

No. 25-845

IN THE
Supreme Court of the United States

GREG ABBOTT,
IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE
STATE OF TEXAS, ET AL.,
APPELLANTS,

v.

LEAGUE OF UNITED LATIN AMERICAN CITIZENS,
ET AL.,
APPELLEES.

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

BRIEF OF *AMICUS CURIAE*
STEPHEN M. SHAPIRO
IN SUPPORT OF APPELLEES

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INTEREST OF THE *AMICUS*¹

Amicus Stephen M. Shapiro lives in Maryland. His interest is in vindicating rights that preserve effective representation for himself and other voters. In 2013, he led a bipartisan group of voters who filed the original pro se complaint in what became *Lamone v. Benisek*, which was ultimately decided by this Court with *Rucho v. Common Cause* in 2019. He was the lead petitioner when *Benisek* was first before this Court as *Shapiro v. McManus* in 2015.

During 2023, *Amicus* expended significant effort engaging leaders of the North Carolina General Assembly in an attempt to convince them to limit the partisan aspects of their congressional district map so as to prevent reciprocal revisions to Maryland's map and those of other states. Those efforts failed, and North Carolina subsequently enacted new congressional districts in 2023, and a more recent mid-decade revision to their 2023 map. In January 2026, the Maryland House of Delegates passed a bill to implement a mid-decade revision of Maryland's congressional districts to counter the likely partisan effects of the Texas map at issue in this case, and to those of the mid-decade maps enacted in North Carolina and in other states. That bill remains stalled for now in the Maryland Senate.

¹ *Amicus* afforded all counsel of record timely notice of his intent to file this brief. No person other than the *Amicus* has authored this brief in whole or in part or made a monetary contribution toward its preparation or submission.

SUMMARY OF ARGUMENT

Appellants contend that the Texas Legislature “redistricted the State’s congressional districts mid-decade to secure five additional Republican seats in the U.S. House of Representatives.” J.S. 1. Even if Appellants can show that the legislature’s motive was partisan rather than racial, a partisan motive in the context of a mid-decade redistricting should be held to be just as impermissible a racial motive.

While the Court has held that that partisan gerrymandering claims are nonjusticiable, this has created a significant *sub silentio* exception to, if not a conflict with, the Court’s earlier holdings on the Elections Clause. This warrants further review, particularly with respect to a mid-decade redistricting, where application of the rule set out in the Court’s Elections Clause cases would be straightforward. Review is also warranted in light of the unseemly ongoing battle among state legislatures for control of the U.S. House of Representatives—a scenario with no basis in the Constitution.

This Court held in *Cook v. Gralike*, 531 U.S. 510 (2001), that “the Framers understood the Elections Clause as a grant of authority to issue procedural regulations, and not as a source of power to dictate electoral outcomes, to favor or disfavor a class of candidates, or to evade important constitutional restraints.” *Id.* at 523-24 (quoting *U.S. Term Limits v. Thornton*, 514 U.S. 779, 833-34 (1995)). Thus, *Cook* set out a rule that a legislature exceeds its authority under the Elections Clause when it enacts

such regulations that “favor or disfavor a class of candidates” so as to “dictate electoral outcomes.” 531 U.S. at 523-24.

While the regulation at issue in that case involved the design of ballots, *id.* at 514-15, the Court’s reasoning applies generally to all regulations issued pursuant to the Elections Clause. Of all the regulations a state legislature may issue under the Clause, congressional district maps are perhaps those most prone to being used as a source of power to favor the legislature’s preferred candidates.

This Court more recently held in *Rucho v. Common Cause*, 588 U.S. 684 (2019), “that partisan gerrymandering claims present political questions beyond the reach of the federal courts.” *Id.* at 718. *Rucho* rejected the premise that the Elections Clause affords a judicially enforceable limit on the authority of a state legislature to favor its preferred candidates in the context of drawing congressional district maps. *Id.* at 717 (quoting *Vieth v. Jubelirer*, 541 U.S. 267, 305 (2004)).

