

No. 25-273

In the Supreme Court of the United States

WES ALLEN, SEC'Y OF STATE, *ET AL.*,

Appellants,

v.

BOBBY SINGLETON, *ET AL.*,

Appellees.

On Appeal from the United States District Court
for the Northern District of Alabama

**SINGLETON APPELLEES' OPPOSITION TO
APPELLANTS' EMERGENCY APPLICATION FOR STAY**

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INTRODUCTION

In 1965, Alabama State troopers traumatized black citizens in Selma as they tried to march across the Edmund Pettus Bridge. Less than a week ago, while tornado sirens blasted and flooding forced the Alabama legislative chambers to be evacuated, an unlawful and unconstitutional bill was rammed through by White legislators. That bill intends to void Alabama's May 19 primary elections in opportunity districts, including votes already cast, and to cut in half Alabama's Black representation in Congress, which resulted from the race-blind plan adopted by the three-judge panel below. The highest court of our nation should not grant its imprimatur to Appellants' unlawful and unconstitutional conduct. It is as if the Alabama legislature were oblivious to the pronouncement in *Callais*: "Nothing in [the Alabama case] dictates a result that differs from the one we reach today."

ARGUMENT

I. The Fundamental Premise of This Appeal, Including the Application for a Stay, Is Demonstrably False.

The Singleton Plaintiffs would like to focus this Court's attention on the linchpin of this appeal: Appellants' repeated assertion that the district court required Alabama to draw a race-based congressional plan and their refusal to address all the evidence supporting the district court's finding that the 2023 plan was purposefully discriminatory.¹ In the Appellants' Jurisdictional Statement, three of the four

¹ The Singleton Plaintiffs join the arguments of the Caster and Milligan Plaintiffs that Appellants have shown no grounds for a stay and that the district court's opinion should be affirmed, particularly in light of *Callais*.

questions presented depend on this false premise,² and so does the Appellants’ Motion to Expedite.³ The Appellants’ complete dependence on this false premise continues with their Application for a Stay. *E.g.*, Application at 1 (“[t]he district court ordered Alabama to use a race-based congressional map”); *id.* at 23 (calling the Special Master’s remedial plan “highly likely to be an odious racial gerrymander”). This premise—without which the appeal cannot possibly succeed—is plainly and demonstrably false. The district court never held that Section 2 required Alabama to adopt a majority-Black district or otherwise draw districts on the basis of voters’ race.⁴ The district court’s remedial plan is proof positive: it does not contain a second majority-Black district, and it was “prepared race-blind.” App.16; *see also* Motion to Affirm at 18–20. The district court also found that “[a]lthough federal law does not require a Section Two remedial plan to be prepared race-blind, the ability of the

² “1. Does §2 require Alabama to segregate a conceded community of interest to combine black voters from that community with black voters elsewhere to form a majority-black district? 2. Whether §2 can require Alabama to intentionally create a second majority-minority district without violating the Fourteenth or Fifteenth Amendments to the U.S. Constitution? ... 4. Did Alabama violate the Fourteenth Amendment by declining to draw a race-based plan?” Jurisdictional Statement at i. The only question presented that does not depend on this premise was “3. Does §2 create a privately enforceable right?” *Id.*

³ *E.g.*, Motion to Expedite at 2 (falsely stating that the district court “imposed a court-drawn plan with a second majority-minority district”); *id.* at 3 (falsely stating that “[t]he district court’s equal protection ruling was based entirely on Alabama’s position that Section 2 did not require it to enact a map with two majority-black districts ...”).

⁴ To be sure, the district court recognized that “as a practical reality, based on extensive evidence of intensely racially polarized voting in Alabama, any remedial plan would need to include two districts in which Black voters either comprise a voting-age majority or something quite close to it.” App.12–13 (internal quotation marks omitted). But the remedy the district court required, as opposed to what it acknowledged as a practical reality, demanded no thresholds for racial demographics or district lines based on race: “the appropriate remedy is a districting plan that includes either an additional majority-Black district, or an additional district in which Black voters otherwise have an opportunity to elect a representative of their choice.” App.20 (emphasis added). An opportunity district need not have a particular racial composition to avoid liability under Section 2. *Cooper v. Harris*, 581 U.S. 285, 305–06 (2017). As described below, all three Appellants admitted that the Black-preferred candidate would have won most elections in a proposed district whose Black Voting Age Population was less than 40%.

