No. 25A1315

Supreme Court of the United States

HON. WES ALLEN,
IN HIS OFFICIAL CAPACITY AS THE ALABAMA SECRETARY OF STATE, ET AL.,
Applicants,

v.

BOBBY SINGLETON, ET AL.,
Respondents.

ON APPLICATION FOR STAY PENDING APPEAL FROM THE
U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA

REPLY IN SUPPORT OF EMERGENCY APPLICATION FOR STAY AND FOR ADMINISTRATIVE STAY

Michael P. Taunton
Riley Kate Lancaster
BALCH & BINGHAM LLP
1901 Sixth Ave. N., Ste. 1500
Birmingham, AL 35203

Taylor A.R. Meehan
CONSOVOY MCCARTHY PLLC
1600 Wilson Blvd., Ste. 700
Arlington, VA 22209

Steve Marshall
Attorney General
A. Barrett Bowdre
Solicitor General
Counsel of Record
Robert M. Overing
Principal Deputy Solicitor General
James W. Davis
Brenton M. Smith
Deputy Attorneys General
Benjamin M. Seiss
Assistant Attorney General

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL
501 Washington Avenue
Montgomery, AL 36104
(334) 242-7300
Barrett.Bowdre@AlabamaAG.gov

Counsel for Applicants

REPLY BRIEF

1. A stay is warranted. On May 11, 2026, this Court vacated the district court's injunction, precluding the State's use of its 2023 Plan, and remanded for further consideration in light of *Louisiana v. Callais*, 146 S. Ct. 1131 (2026). It took only two weeks and a day for the district court to decide that the evidentiary showing required by *Callais* need not apply in Alabama because, it said, "Alabama cannot use *Callais* to legitimize its pre-*Callais* decision[s]." App.44. In so doing, the district court presumed bad faith, not good faith, by ascribing racial motive for the entirely legitimate objective of keeping the Gulf Coast counties, a conceded community of interest, in one congressional district as the State had been allowed to do for decades until this litigation. *But see Abbott v. Perez*, 585 U.S. 579, 603 (2018).[1]

Plaintiffs insist that they remain so likely to succeed, despite *Callais*, that the district court was justified in taking the always extraordinary step of issuing another preliminarily injunction just before the 2026 elections. Setting aside their myriad

[1] Plaintiffs cherry-pick from *Allen v. Milligan*, 599 U.S. 1 (2023), to contend that "[t]his Court already rejected" that the State could maintain its policy of keeping the Gulf Coast in one district in the 2023 Plan as it has long done. *Caster* Resp.19-20; *see Milligan* Resp.2, 5-6, 32-33. They would have the Court transform *Allen*—a preliminary-injunction stage decision based on a preliminary record about the 2021 Plan—into a final judgment about what will and will not be allowed of all future Alabama redistricting legislation. That line of argument ignores this Court's caution that the "haste" required of preliminary-injunction proceedings means they are "less formal" and the "evidence … is less complete than in a trial on the merits." *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981). The State was not "required to prove [its] case in full at a preliminary injunction hearing." *Id.*

Nothing in *Allen* precluded the State from enacting new legislation—the 2023 Plan—and then proving at trial how the Gulf Coast is a community of interest that the State has long decided ought to be represented with one voice in Congress. That record was voluminous, *see infra* n.4, and the district court—unsurprisingly—agreed that the Gulf Coast was a community of interest. DE490:351, App.42. The district court's error, illuminated by *Callais*, was its view that Plaintiffs could simply ignore that nonracial redistricting priority. App.42.

misrepresentations,[2] Plaintiffs reduce *Callais* to a nullity, and the district court's own findings—after a full trial, not hasty preliminary-injunction proceedings—betray Plaintiffs' confidence. In the district court's own words, no alternative to the State's map "achieve[s] all the political goals of the Legislature," DE490:525, and "we cannot separate voters' racial considerations from their party affiliations," DE490:400-01. Those conclusions should have been dispositive after *Callais*. Yet just 15 days after this Court vacated the lower court's decision, the district court concluded that Plaintiffs need not submit alternative maps accounting for the State's redistricting goals. App.55-57. *But see Callais*, 146 S. Ct. at 1159 ("illustrative maps must meet all the State's legitimate districting objectives"). To the district court, those goals—namely, keeping the Gulf Coast intact and not pairing incumbents—could simply be whisked away as "illegitimate." App.42.[3] Likewise, despite faulting the State for denying "opportunity" and perpetuating "dilution," the district court ignored what *Callais* said those terms meant. *See* 146 S. Ct. at 1155. To defend the district court, Plaintiffs are thus forced to argue that *Callais* "did nothing," *Caster* Resp.2, and "said nothing," *Milligan* Resp.2, relevant to this case. And that says it all.