But the Court in *Rucho* did not review the rule it had earlier set out for Elections Clause regulations in *Cook*,² nor explain that *Rucho* set out a significant

² While the Court in *Rucho* did not discuss the rule in *Cook*, the Court noted with approval the nearly identical language in Florida’s Fair Districts Amendment, 588 U.S. at 719, suggesting that the Amendment affords Florida courts practical guidance on gerrymandering, *id.* *Cook* could afford federal courts the same.

exception to—or a conflict with—that rule as to the drawing of congressional districts. Rather, the Court in *Rucho* said that such favoritism in the context of districting is “constitutional,” at least to some extent. *See id.* at 700-01 (citing key racial gerrymandering cases). Further, the Court held that the federal courts lack jurisdiction to review partisan favoritism in districting in light of the lack of standards to determine the point at which such favoritism become unconstitutional. *Id.* at 703-10, 718.

Under the rule set out in *Cook*, the entire undertaking—if it was done “to secure five additional Republican seats in the U.S. House of Representatives”—clearly exceeded the legislature’s Elections Clause authority. The Clause affords a legislature no power to undertake a mid-decade redistricting in order to flip five seats or just one, or to merely increase the partisan margin of even one seat. Thus, this Court should affirm the judgment below if the Texas legislature’s purpose was either racial or partisan.

While the rule from *Cook* would be a discernible basis for limiting such favoritism in redistricting generally, it is particularly straightforward to apply this rule in the context of a mid-decade redistricting. The analysis can and should be consistent with the Court’s review of the impermissible ballot in *Cook*. The Court might not need to make findings as to individual districts to find that the undertaking as a whole was impermissible. That is, if it was pursued toward gaining House seats for the legislature’s preferred party by favoring candidates preferred by

the legislature. This closely follows the Court's analysis in *Cook*. 531 U.S. at 524-26.

In the case of a congressional district map enacted pursuant to a decennial census,³ the rule under *Cook* would be the same, but the analysis and requisite evidence may differ since the mandatory purpose of any redistricting after a decennial census is to rebalance the population among the districts. *See Wesberry v. Sanders*, 376 U.S. 1, 18 (1964).

After a census, a court is more likely to have to look to the design of individual districts to determine whether the legislature fashioned them to favor or disfavor classes of candidates so as to dictate electoral outcomes. The test becomes whether the district lines reflect this intent—typically by cracking and packing disfavored voters through disregarding traditional districting criteria.⁴

³ This discussion on analyzing a map enacted after a census might not be essential to the Court's resolution of this case, but is offered in the event the Court finds it prudent to examine how the rule set out in *Cook v. Gralike* might also be applied to a map enacted after a decennial census. *See League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 418-19 (2006) (opinion of Kennedy, J.) (declining to distinguish the standard needed to make a partisan gerrymandering claim regarding a mid-decade redistricting from one after a decennial census). The proposed rule from *Cook* is the same, but the analysis and evidence would differ.

⁴ A key task for a trial court will be to identify such cracking and packing rather than just adherence to or disregard of specific criteria. If chosen carefully, review of such criteria will be helpful, but they are not all inclusive or determinative.

ARGUMENT

I. **This Court held in *Cook v. Gralike* that a state legislature exceeds its authority to regulate congressional elections when it thereby favors its preferred candidates**

The House of Representatives shall be composed of *Members chosen every second Year by the People* of the several States * * * .

U.S. Const. art. I, § 2 (emphasis added).

The *Times, Places and Manner* of holding Elections for Senators and Representatives, *shall be prescribed in each State by the Legislature* thereof; but the Congress may at any time by Law make or alter such Regulations * * * .

U.S. Const. art. I, § 4 (emphasis added).

Thus the People choose their Representatives, while their state legislature—or Congress—sets the details for that process. A state legislature exceeds this regulatory authority when its regulations “dictate electoral outcomes” or “favor or disfavor a class of candidates.” *Cook v. Gralike*, 531 U.S. 510, 523-24 (2001) (quoting *U.S. Term Limits v. Thornton*, 514 U.S. 779, 833-34).

Under this rule set out in *Cook*, a legislature exceeds its Section 4 authority to regulate when it arrogates to itself a Section 2 role that is reserved for voters as to the selection of Representatives.

Rather, Article I, § 4 mandates a duty to enact “procedure and safeguards * * * necessary * * * to enforce the fundamental right involved.” *Cook*, 531 U.S. at 524 (quoting *Smiley v. Holm*, 285 U.S. 355, 366 (1932)). This “fundamental right” is, of course, the voters’ right to choose their senators and representatives.