Special Master to do it that way (on a very short timetable) confirms for us that it is not only possible, but relatively easy.” App. 532.⁵

While this false premise is the central pillar of the Appellants’ Application for a Stay, several supporting representations are false or misleading as well. For example, Appellants contradict the district court’s factual findings by stating “Alabama’s 2023 Plan did not use race.” Application at 2. To the contrary, citing an “unusual corpus of undisputed evidence,” App.21, the district court found “no doubt that the purpose of the design of the 2023 Plan was to crack Black voters across congressional districts.” App.22; *see also* App.510 (“the Legislature intended the 2023 Plan to discriminate against Black Alabamians”).

Another example is the Appellants’ misleading statement that “[t]he district court held it was not required to ‘fully disentangle party and race.’ App.372.” Application at 2. The citation is *not* to a holding; it is only a description of this Court’s precedent before *Callais*. *See* App.371. Moreover, the district court’s ruling does disentangle race from partisan politics. For example, in the subsection “Arguments About Party Politics,” the district court concluded that “[t]he record supports only one finding: that voting in Alabama, particularly in the districts at issue in these cases, is intensely and extremely racially polarized We cannot imagine a more comprehensive record, and we cannot imagine clearer proof.” App. 372–73; *see also*

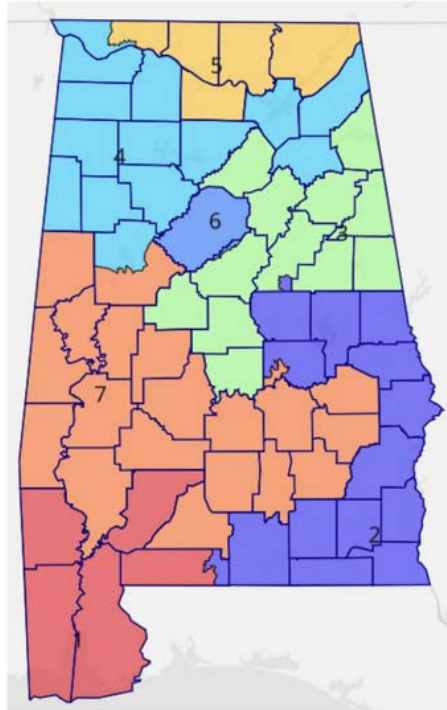
⁵ In the district court, the Defendants (now Appellants) never disputed the district court’s factual finding that the Special Master’s remedial plan was race-blind, and they have never cited to this Court any evidence that it was not. Their Reply Brief states that the finding “that the court-drawn districts were ‘race-blind’ . . . is preposterous.” Reply Brief at 4. Yet Appellants have not challenged the district court’s finding as clearly erroneous and have not explained why the finding is “preposterous.”

App.523 (“reject[ing] the State’s assertion that partisan goals rather than racial animus motivated the 2023 Plan”); App.385 (describing the Appellants’ expert’s published work as “telling” the story “that race remains the dominant political influence in Southern politics today”).⁶

If the proper approach to redistricting after *Callais* is to pursue traditional redistricting principles without classifying or intentionally discriminating against voters by race, then the Alabama Legislature repeatedly rejected opportunities to do so. Appellants never tried to prove in the district court that it was impossible to provide two opportunity districts while satisfying Alabama’s legitimate redistricting principles. One of the whole-county plans introduced during the 2023 special session (and again in the 2026 special session) demonstrates that such an outcome clearly is

⁶ Although the Singleton Appellees have already pointed to some of the Appellants’ false and misleading statements in other pleadings, Appellants continue to repeat them. Rather than belabor the issue, the Singleton Appellees have attached an appendix to this brief, which contains a selected list of false and misleading statements in the Application for Stay.

possible. Appellee Senator Bobby Singleton introduced a race-neutral plan with no majority-Black districts (the “Singleton Plan”) that kept the Gulf Coast intact:



Appellants admitted that in the 28 statewide contested elections from 2012 to 2022, the Black-preferred candidate received the most votes 22 times in District 6 of the Singleton Plan (which had a Black Voting Age Population of less than 40%), and all 28 times in District 7.⁷ Based on these admissions alone, it is untenable for Appellants to deny that the Singleton Plan contains two opportunity districts while keeping Mobile and Baldwin Counties together.

