No. 25A608

In The Supreme Court of the United States

GREG ABBOTT, GOVERNOR OF TEXAS, ET AL., APPLICANTS

v.

LEAGUE OF UNITED LATIN AMERICAN CITIZENS, ET AL.

On Application for Stay of the Order of the
United States District Court for the Western District of Texas

BRIEF OF UNITED STATES SENATORS JOHN CORNYN AND TED CRUZ AS *AMICI CURIAE* IN SUPPORT OF APPLICANTS

Jason Torchinsky
Counsel of Record
Holtzman Vogel Baran Torchinsky & Josefiak PLLC
2300 N. Street NW, Suite 643
Washington D.C. 20037
202.737.8808 (phone)
540.341.8809 (fax)
Email: jtorchinsky@holtzmanvogel.com

Elizabeth Price Foley
Holtzman Vogel Baran Torchinsky & Josefiak PLLC
2333 Ponce de Leon Blvd., Suite 600
Coral Gables, FL, 33134
315.379.1601 (phone)
540.341.8809 (fax)

Bill Duffin
Daniel Bruce
Holtzman Vogel Baran Torchinsky & Josefiak PLLC
15405 John Marshall Hwy
Haymarket, VA 20169
540.341.8808 (phone)
540.341.8809 (fax)

Counsel for Amici Curiae

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INTEREST OF *AMICI CURIAE*[1]

Amici Curie Senator John Cornyn, III, and Senator Ted Cruz represent the State of Texas in the United States Senate. Senator Cornyn is a participant in the upcoming Texas primary election in March of 2026 as he seeks re-election to the United States Senate. Senator Cruz will seek a fourth term during the 2030 elections. Both *amici* have a strong interest in protecting the Texas Legislature's constitutional power to govern elections held within the State and Congress's concomitant power to supervise State elections under the Elections Clause. The district court's election-eve injunction unduly interferes with such state and federal legislative authority. It also upends the State's in-progress election procedures, schedules, and training, and requires significant expenditures and reallocation of limited State resources. It causes massive chaos and confusion for the State itself, as well as for political candidates, political parties, and voters in Texas (including *amici*).

SUMMARY OF THE ARGUMENT

Redistricting is "a traditional domain of state legislative authority." *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 7 (2024); *see also Chapman v. Meier*, 420 U.S. 1, 27 (1975) ("[R]eapportionment is primarily the duty and responsibility of the State through its legislature or other body, rather than of a federal court."). While the Fourteenth Amendment "introduces one constraint by prohibiting a State from engaging in a racial gerrymander," this Court has "repeatedly emphasized that

[1] No party's counsel authored this brief in whole or part; no party, counsel for a party, or any person other than amici curiae or their counsel made a monetary contribution toward the preparation and submission of this brief.

federal courts must 'exercise *extraordinary caution*'" in such cases. *Alexander*, 602 U.S. at 7 (quoting *Miller v. Johnson*, 515 U.S. 900, 915–16 (1995) (emphasis added)). This is because there is a "complex interplay of forces that enter a legislature's redistricting calculus" and judicial review thereof "represents a serious intrusion on the most vital of local functions." *Id.* (quoting *Miller*, 515 U.S. at 915–16).

Despite this, on November 18, 2025, a split, three-judge district court of the U.S. District Court for the Western District of Texas threw caution to the wind and held that a group of six advocacy groups (collectively, "Plaintiffs") were entitled to a preliminary injunction because it believed the Texas Legislature's new congressional district maps, enacted in August 2025, "racially gerrymandered" eight[2] (out of thirty-eight) districts in violation of the Fourteenth Amendment's Equal Protection Clause. Appl. App. 1. To remedy this perceived violation, the district court ordered Texas to revert to its 2021 congressional map. Appl. App. 160.

By granting the injunction, the district court violated the *Purcell* principle, a "bedrock tenet of election law," which prohibits federal judges from altering State election rules and procedures shortly before such elections are held. *Merrill v. Milligan*, 142 S. Ct. 879, 880–81 (2022) (Kavanaugh, J., concurring); *see also Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam). By failing to apply *Purcell*, the court caused massive disruption, chaos and confusion within the State itself, as well as for political parties, candidates, local election officials, and Texas voters. Consequently,

[2] The eight districts that Plaintiffs challenged as racially gerrymandered were Congressional Districts 9, 18, 22, 27, 30, 32, 33, and 35. Appl. App. 51.

the district court's preliminary injunction must be stayed pending further order of this Court.