The Court in *Cook* struck down a ballot designed to disfavor candidates who did not support or pledge to support term limits, 531 U.S. at 514-15, 524, finding that the ballot’s design “attempt[ed] to ‘dictate electoral outcomes,’” *id.* at 526 (quoting *U.S. Term Limits*, 514 U.S. at 833-34), and concluding that “[s]uch ‘regulation’ of congressional elections simply is not authorized by the Elections Clause,” 531 U.S. at 526.

With respect to the importance of ballot design at issue in *Cook*, the Court noted that “the adverse labels [required next to the names of disfavored candidates] handicap [those] candidates ‘at the most crucial stage in the election process—the instant before the vote is cast.’” *Cook*, 531 U.S. at 525 (quoting *Anderson v. Martin*, 375 U.S. 399, 402 (1964)); *see also* 531 U.S. at 532 (Rehnquist, C.J., concurring in the judgment) (making the identical point in his First Amendment analysis). Designing the district map impacts an even more crucial stage of the election process than the ballot.

“Nothing in the Constitution or The Federalist Papers, however, supports the idea of state interference with the most basic relation between the National Government and its citizens, the

selection of legislative representatives.” *U.S. Term Limits*, 514 U.S. at 842 (Kennedy, J., concurring). *See also id.* (quoting, inter alia, *United States v. Classic*, 313 U.S. 299, 315 (1941)) (“The right of qualified voters within a state to cast their ballots and have them counted at Congressional elections . . . is a right secured by the Constitution” and “is secured against the action of individuals as well as of states.”). Similarly, if the Framers intended for state legislatures or Congress to have a role in selecting Representatives, they would have stated such authority explicitly.

The Great Compromise incorporated in the Constitution gave the People authority to choose their Representatives, and gave state legislatures authority to choose U.S. Senators. *See Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 831 (2015) (Roberts, C.J., dissenting) (distinguishing the respective roles of the People and of state legislatures in selecting members of the House and Senate prior to the Seventeenth Amendment, and noting that the “distinction was critical to the Framers”); *Wesberry v. Sanders*, 376 U.S. 1, 12–13 (1964) (recounting the Framers’ negotiation of the Great Compromise that they embodied in Article I, §§ 2 & 3). The Framers could not have intended that state legislatures would have a substantive role in choosing House members.

This division of authority among a state’s legislature and its voters is reinforced by the Privileges or Immunities Clause:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.

U.S. Const. amend. XIV, § 1, cl. 2.

The Privileges or Immunities Clause explicitly reinforces the holdings in *Cook* and *U.S. Term Limits*—protecting voters’ Article I, § 2 electoral rights from any abridgment done through a state’s use of its limited Article I, § 4 authority, or through any reserved powers a state could apply in regulating congressional elections. *See U.S. Term Limits*, 514 U.S. at 843-44 (Kennedy, J., concurring); *Twining v. New Jersey*, 211 U.S. 78, 97 (1908) (citing *Ex parte Yarbrough*, 110 U.S. 651, 663 (1884)); *Wiley v. Sinkler*, 179 U.S. 58, 62–63 (1900)), overruled on other grounds by *Malloy v. Hogan*, 378 U.S. 1 (1964); *cf. Hague v. Comm. for Indus. Org.*, 307 U.S. 496, 512 (1939) (holding that the rights of political assembly and speech are “a privilege inherent in citizenship of the United States which the Amendment protects”); *see also U.S. Term Limits*, 514 U.S. at 842 (Kennedy, J., concurring). (quoting, *inter alia*, *United States v. Classic*, 313 U.S. 299, 315 (1941)) (holding that the right to vote in Congressional elections is secured by the Constitution against the action of individuals as well as of the states). *But see Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 53-54 n.3 (Thomas, J., concurring) (questioning whether political rights, such as the right to vote for Representatives, are privileges or immunities protected by the Fourteenth Amendment).