[2] *See, e.g.*, *Milligan* Resp.19 (claiming the State's interest in the Gulf Coast was a "last-minute" addition); *id.* at 26 (claiming "zero evidence" of incumbent-protection goals); *id.* at 31-32 (denying that the court "fault[ed] the Legislature for not drawing 'two majority-minority districts'"); *Caster* Resp.10 (claiming "extensive record of intra-party racial polarization and recent discrimination in voting").

[3] *Milligan* Plaintiffs say the district court found "zero evidence" of "incumbent-protection motives" and that "[i]ncumbent protection is also absent from … the Legislature's findings." Resp.4-5. But the district court did not deny that goal, App.55, and the redistricting law explicitly states that any "plan shall not pair incumbent[s]," App.88. The State's mapmaker testified that he "obviously" avoided pairing incumbents "Barry Moore" and "Jerry Carl." DE490:86; *contra Milligan* Resp.25 ("no such evidence"). This also explains why the Legislature rejected Rep. Pringle's proposal in favor of the 2023 Plan sponsored by Sen. Livingston. *Contra Milligan* Resp.3; App.33-34, 39. It is undisputed that the 2023 Plan was far more favorable to incumbents and to Republicans. App.34 (noting that Republicans would win "all seven modeled races by seven points in the 2023 Plan's District 2").

2. The State spent years litigating its desire to keep the Gulf Coast intact in one congressional district for entirely nonracial reasons. The notion that *Callais* cannot apply to vindicate that "pre-*Callais* decision" (App.44) runs headlong into the principle that this Court's "controlling interpretation of federal law [ ] must be given full retroactive effect in all cases still open on direct review and as to all events, regardless of whether such events predate or postdate our announcement of the rule." *Harper v. Va. Dep't of Tax'n*, 509 U.S. 86, 97 (1993). At the very least, the district court should have held Plaintiffs to their post-*Callais* burden before taking the extraordinary step of preliminarily enjoining the 2023 Plan again.

For 50 years, Alabama has had one congressional district to represent the distinct Gulf Coast region, including the federal projects, infrastructure, and unique economy of that region.[4] If the presumption of good faith means anything, it is that the choice to keep the Gulf Coast region intact—while keeping the Black Belt region as whole as possible in just two districts—was one grounded in good policy, not invidious discrimination. *See Abbott*, 585 U.S. at 610. And if *Callais*'s update to the *Gingles* framework means anything, it is that Plaintiffs must disentangle that

---

[4] *See, e.g.*, DE490:351 ("At trial, we heard from both expert and lay witnesses about overlapping economic interests, commuting patterns, shared heritage, cultural events, and unique challenges that connect the Gulf Coast counties. *See, e.g.*, Tr. 206-09, 405-06, 1417, 1467-68."); App.90-92 (legislative findings describing Gulf Coast as "a community of interest composed of Mobile and Baldwin Counties" that share "a long history and unique interest" "[o]wing to Mobile Bay and the Gulf of Mexico," including (1) "a shared interest in tourism" related to the Gulf; (2) "major fishing, port, and ship-building industries," particularly at the Port of Mobile, which delivers "eighty-five billion dollars in economic value to the state each year"; and (3) a "distinct culture," as "reflected in the celebration of shared social occasions, such as Mardi Gras, which began in Mobile"). As the *Milligan* Plaintiffs emphasize (at 7), these findings were not adopted by the reapportionment committee, but they *were* passed by the Legislature—making them more indicative, not less, of the entire body's intent in passing the 2023 Plan. Likewise, while Plaintiffs complain that it was improper for the Legislature to note the unique "French and Spanish colonial heritage" of the Gulf Coast, *Caster* Resp.13, *Milligan* Resp.19, even the district court rejected this argument, DE509:513.

specified policy goal from vote dilution with alternative maps. *See Callais*, 146 S. Ct at 1157. But here the district court assumed racial discrimination, erroneously believed that only "partisan goals" count under *Callais*, and waved off any alternative maps requirement. App.55. This Court recently stayed a preliminary injunction in *Abbott v. League of United Latin American Citizens* for similar reasons. *See* 146 S. Ct. 418 (2025). The same result is required here, too.