Moreover, the Singleton Plan better comports with the Legislature’s contrived redistricting criteria than the enacted 2023 plan does. Besides keeping the Gulf Coast intact and providing two opportunity districts, the Singleton Plan satisfies every

⁷ Secretary Allen admitted this fact in response to a request for admission. *Singleton v. Allen*, No. 21-cv-1291 (N.D. Ala.), Doc. 180-1 at 5–6. Senator Livingston and Representative Pringle made the same admission in separate responses, which were not introduced as exhibits in the district court.

relevant redistricting principle contained in the Legislature’s findings. See App.544–49. It has minimal population deviation, it is contiguous, it is at least as compact as the 2023 plan, it keeps Alabama’s four largest municipalities intact (which the 2023 plan fails to do), it splits no more than six county lines, and it keeps together communities of interest. Specifically, it keeps the Gulf Coast intact, and it puts 16 of the 18 core Black Belt counties in the same district—the highest number mathematically possible. It also keeps the Wiregrass intact except for two counties that are also core Black Belt counties (Crenshaw and Pike), which are placed in the Black Belt district.⁸

The Singleton Plan demonstrates that keeping counties whole could provide a race-neutral “benchmark” for determining whether, given “Alabama’s geography or demography,” districts can be drawn “without resorting to a racial gerrymander.” See *Allen v. Milligan*, 599 U.S. 1, 65–66 (2023) (Thomas, J., dissenting). As the district court said on remand from *Reynolds v. Sims*, 377 U.S. 533 (1964), preventing gerrymandering is one of the purposes for Alabama’s whole-county requirements for state House and Senate districts in the Alabama Constitution. *Sims v. Baggett*, 247 F. Supp. 96, 101 (1965) (three-judge court).

The only way the Singleton Plan falls short of the 2023 plan is that it does not preserve the cores of existing districts or protect all incumbents, but these cannot be nonnegotiable principles in the context of remedial redistricting: “[T]his Court has never held that a State’s adherence to a previously used districting plan can defeat a

⁸ For further description of the Singleton Plan and its performance on various metrics, see *In re Redistricting 2023*, No. 23-mc-1181 (N.D. Ala.), Doc. 5 at 6–19.

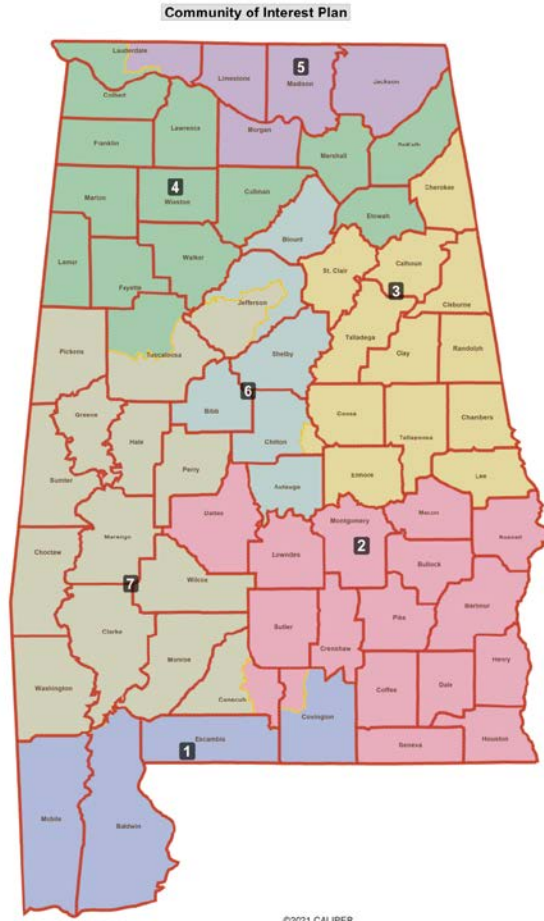
§ 2 claim. If that were the rule, a State could immunize from challenge a new racially discriminatory redistricting plan simply by claiming that it resembled an old racially discriminatory plan.” *Milligan*, 599 U.S. at 22; see *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 441 (2006) (“[T]he problem here is entirely of the State’s own making. The State chose to break apart a Latino opportunity district to protect the incumbent congressman from the growing dissatisfaction of the cohesive and politically active Latino community in the district.”).