The district court majority admitted that "politics played a role in drawing the 2025 Map," that Plaintiffs had proffered no alternative map to rebut the legislature's presumption of good faith, and that "[b]y some measures, the 2025 Map is more consistent with traditional districting criteria than" the 2021 map. Appl. App. 2, 128–29; *see also Alexander*, 602 U.S. at 10 ("Without an alternative map, it is difficult for plaintiffs to defeat our starting presumption that the legislature acted in good faith."). Nonetheless, the court concluded, the Texas Legislature was "ultimately spurred" by a July 7, 2025, letter sent from the Department of Justice ("DOJ") to the Governor and Texas Attorney General, which the court deemed "critical to [its] analysis[.]" Appl. App. 17. The "gist of the letter," concluded the district court majority, was that "DOJ [was] urging Texas to change the racial composition[] of" four districts, thus "direct[ing] Texas to engage in racial gerrymandering." Appl. App. 18, 59.

More importantly for purposes of this amici brief, the district majority adopted a bizarre and incorrect analysis of the *Purcell* principle, by which this Court "has repeatedly emphasized that lower federal courts should ordinarily not alter the [state] election rules on the eve of an election." *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 589 U.S. 423, 424 (2020) (per curiam). Its error was three-fold. First, the district majority held that the *Purcell* principle does not apply at all because "applying *Purcell* to this case would lead to absurd results." Appl. App. 152. It reasoned that because maps were redrawn in August 2025, *Purcell*'s condemnation

of last minute, judicially-mandated changes to State election law is inapposite. Appl. App. 152–56. According to the court, *Purcell* instead focuses on the "disruption an injunction would cause," not just "counting the number of days until the next election." Appl. App. 143–44.

This construction of *Purcell* pays short shrift to the constitutional underpinnings of the *Purcell* principle, which "involves federal intrusion on state lawmaking processes." *Democratic Nat'l Comm. v. Wis. State Legislature*, 141 S. Ct. 28 (2020) (Roberts, C.J., concurring). Indeed, this Court has long acknowledged that federal court review of districting legislation "represents a serious intrusion on the most vital of local functions" and should be cautiously undertaken because "reapportionment is primarily the duty and responsibility of the State." *Miller*, 515 U.S. at 915 (quoting *Chapman*, 420 U.S. at 27). Federal court review of districting legislation on the *eve of an election*, as the *Purcell* principle recognizes, poses even greater counter-majoritarian concerns about the proper role of federal courts.

Second, on the issue of disruption, the district majority trivialized Texas's contention that requiring reversion to the 2021 maps would cause massive chaos, disruption, and confusion. The court concluded that "[a]n injunction in this case would not cause significant disruption" because "we are still one year out from the general election and four months out from the primary election" and critical deadlines like overseas and absentee voting "are more than two months away." Appl. App. 144. Any burden on the State, it believed, is "minimal" and "far outweighed" by the need to protect plaintiffs' constitutional rights. Appl. App. 151.

The district court likewise minimized the resource and time burdens caused by its order to revert to the 2021 map. Although the court admitted that "some preliminary election preparations have begun" to implement the 2025 map, (including educating and training county officials and drawing registration precincts based thereon), it found that "in several critical respects, the State is still operating under the 2021 Map" merely because the State used the 2021 map for a November 4, 2025, special election in CD-18, a runoff for which is scheduled January 31, 2026. Appl. App. 144–45. The court concluded that "[i]n any event, any disruption that would happen here [by reverting to the 2021 map] is attributable to the Legislature, not the Court" because the Texas legislature chose to alter its districts in August 2025, Appl. App. 146, approximately six months prior to the beginning of early voting. Although States need time to plan for elections, the court conceded, "that fact became moot" when the Texas legislature adopted new maps approximately two months before the candidate filing period opened. Appl. App. 147.

Third, the district majority reasoned that even if *Purcell* applies, this case is a "prototypical extraordinary case" that necessitates an election-eve injunction. Appl. App. 148 (internal quotation marks omitted). Here, the court relied on Justice Kavanaugh's concurrence in *Merrill*, which characterized the *Purcell* principle as "a sensible refinement of ordinary stay principles for the election context" that is "not absolute" but "instead simply heightens the showing necessary for a plaintiff to overcome the State's extraordinarily strong interest in avoiding late, judicially imposed changes to its election laws and procedures." *Merrill*, 142 S. Ct. at 881

(Kavanaugh, J., concurring). It also relied on a 2024 Fifth Circuit opinion in *La Union del Pueblo Entero v. Abbott*, 119 F.4th 404 (5th Cir. 2024), which employed Justice Kavanaugh's approach. Appl. App. 148–49.