II. *Rucho v. Common Cause* Created a *Sub Silentio* Exception to *Cook* and Perhaps a Conflict That Merits Further Review

This Court held in *Rucho v. Common Cause*, 588 U.S. 684 (2019), “that partisan gerrymandering claims present political questions beyond the reach of the federal courts.” *Id.* at 718. The Court noted with disapproval the holdings of the court below that “the Elections Clause did not empower State legislatures to disfavor the interests of supporters of a particular candidate or party in drawing congressional districts,” *id.* at 717, and that “partisan gerrymandering infringes the right of ‘the People’ to select their representatives,” *id.* But the Court did not address its prior decisions in *Cook v. Gralike* or *U.S. Term Limits v. Thornton*, which used language similar to that used by the court below. The Court noted with approval that “the plurality in *Vieth* concluded—without objection from any other Justice—that neither §2 nor §4 of Article I ‘provides a judicially enforceable limit on the political considerations that the States and Congress may take into account when districting.’” 588 U.S. at 717 (quoting *Vieth v. Jubelirer*, 541 U.S. 267, 305 (2004)).

The Court said that “a jurisdiction may engage in constitutional political gerrymandering.” 588 U.S. at 700-01 (quoting *Hunt v. Cromartie*, 526 U. S. 541, 551 (1999)). “To hold that legislators cannot take partisan interests into account when drawing district lines would essentially countermand the Framers’ decision to entrust districting to political entities.” 588 U.S. at 701. But there is a difference

between taking partisan interests into account and gerrymandering, i.e., to favor or disfavor a class of candidates so as to attempt to dictate electoral outcomes. It is safe to presume that most if not all congressional district maps take politics into account, but hopefully not all are yet gerrymandered.

Perhaps the difference between “taking politics into account” and “gerrymandering” is, to an extent a matter of degree. See *Rucho*, 588 U.S. at 704. But the degree is not an assessment of “partisan dominance,” *id.* (quoting *League of United Latin Am. Citizens v. Perry*, 548 U. S. 399, 420 (opinion of Kennedy, J.)). Rather, it is a matter of whether the legislature drew the lines so as to favor its preferred candidates and thereby attempt to dictate the outcome. Gerrymandering is more an act with an intent rather than the degree of resulting dominance. In other words, gerrymandering is what a legislature does in drawing a map to favor its preferred candidates so as to dictate or influence the outcome. Such an attempt to achieve “partisan dominance” suggests gerrymandering, whereas merely “taking politics into account” does not. *Amicus* discusses this further in Part III.

The statement in *Rucho* that gerrymandering is constitutional conflicts with the rule set out in *Cook*. And the holding in *Rucho* that gerrymandering claims are nonjusticiable carves out a major exception to the scope of regulations subject to *Cook*. The divergence from *Cook* warrants further review by this Court, and the application of *Cook* may lead to a path to resolve this case and perhaps others.

III. The Rule in *Cook v. Gralike* Affords a Basis to Review Partisan Gerrymandering

This Court discerned the rule in *Cook v. Gralike* from its review of the Elections Clause. Nothing in the Court's reasoning in that case would suggest that it should not apply to the design of congressional districts, but rather that it should apply generally to all Elections Clause regulations.

The Court has also suggested that lower courts could manageably apply the nearly identical wording of the Florida Fair Districts Amendment, "No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent." *See Rucho*, 588 U.S. at 719, 720 (quoting Fla. Const., Art. III, §20(a)).

The more general rule set out in *Cook* would be no less manageable. To be sure, it will not always be as simple to apply this rule to a district map as to a ballot, but it is almost that simple in the case of a mid-decade redistricting.

A. This Entire Mid-Decade Redistricting Violates the Rule in *Cook v. Gralike* if it Was Done, as Texas Admits, “to secure five additional Republican seats in the U.S. House of Representatives”

Appellants contend that the Texas Legislature “redistricted the State’s congressional districts mid-decade to secure five additional Republican seats in the U.S. House of Representatives.” J.S. 1.

It is hard to imagine another scenario, even that in *Cook*, that so blatantly exceeds a legislature’s authority under the Elections Clause. If this redistricting was undertaken as admitted, or as may be later found at trial, it was explicitly done so as to favor the legislature’s preferred candidates and thereby dictate the outcome of the upcoming 2026 elections in Texas. To wit, “to secure five additional Republican seats.”

This conclusion requires no analysis of any specific district within the challenged map. But rather, the entire enterprise was impermissible under the rule in *Cook*. The specific number of seats attempted to be secured is not relevant; a mid-decade redistricting done to secure just one additional seat for the legislature’s preferred party is just as impermissible as one undertaken to secure five. *Cf. Forsyth Cnty. v. Nationalist Movement*, 505 U.S. 123, 136 (1992) (“[T]he level of the fee is irrelevant. A[n unconstitutional] tax * * * does not become more constitutional because it is a small tax.”).