Although the Singleton Plan complied with the district court’s directives and performed well on every legitimate districting principle the Legislature identified, including keeping the Gulf Coast together, the Legislature rejected it. It is impossible to reconcile the existence of the Singleton Plan with the Appellants’ position that the district court required Alabama to split the Gulf Coast in order to comply with Section 2.⁹

The Singleton Plan is not the only race-blind potential remedial plan the Legislature rejected. Contrary to their position on appeal, two of the three Appellants testified that it may have been possible to do what they now claim is impossible. During the 2023 special session, appellants Steve Livingston and Chris Pringle (and their attorney) instructed cartographer Randy Hinaman to draw a map that contains two opportunity districts and keeps Mobile and Baldwin Counties together. App.92. Mr. Hinaman was not instructed to target a minimum Black voting-age population,

⁹ To be clear, the Singleton Appellees do not claim that the Legislature or the district court was required to adopt the Singleton Plan; they highlight the Singleton Plan to show that a fundamental premise of the Appellants’ argument for a stay is wrong.

nor did he do so. *Milligan v. Allen*, No. 21-cv-1530 (N.D. Ala.), Doc. 459-7 at 16. Mr. Hinaman drew what came to be called the Community of Interest plan, which kept Mobile and Baldwin Counties intact and together:



Representative Pringle testified that he supported the Community of Interest plan because Dr. Trey Hood (one of the Appellants’ expert witnesses) determined that the Black-preferred candidate would have received the most votes in the second opportunity district in two of the four races he modeled. App.101–02; *Milligan*, Doc. 459-20 at 41 (“I thought it proved that the community of interest plan would comply with what the Supreme Court ordered and would provide an opportunity for minority citizens to elect a candidate of their choosing.”). Senator Livingston testified that “the

Community of Interest plan ‘might have’ ‘provided a fair opportunity for African American voters to elect preferred candidates’ in District 2,” the second opportunity district. App.96. Although the Community of Interest plan passed the House, the Legislature ultimately rejected it in favor of one that Appellants conceded did not contain a second opportunity district. While it is unknown whether the district court would have concluded that the Community of Interest plan contained two opportunity districts, both testifying Appellants believed that it might have, and that testimony squarely contradicts the premise of their appeal.

Because the Legislature rejected race-neutral plans that they believed might provide a second opportunity district, and adopted a plan it knew would not do so, the Appellants’ position on the Fourteenth Amendment crumbles. They claim, falsely, that “[i]n *Milligan*, the district court held that Alabama was *constitutionally required* to segregate Mobile into different districts based on race.” Application at 19. The fact is, in 2023 the Alabama Legislature was aware that the 2021 plan likely violated Section 2 (which was and still is the law of the case), that violation required a remedy, any remedy would require a second opportunity district, and that it could do so while keeping Mobile County intact, but it “purposefully and admittedly refused to provide that remedy.” App.489. That fact, along with the “unusual corpus of undisputed evidence that confirms the obvious inference from the Legislature’s conduct,” App.21, supports the district court's holding that the Legislature violated the Fourteenth Amendment, and that holding is consistent with the constitutional standards announced in *Callais*.

II. A Stay Would Accomplish Nothing and Create Chaos Because It Would Not Permit Redistricting Under Alabama Law.

Appellants argue that a stay will avoid irreparable harm because it will give Alabama the opportunity to conduct a special primary election with the 2023 plan, rather than keep the status quo. Application at 3, 23–25. While Appellants suggest that Alabama is in the same position as Louisiana post-*Callais*, *id.* at 23–24, it is actually in the opposite position: Louisiana has suspended its primary election so that a map this Court held to be unlawful can be replaced with a lawful map. Alabama asks this Court for extraordinary relief so that it can replace a race-neutral map with the 2023 map that the district court found would “intentionally perpetuate the discriminatory effects of the 2021 Plan,” App.22, which this Court held likely violates Section 2 in *Allen v. Milligan*. Alabama voters, not Appellants, will thus suffer irreparable harm if the intentionally discriminatory 2023 plan is reinstated.