Applying these modified stay requirements, the district majority reasoned that Plaintiffs had not unduly delayed their action and had established irreparable harm, the feasibility of reverting to the 2021 maps, and that the merits are "entirely clearcut" in their favor. Appl. App. 151–52.

In short, the district court not only altered election rules on the eve of Texas's 2026 primaries, but it did so in a massive, fundamental way: With the swoop of a judicial pen, the court invalidated the entirety of the State's 2025 congressional maps, adopted via the democratic processes of the Texas Legislature. As a result, the State, political parties, candidates, and voters themselves "now do not know who will be running against whom in the primaries," for which overseas ballots are mailed January 17, 2026, and early voting begins February 17. *See Merrill*, 142 S. Ct. at 880 (Kavanaugh, J., concurring). "Filing deadlines need to be met [by December 8, 2025], but candidates cannot be sure what district they need to file for. Indeed, at this point, some potential candidates do not even know which district they live in. Nor do incumbents know if they now might be running against other incumbents in the upcoming primaries." *See id*. Complying with the district court's order will "require heroic efforts by those state and local authorities in the next few weeks—and even heroic efforts likely would not be enough to avoid chaos and confusion." *Id*.

The district court's utter disregard of the *Purcell* principle thus warrants an immediate stay pending further order of this Court.

ARGUMENT

I. *Purcell v. Gonzalez* Mandates Judicial Restraint

Even prior to *Purcell*, this Court recognized that federal court interference with state election laws shortly before elections was problematic. In *Williams v. Rhodes*, this Court refused to interfere with an impending election, even after it concluded that the ballots unconstitutionally excluded certain candidates in violation of the Equal Protection Clause. 393 U.S. 23, 30–35 (1968). There, the Court affirmed a district court decision to deny the Socialist Party's argument that it was entitled, under the Equal Protection Clause, to have its candidates name printed on Ohio ballots for presidential elections. *Id*. at 27–28. In so doing, this Court agreed with Ohio's argument that granting such relief to the Socialist Party would "disrupt[] the process of its elections" and it would be "extremely difficult, if not impossible" for Ohio to reprint and distribute new ballots. *Id*. at 35. It also observed, "[T]he confusion that would attend such a last-minute change poses a risk of interference with the rights of other Ohio citizens," such as absentee voters. *Id*.

Later, in *Purcell*, this Court formalized a doctrine federal-court judicial restraint on the eve of elections. There, plaintiffs unsuccessfully sought a preliminary injunction from a federal district court, seeking to stop enforcement of an Arizona law that required proof of citizenship when registering and voting. *Purcell*, 549 U.S. at 3. "[J]ust weeks before an election," however, a two-judge motions panel of the Ninth Circuit reversed, enjoining the law. *Id*. at 3–4. The *Purcell* Court unanimously

vacated the Ninth Circuit's order, however, holding that when there is an "impending election," federal court should not enjoin State election laws. *Id.* at 5. Doing so creates confusion, and there is an overriding need to give "clear guidance to the State[s]" and their voters. *Id*. at 5.

Post-*Purcell*, "[t]his Court has repeatedly emphasized that federal courts ordinarily should not alter state election laws in the period close to the election—a principle often referred to as the *Purcell* principle." *Democratic Nat'l Comm.*, 141 S. Ct. at 30 (Kavanaugh, J., concurring). The *Purcell* principle holds that "a federal court's last-minute interference with state election laws is ordinarily inappropriate." *Id*. at 31. Absent *Purcell*, "it's not hard to imagine . . . judges accepting invitations to unfurl the precinct maps" on the eve of elections. *Id*. at 29 (Gorsuch, J., concurring). "Nothing in our founding document," however, "contemplates [that] kind of judicial intervention" in state elections. *Id*.

As elaborated below, the principle serves multiple important purposes, including respecting the States' primary role in governing their own elections, preventing federal courts from interfering in complex state legislative policy judgments about how their elections should be conducted, and avoiding last-minute, court-imposed modifications to election laws that inevitably create chaos for candidates, States, and voters, thereby undermining confidence in the integrity of our elections.