Analysis of a mid-decade redistricting that is explicitly undertaken for partisan gain is analogous to this Court’s analysis of the ballot stricken in *Cook*. The Court in *Cook* did not—and did not have to—quantify the degree to which the challenged ballot disfavored specific candidates, or determine whether that degree was permissible. *See* 531 U.S. at 525-26 (noting that the “precise damage” to candidates disfavored by the ballot labels was “disputed,” but finding that they were in any event “surely place[d] * * * at a political disadvantage,” and therefore concluding that the ballot language “attempt[ed] to ‘dictate electoral outcomes’”).

The Court did not examine the extent to which the ballot succeeded or may have been predicted to have succeeded in achieving any precise electoral outcome. The findings and conclusion above were sufficient for the Court to determine that “[s]uch ‘regulation’ of congressional elections simply is not authorized by the Elections Clause.” *See id.* at 526. A similar analysis would be sufficient here as well.

B. The Rule in *Cook v. Gralike* Could Also Serve as a Manageable Basis to Review Maps Drawn After a Decennial Census

Courts could also use the rule set out in *Cook v. Gralike* to review a congressional district map enacted after a decennial census. *Amicus* does not believe that it is necessary for the Court to examine this now in order for the Court to resolve the matter at hand. However, *Amicus* provides this discussion in case the Court finds it would be prudent or helpful

to examine the more general application of *Cook* concurrent with examining its application to the instant Texas redistricting. *See Perry*, 548 U.S. at 418-19 (2006) (opinion of Kennedy, J.) (finding unreliable a standard that may be manageable for reviewing a mid-decade redistricting but not one done after a decennial census). The rule from *Cook* affords the same standard for reviewing both, but the analysis and evidence could differ.

In an optional mid-decade process, there may well be enough evidence as to what the legislature did—and why—for a trial court to reach a conclusion without examining individual districts in detail. Such is the case here, as just explained in Part III.A.

After a decennial census, states with more than one Representative must revise their districts to equalize their populations. *See Wesberry v. Sanders*, 376 U.S. 1, 18 (1964). There is a legitimate and mandatory purpose to such an undertaking. But a legislature in so doing, may well have further goals and objectives—and many if not most will be perfectly legitimate. A challenger claiming that the legislature exceeded its authority as in *Cook* must show how the map was purposefully configured to favor or disfavor classes of candidates so as to dictate the outcome. *See Cook*, 531 U.S. at 523-24.

Such a challenger would typically offer evidence of cracking and packing with the intent to achieve this purpose. Such evidence may include but not be limited to the disregard of certain traditional districting criteria that might reflect cracking and packing likely voters for disfavored candidates:

contiguity,⁵ compactness,⁶ and minimizing splits of counties and municipalities.⁷

The mere presence or lack of these factors alone might not prove or disprove such cracking and packing, but they may well be probative evidence. *See Rucho*, 588 U.S. at 707 (quoting *Vieth*, 541 U. S., at 308–309 (Kennedy, J., concurring in judgment); and then *id.* at 298 (plurality opinion) (criticizing the value of these factors). Again, these criteria are not determinative themselves, as Justices Kennedy and

⁵ While many states use a travel test—whether one can travel from one point in a district to any other without leaving the district—to assess contiguity, *Amicus* finds the rule used in Kentucky more pertinent: “Generally, courts disfavor finding one territory to be contiguous to another territory when the only link between the two is a narrow corridor. Courts have repeatedly held that when the only purpose the corridor serves is to create the requisite contiguity, such a subterfuge cannot [prevail].” *Griffin v. City of Robards*, 990 S.W.2d 634, 640 (Ky. 1999) (citations omitted) (considering contiguity in the context of annexation); *see also In re Apportionment L.*, 414 So.2d 1040, 1051 (Fla. 1982) (“[L]ands that mutually touch only at a common corner or right angle cannot be regarded as ‘contiguous’ within the proper meaning of the word when applying it in establishing house or senate districts.”).

