discovery by allowing them only *three* business days to submit expert reports and only a *total* of eight hours to depose Appellees' witnesses, with no opportunity to depose any of their fact witnesses or the individual Appellees. J.S.A.8a-12a, 22a-25a. When Appellants

moved to once again separate the preliminary injunction hearing from the trial in light of the prejudice caused by the discovery limitations, *see* Doc.166, the district court denied their motion, with no explanation, even though Appellees had not opposed that request, *see* Doc.163 (opposing continuance but not deconsolidation); Tr. Vol. 1 (7:17-8:14).

The district court's improper consolidation under Federal Rule 65(a)(2) warrants vacating its injunction and remanding for discovery and a trial. This Court has cautioned that it is "generally inappropriate for a federal court at the preliminary-injunction stage to give a final judgment on the merits." *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981) (citation omitted). Any consolidation order must "still afford the parties a full opportunity to present their respective cases," *id*., including a "reasonable time to permit a litigant to prepare a showing upon which the final outcome of the case may depend," 11a Charles A. Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2950 (3d ed. 2013); *see also Pughsley*, 463 F.2d at 1057 ("A litigant … should seldom be required … to forego discovery" due to consolidation). But here—in a fact-intensive racial gerrymandering inquiry—Appellants had only twenty-four days to prepare their case. Because the consolidation required Appellants to effectively forgo discovery and denied them "a full opportunity to present their … case[]," its imposition constituted a reversible abuse of discretion. *Camenisch*, 451 U.S. at 395.

Given this highly prejudicial error, even if the district court's racial gerrymandering conclusion were correct, this Court should vacate the injunction and remand to the district court. A preliminary injunction is no longer necessary given that the 2024 election has

passed, and the 2026 election is nearly two years away. *See Robinson III*, 86 F.4th at 600 (vacating pre-election preliminary injunction because "[t]he reasons for urgency"—preventing irreparable harm in an upcoming election—had dissipated). Here, as in *Robinson*, the balance of the equities has shifted away from Appellees. *See id*. Appellees face "no imminent deadline" preventing the district court from conducting a trial that would provide relief ahead of the 2026 election. *Id.* Thus, the "extraordinary remedy" of a preliminary injunction is no longer necessary. *Id*. As for the permanent injunction, it should be vacated pending a full discovery and trial.

CONCLUSION

This Court should reverse and remand with instructions to enter judgment for the State of Louisiana and Appellants.

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Respectfully submitted,

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