Putting aside Appellants’ through-the-looking-glass view of the merits, their positions have a showstopping problem: a stay would not trigger Alabama Act 2026-612, the law authorizing a special primary election.¹⁰ As Alabama’s Solicitor General acknowledged in his letter to this Court on May 9, that law “provides for a special primary election for affected Congressional districts ‘[i]n the event that’ a federal court, ‘by issuing a judgment or by vacating an injunction, permits the reinstatement of the’ 2023 Plan.” (quoting Act 2026-612, § 1(b)). A stay is not a judgment or vacatur.

¹⁰ The Alabama Legislature advanced the bill that became Act 2026-621 over strong opposition from minority members of the Legislature, even as flooding and a tornado warning required the State House to be evacuated. <https://www.yahoo.com/news/articles/alabama-republicans-vote-gerrymander-state-131748074.html>.

See Merrill v. Milligan, 142 S. Ct. 879, 879 (2022) (Kavanaugh and Alito, JJ., concurring in grant of applications for stays) (“The stay order is not a ruling on the merits, but instead simply stays the District Court’s injunction *pending a ruling on the merits*”); *Little v. Reclaim Idaho*, 591 U.S. 1060, 1060 (2020) (stating that a stay of an order regarding election procedures “shall terminate upon the sending down of the judgment of this Court”).

The precise conditions for authorizing a special primary election contained in Act 2026-621 are no accident. The Governor’s proclamation called for the Legislature to hold a special session ““to consider legislation to provide for a special primary election for electing members of the United States House of Representatives ... in districts whose boundary lines are altered by a court issuing a judgment, vacating an injunction, *or otherwise* ordering or permitting an alteration in the boundaries of such districts.” Application at 3 (quoting the proclamation) (emphasis added). The Legislature chose not to include the phrase “or otherwise” in the bill that became Act 2026-621. Therefore, the Secretary may hold a special election solely after judgment or vacatur. Act 2026-621, § 1(b). This omission must be viewed as intentional. *See Russello v. United States*, 464 U.S. 16, 23 (1983) (“Where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.”) (cleaned up).

Beyond the Appellants’ statutory problem, they have a constitutional problem, which applies not only to a stay, but also to a judgment or vacatur: Act 2026-621

violates the Alabama Constitution on its face. Section 111.08 of the Alabama Constitution of 2022 provides, “The implementation date for any bill enacted by the Legislature in a calendar year in which a general election is to be held and relating to the conduct of the general election shall be at least six months before the general election.” This year’s general election will be held on November 3, so no bill “relating to the conduct of the general election” can be implemented after May 3. Act 2026-621 was enacted on May 8, and it indisputably “relat[es] to the conduct of the general election.” The Secretary is currently conducting elections that will select general election candidates for the congressional districts ordered by the district court, but he has cited Act 2026-621 as his authority to conduct the general election under the 2023 plan instead. Application at 3, 24. Therefore, Act 2026-621 facially violates the Alabama constitution.

Consider, then, the chaos that would be unleashed if this Court stays or vacates the district court’s injunction. First, the Secretary would declare that the May 19 congressional primary elections are void, citing Act 2026-621. Because that law does not provide the authority to nullify the primary elections (if this Court issues a stay), and is unconstitutional in any event (if this Court issues a stay, judgment, or vacatur), the Secretary’s decision will be challenged in the Alabama courts,¹¹ which cannot possibly resolve that challenge before May 19 and probably could not resolve such a challenge for months.

¹¹ Alabama Democratic legislators have already announced a legal challenge to Act 2026-621, and the ACLU of Alabama is considering one. <https://alabamareflector.com/2026/05/11/in-redistricting-fight-alabama-democrats-and-civil-rights-groups-turn-to-a-state-amendment/>.

Layer onto that chaos the uncertainty that a special election would even be feasible: 116 days before the 2022 primary election, the Secretary’s predecessor asked this Court for a stay of the injunction against the 2021 plan, describing the logistical nightmare that would result from the imposition of new congressional districts. *Merrill v. Milligan*, No. 21-1086, Emergency Application for a Stay (Jan. 28, 2022) at 36–40. This Court credited that description. *Merrill v. Milligan*, 142 S. Ct. at 880 (Kavanaugh and Alito, JJ., concurring in grant of applications for stays) (“the State argues that the District Court’s injunction is a prescription for chaos for candidates, campaign organizations, independent groups, political parties, and voters, among others”). Now the Secretary requests judicial intervention no more than 96 days before a special election could be held, relying on a statute that does not authorize that special election.¹² Under the circumstances, it is an open question whether Alabama could conduct a binding primary election at all this year. Granting a stay would not resolve an emergency; it would create one.