⁶ A rigid geometric standard would not be too helpful in assessing compactness. *See, e.g., In re Legis. Districting of the State*, A.2d 292, 353–54 (Md. 2002) (asking whether the General Assembly “fairly considered and applied” compactness principles “in light of all of the [other related] constitutional requirements”).

⁷ In working with N.C. district maps, *Amicus* found that this factor can reveal racial or partisan cracking that may be hidden within a compact district, particularly where a straight district line bisects a city or town.

Scalia pointed out in the passages in *Vieth* just cited, but they can be helpful toward showing or disproving the standard in the rule set out in *Cook*—whether there was intentional cracking and packing, or other features to favor or disfavor candidates so as to dictate the outcome. And as in *Cook*, “dictate” is not necessarily an absolute based on an actual or predicted result, but rather reflects a concerted intent to influence the election outcome. *See Cook*, 531 U.S. at 525-26.

Lastly, application of these factors, particularly as they are coupled with the rule set out in *Cook*, has no sounding in proportionality. *Cf. Allen v. Milligan*, 599 U.S. 1, 43-44, 44 n.2 (2023) (Kavanaugh, J., concurring). A map that is shown not to violate the rule set out in *Cook* may well have district election results that are disproportionate to the statewide vote. The rule neither seeks nor requires proportionality, though a map that severely violates *Cook* may well be highly disproportionate.

* * * * *

The ongoing specter of state legislatures that have or are considering whether to undertake a mid-decade redistricting in order to gain more seats for their preferred party—or to respond to other states that have done so—is truly repugnant to our Constitution. And it puts states still on the sidelines in an uncomfortable position of deciding whether to join this fray. As has been shown, nothing in the U.S. Constitution envisions or permits such a battle among state legislatures to determine control of the U.S. House of Representatives.

Amicus respectfully encourages this Court to review the inconsistency between *Cook* and *Rucho* as to the U.S. Constitution’s allocation of powers among a state’s legislature and its voters. While Congress may also enact statutes setting out policies it prefers under the Elections Clause, enforcing the allocation of powers among a state’s voters, and the federal and state legislative branches is a duty for the Courts. *See Bell v. Wolfish*, 441 U.S. 520, 562 (1979) (contrasting the Court’s responsibility to “scrupulously” inquire into a violation of a constitutional provision or statute, while leaving to political officials the “wide range of ‘judgment calls’ that meet constitutional and statutory requirements”); *Highland Farms Dairy v. Agnew*, 300 U.S. 608, 612 (1937) (warranting this Court’s intervention in “a controversy affecting the structure of the national government as established by the provisions of the national Constitution”); cf. *El-Shifa Pharm. Indus. Co. v. United States*, 607 F.3d 836, 852 (D.C. Cir. 2010) (Ginsburg, J., concurring) (“The result of staying the judicial hand is to upset rather than to preserve the constitutional allocation of powers between the executive and the legislature.”); *id.* at 857 (Kavanaugh, J., concurring) (noting that using the political question doctrine in statutory cases would favor the Executive Branch over the Legislative Branch without addressing critical separation of powers issues).

As this Court said nearly a century ago:

The practical construction of Article I, § 4, is impressive. * * * [L]ong and continuous interpretation in the course of official action

under the law may aid in removing doubts as to its meaning. This is especially true in the case of constitutional provisions governing the exercise of political rights, and hence subject to constant and careful scrutiny.

Smiley v. Holm, 285 U.S. 355, 369 (1932).

CONCLUSION

In light of the foregoing, the Court should affirm the judgment below. In the alternative, the Court should note probable jurisdiction and order briefing and argument on the following questions:

1. Considering *Rucho v. Common Cause* and *Cook v. Gralike*, does the Elections Clause afford a state legislature the authority to favor or disfavor classes of candidates so as to dictate electoral outcomes when it enacts congressional districts?
2. Does the rule set out in *Cook v. Gralike* afford federal courts with a standard by which they could determine whether a mid-decade enactment of new congressional districts impermissibly exceeded the legislature's authority under the Elections Clause?

If the Court might find it helpful to concurrently review more general application of the rule in *Cook*, the Court could also request briefing and argument on the following question:

3. Does the rule set out in *Cook v. Gralike* afford federal courts with a standard by which they could determine whether the enactment of new congressional districts after a decennial census impermissibly exceeded the legislature's authority under the Elections Clause?

Respectfully submitted,

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