A. The *Purcell* Principle Respects the Constitutional Role of States in Governing Their Own Elections

The *Purcell* principle is grounded in the Court's longstanding recognition of the States' constitutional authority to govern their own elections under the Elections Clause. U.S. Const. art. IV, § 1, cl. 1 ("The Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof"). If State election laws need revision, Congress, not the courts, has constitutional authority to alter them. *Id*. For redistricting in particular, "[i]t is well settled that 'reapportionment is primarily the duty and responsibility of the State.'" *Miller*, 515 U.S. at 915 (quoting *Chapman*, 420 U.S. at 27).

Given these foundational constitutional principles, this Court has long instructed that, "[i]n awarding or withholding immediate relief, a court is entitled to and should consider the proximity of a forthcoming election and the mechanics and complexities of state election laws and should act and rely upon general equitable principles." *Reynolds v. Sims,* 377 U.S. 533, 585 (1964). Accordingly, "under certain circumstances, such as where an impending election is imminent and a State's election machinery is already in progress, equitable considerations might justify a court in withholding the granting of immediately effective relief in a legislative apportionment case, even though the existing apportionment scheme was found invalid." *Id.*

Purcell built upon these basic principles, further protecting States' legislative primacy in matters of election law. If a federal court is asked to enjoin or otherwise

alter State elections in the "thick of election season," *Purcell* counsels, granting such relief is improper because it "involves federal intrusion on state lawmaking processes." *Democratic Nat'l Comm.*, 141 S. Ct. at 28 (Roberts, C.J., concurring). If a State legislature changes its own election laws "in the late innings"—as the Texas Legislature did here—it "bear[s] the responsibility for any unintended consequences." *Id.* at 31 (Kavanaugh, J., concurring). But it is "quite another thing for a federal district court to swoop in and alter carefully considered and democratically enacted state election rules when an election is imminent." *Id.*

The simple truth is that "Legislators can be held accountable by the people for the rules they write . . . [but] typically, judges cannot." *Id.* at 29 (Gorsuch, J., concurring). There is incessant "clamor for judges to sweep in and address emergent problems" but the "constitutional design . . . ensur[es] that any changes to the status quo will not be made hastily, without careful deliberation, extensive consultation, and social consensus." *Id.* at 29–30. For these reasons, individual judges may not "improvise with their own election rules in place of those the people's representatives have adopted." *Id.* at 30. Hasty federal court decisions to enjoin state election laws "does damage to faith in the written Constitution as law, the power of the people to oversee their own government, and to the authority of legislatures . . . ." *Id.*

Accordingly, "when a lower court intervenes and alters the election rules so close to the election date, [this Court's] precedents indicate that this Court, as appropriate, should correct that error." *Republican Nat'l Comm.*, 589 U.S. at 425.

B. The *Purcell* Principle Applies With Full Force to Claims that a State Election Law Violates the Constitution

Even when federal judges believe a State law violates the Constitution, the *Purcell* principle still applies with full force. Indeed, in *Purcell* itself, plaintiffs argued that Arizona's voter ID law infringed their "'fundamental political right' to vote." *Purcell*, 549 U.S. at 4 (quoting *Dunn v. Blumstein*, 405 U.S. 330, 336 (1972)). Likewise, in *Democratic National Committee,* the district court enjoined enforcement of statutory deadlines for mail-in registration and absentee voting on grounds that they would violate plaintiffs' right to vote. *Democratic Nat'l Comm. v. Bostelman*, 488 F. Supp. 3d 776, 783 (W.D. Wis. 2020). The Seventh Circuit stayed the district court's injunction based on *Purcell*, *Democratic Nat'l Comm. v. Bostelman*, 977 F.3d 639, 641–42 (7th Cir. 2020) (per curiam), and plaintiffs sought emergency relief from this Court, seeking to keep the district court's injunction in place. Justice Kavanaugh referred the application to this Court, which denied the application. *Democratic Nat'l Comm.*, 141 S. Ct. at 28; *see also id.* at 28 (Gorsuch, J. concurring) (*Purcell* applies even though district court found constitutional violation).