Plaintiffs seek to distinguish *Callais* by asserting that the Special Master's plan was drawn "race blind." *E.g.*, *Singleton* Resp.8; *Milligan* Resp.33. But any lauding of that map is irrelevant; the 2023 Plan is the law unless and until there is sufficient proof—consistent with *Callais*—to the contrary. Moreover, the Special Master's map was not a *Gingles* map, as the district court itself acknowledged, App.53, and thus has no bearing on the lawfulness of the 2023 Plan.[5] And Applicants have never "stipulated" that the Special Master's map was drawn "race blind" in the constitutional sense, *contra Caster* Resp.10, 17-18; *Milligan* Resp.34, 46—only that the Special Master said that the map-drawer "did not display racial demographic data," *Milligan* DE436:¶143. That claim is irrelevant because the district court *instructed* the Special Master to draw a map with two black-majority districts or something "quite close." DE490:4; DE273:7. His "intentional compliance with the court's demands constituted an 'express acknowledgment that race played a role in

[5] Likewise, the *Singleton* Plaintiffs' maps are not *Gingles* maps. *Contra Singleton* Resp.6-13; *Milligan* Resp.21; *see* App.77 (reserving ruling on the "Singleton Plan"). The Singleton Plan also failed to comply with the State's goals because it altered every congressional district, paired incumbents, and split the Wiregrass. Under *Callais*, "it is up to each State to decide" its own redistricting goals and "what weight, if any, they warrant." 146 S. Ct. at 1156.

the drawing of district lines.'" *Callais*, 146 S. Ct. at 1162. And how could it not? The only reason the Special Master's Plan does not look like the 2023 Plan in keeping the Gulf Coast intact is that the Special Master overrode the State's nonracial political goals to create a race-based district. That's a racial gerrymander.

3. As for Plaintiffs' many arguments that there is no time left, it is true that time is tight because the district court entered its injunction the day before voter reassignment to the 2023 Plan was set to begin on May 27. App.1. But that is all the more reason to grant the stay, not deny it. While the district court considered itself an election czar that could save the State overtime through its last-minute injunction, App.72-73, that mistakes *Purcell* as a sword to be used against the State rather than as a shield counseling against federal intrusion in State elections. *E.g.*, *LULAC*, 146 S. Ct at 419. Plaintiffs insist (without evidence) that only the court's map "aligns with [public] expectations," *Milligan* Resp.1, but after the State held a special session of the Legislature to enact a new election schedule, called off the May 19 primary for affected districts, and then scheduled a new primary for August using the 2023 Plan, that plan was the legal and practical status quo, *contra id.* at 42-43. Should this Court conclude that the 2023 Plan should not have been preliminarily enjoined, it ought to stay the district court's extraordinary order as it has for other States. *E.g., LULAC*, 146 S. Ct. at 419. It will then be for Alabama's elected officials to determine the best path forward for the upcoming elections in light of the time crunch at hand.

CONCLUSION

For these reasons, the Court should enter a stay pending appeal in *Milligan* and *Singleton* and a stay pending disposition of the certiorari petition in *Caster*.

Respectfully submitted,

Steve Marshall
Attorney General

A. Barrett Bowdre
Solicitor General
Counsel of Record

Robert M. Overing
Principal Deputy Solicitor General

James W. Davis
Brenton M. Smith
Deputy Attorneys General

Benjamin M. Seiss
Assistant Attorney General

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL
501 Washington Avenue
Montgomery, AL 36104
(334) 242-7300
Barrett.Bowdre@AlabamaAG.gov

Michael P. Taunton
Riley Kate Lancaster
BALCH & BINGHAM LLP
1901 Sixth Ave. N., Ste. 1500
Birmingham, AL 35203

Taylor A.R. Meehan
CONSOVOY MCCARTHY PLLC
1600 Wilson Blvd., Ste. 700
Arlington, VA 22209

JUNE 1, 2026

Counsel for Applicants