CONCLUSION

Entering a stay so that Appellants can at the last minute violate Alabama’s statutes and constitution by replacing a lawful plan with an unlawful one would create chaos and would reward Appellants for their repeated false statements to this Court. The application for a stay should be denied.

¹² Section 1(b) of Act 2026-621 requires certification of the special primary election by August 26. Alabama law requires that UOCAVA votes be accepted up to seven days after an election. Ala. Code § 17-11-18(b). Certification occurs the next day. Alabama Secretary of State, Administrative Calendar, <https://www.sos.alabama.gov/sites/default/files/election-2026/AdminCalendar%20-2026.pdf>. Therefore, the special primary could be held on August 18 at the latest. Appellants have requested relief by May 14, which is 96 days before August 18.

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APPENDIX

The following is a non-exhaustive list of false or misleading statements in the Appellants' Application for a Stay:

False Statements

Page 1: "The district court ordered Alabama to use a race-based congressional map"

Page 1: "That order segregated more than a million Alabamians into different districts because of their race."

Page 23: The district court's injunctions "force the State to use instead a map that is highly likely to be an odious racial gerrymander."

Page 24: "If Alabamians can have an election free of racially sorted congressional districts, they should have the opportunity."

- These statements are false because Special Master stated that he had not used race in the design of the remedial plan, the Defendants stipulated that the Special Master's report said this, the Defendants never offered any evidence or argument before the district court that the Special Master used race, and the district court held that the Special Master did not use race. App.80–81, 531.

Page 2: "The district court forced the State to sacrifice that goal [of keeping the Gulf Coast community of interest intact]."

- This statement is false because the Community of Interest Plan, which the Alabama House passed, kept those counties together. So did the Singleton Plan. See Singleton Appellees' Opposition to Emergency Application for Stay

(“Brief”) at 5–7. Appellants never tried to prove that creating two opportunity districts required splitting Mobile County.

Pages 5–6: “Plaintiffs argued that §2 requires splitting the Gulf Coast by segregating Mobile County so that Mobile’s black voters could be combined with black voters in the Black Belt to form a second majority-black district.”

- This statement is false because while Plaintiffs presented *illustrative* plans that split Mobile County to create a second majority-Black district, as *Gingles* required them to do, they never argued that Section 2 required that the Court impose such a plan. *See* App.340. Ultimately, all Plaintiffs supported a race-blind remedial plan that did not include a second majority-Black district.

Page 7: “But in 2025, the question was whether Alabama’s plan flunked §2 for failing to draw black voters from the Black Belt and black voters from elsewhere into ‘a majority-Black district.’ App.345.”

- This statement is false because it refers to a discussion about the Plaintiffs’ *illustrative* plans. The district court never held that Section 2 required an additional majority-Black district, and it did not impose one.

Pages 8-9: “The State was entitled to try to ‘persuade’ the district court at trial that there was no dilution in the new 2023 Plan. App.22. Yet that attempt was deemed proof of ‘a deliberate decision to double down on the dilution of Black Alabamians’ votes,’ App.492, and ‘an attempt to evade a court order,’ App.520.”

Page 20: “[T]he district court punished [Alabama]—not for violating the preliminary order (which it did not), App.515-16, but for having the gall to enact a better map,

present a better record at trial, and ultimately try ‘to “find another argument” to persuade’ the district court that there was no §2 violation. App.22.”

- These statements are false because the finding of “a deliberate decision to double down on the dilution of Black Alabamians’ votes” and “an attempt to evade a court order” was based on an “unusual corpus of undisputed evidence that confirms the obvious inference from the Legislature’s conduct,” App.21, which spanned dozens of pages of the district court’s opinion, App.492–526, not the State’s attempt to persuade the district court. The district court, which noted that the Defendants testified that they understood the remedy that *Allen v. Milligan* required, said that the proof was “when the State delayed remedial proceedings for five weeks; enacted a new plan that it admitted did not include an additional opportunity district; enacted novel legislative findings that made the additional opportunity district impossible to draw and materially reconfigured the State’s definition of key terms (which we discuss in detail below); and then told us we were back at square one, needing to fully relitigate liability before we could determine anything about remedy or order the State to use a different map for the 2024 election.” App.492.

Page 9: “The court found ‘there was no basis’ for Alabama’s concerns about the competing hazards of complying with §2 and the Constitution. App.521-22. Rejecting those concerns as ‘implausible,’ *id.*, the court found that Alabama discriminated in 2023 by not discriminating: to the court, Alabama’s failure to move ‘much of the Black

Belt’ and ‘Black Alabamians in Mobile’ out of their ‘White district[s]’ violated the Fourteenth Amendment. App.489, 518.”

Page 19: “In Milligan, the district court held that Alabama was constitutionally required to segregate Mobile into different districts based on race. App.489, 518. But refusing to discriminate is not discrimination.”

Page 21: “[I]t is more than ‘plausible’ that Alabama feared the same outcome had it drawn lines based on race to create a second race-based district.”

- These statements are false because the district court did not hold that Alabama discriminated by not discriminating. The district court held that Alabama intentionally diluted the Black vote by “cracking” it across majority-White districts, knowing that doing so would fail to create a second opportunity district. App.489, 518. Additionally, the district court stated, “In any event, we have no evidence that the Legislature was specifically concerned about potential gerrymandering liability when it enacted the 2023 Plan. The only evidence in the record suggests they were not” App.522.

Page 9: “Finally, the court admitted that there was no alternative plan that ‘achieve[s] all the political goals of the Legislature, particularly the goal of keeping Mobile and Baldwin Counties whole and together in one congressional district.’ App.514.”

- This statement is false because the district court did not hold that “no alternative plan” achieved all the Legislature’s goals, only that the Special Master’s remedial plan did not. App.514. The Singleton Plaintiffs have shown

that the Singleton Plan satisfied every legitimate goal, including keeping the Gulf Coast together, as well as the 2023 plan. Brief at 5–7. The Legislature rejected that plan.

Pages 19–20: “Faced with a preliminary §2 finding, Louisiana was therefore constitutionally *required*—on [the Alabama district court’s] view—to draw another majority-minority district.”

- This statement is false because the district court ordered an opportunity district, not a majority-minority district. “When the Legislature enacted the 2023 Plan, there was no lack of clarity that an additional opportunity district was necessary in Alabama, nor what an additional opportunity district meant: we expressly said so, and the Supreme Court affirmed our order without suggesting or discussing, let alone holding, that we were wrong about that.” App.519.

Page 20: “Because it applied the wrong standard when it held that §2 likely obligated the State to draw a new race-based district, its constitutional holding built on that premise must be vacated.”

- This statement is false because the district court never held that Section 2 likely obligated the State to draw a new race-based district. Brief at 2–9.

Misleading Statements

Page 1: The remedial map “admittedly ‘does not achieve all the political goals of the legislature.’ App.514.”

- This statement is misleading because the only way the remedial map did not achieve the political goals was that it split Mobile County, and keeping Mobile County whole was found to be a contrivance the state used to avoid a remedy for unlawful vote dilution. App.21, 347.

Page 7: “(3) every alternative map that adds a majority-minority district splits the Gulf Coast, see App.340; and (4) the only way to form a second majority-minority district is by “splitting Mobile County” and combining it with rural Black Belt counties hundreds of miles away,”

- This statement is misleading because it refers to illustrative plans, not remedial plans.

Page 7: “After trial, the district court permanently enjoined use of the 2023 Plan, reasoning that Plaintiffs’ alternatives respected the Black Belt ‘much better’ by placing more Black Belt counties in majority-black districts. App.345.”

- This statement is misleading because the district court’s point was not that a certain number of Black Belt counties had to be in majority-Black districts, but that “the Plaintiffs’ [illustrative] plans respect the Black Belt as an important community of interest,” and “[t]he State offers no rebuttal.” App.345.

Page 23: “A full trial on the 2023 Plan followed, and all agreed it was ‘impossible’ to draw another majority-minority district without sacrificing the State’s lawful policy goal of keeping the Gulf Coast together, among others. Throughout the course of those proceedings on the merits of the 2023 Plan, Alabama raised the exact issues decided in *Callais*.”

- This statement is misleading because while it was impossible to draw an additional majority-minority district and keep the Gulf Coast together, it was not impossible to draw an additional opportunity district and keep the Gulf Coast together, as the Singleton Plan demonstrated.