Similarly, in *Andino v. Middleton*, this Court stayed a district court's preliminary injunction of South Carolina's witness requirement for absentee ballots. 141 S. Ct. 9 (2020). The district court concluded that plaintiffs were entitled to the injunction because their constitutional claims—based on the First, Fourteenth, and Twenty-Sixth Amendments—were likely to succeed on the merits. *Middleton v. Andino*, 488 F. Supp. 3d 261, 277–78 (D.S.C. 2020). The en banc Fourth Circuit affirmed, *Middleton v. Andino*, 990 F.3d 768, 768 (4th Cir. 2020) (en banc), but this

Court stayed the injunction (except to ballots cast before the stay issued and received within two days of its order).[3] *Andino*, 141 S. Ct. at 9–10. Justice Kavanaugh's concurrence clarified that a stay of the district court's injunction was required by *Purcell*, as "this Court has repeatedly emphasized that federal courts should ordinarily not alter state election rules in the period close to an election." *Id*. at 10 (Kavanaugh, J., concurring).

As these cases show, the *Purcell* principle is not watered down merely because a plaintiff alleges a constitutional violation. Even though the plaintiff may demonstrate a substantial likelihood of success on the merits—which is of course required to obtain a preliminary injunction in the first place—*Purcell* still applies, and this likelihood of success cannot outweigh the immense practical and constitutional burdens placed on the State and its citizens that ineluctably follow when a federal court engages in a last minute rewrite of State election rules, as the district court here incorrectly seemed to believe. Appl. App. 151.

Despite this, the district court majority here oddly believed that *Purcell* cannot apply when it prevents plaintiffs from having a "real opportunity for their requested remedy of a preliminary injunction." Appl. App. 152. Applying *Purcell* in this case, the court reasoned, would mean that Plaintiffs' preliminary injunction motion was "dead on arrival" and it did not want *Purcell* to "lead to this result" because it believed it would be "diametrically opposed to the fundamental right of access to the courts that the Constitution affords plaintiffs." Appl. App. 153.

[3] Three Justices (Thomas, Alito, and Gorsuch) would have stayed the district court's injunction in full, with no exceptions. *Andino*, 141 S. Ct. at 10.

This was clear legal error. As this Court's precedents make clear, *Purcell* is often invoked to stay a district court's grant of a preliminary injunction. *See, e.g.*, *Merrill*, 142 S. Ct. at 879; *Democratic Nat'l Comm.*, 141 S. Ct. at 28; *Republican Nat'l Comm.*, 589 U.S. at 423; *Veasey v. Perry*, 574 U.S. 951 (2014). And again, by definition, this means that the district court has determined that the plaintiff is likely to succeed on the merits. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20, 22 (2008). If the existence of a likely meritorious constitutional claim precluded the *Purcell* principle's application, it would not have been used in any of these cases.

C. The *Purcell* Principle Prevents Electoral Chaos and Ensures Fairness

The *Purcell* principle also ensures fundamental fairness to States, political parties, candidates, and voters. It represents "a basic tenet of election law: When an election is close at hand, the rules of the road should be clear and settled." *Democratic Nat'l Comm.*, 141 S. Ct. at 31 (Kavanaugh, J., concurring). As Justice Kavanaugh put it, "Late judicial tinkering with election laws can lead to . . . unanticipated and unfair consequences for candidates, political parties, and voters, among others." *Merrill*, 141 S. Ct. at 881 (Kavanaugh, J., concurring).

Indeed, statewide elections are "a complicated endeavor" that require State lawmakers to make difficult decisions about how to conduct and structure those elections, including drawing district maps; this is a "massive coordinated effort" to implement the legislature's policy. *Democratic Nat'l Comm.*, 141 S. Ct. at 31 (Kavanaugh, J., concurring). The legal rules established by a State legislature must be communicated to, and implemented by, thousands of state and local officials and

volunteers. *Id*. *Purcell* "prevents voter confusion but also prevents election administrator confusion—and thereby protects the State's interest in running an orderly, efficient election and in giving citizens . . . confidence in the fairness of the election." *Id*. *Accord Purcell*, 549 U.S. at 4–5 ("Court orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, that risk will increase.").

When a "court alters election laws near an election," States are left scrambling to ascertain the meaning and scope of the court's injunction, figure out how to adhere to it, and inform all election officials, volunteers, and voters about those court-imposed alterations. *Democratic Nat'l Comm.*, 141 S. Ct. at 31 (Kavanaugh, J., concurring). Thus, "[l]ast-minute changes to longstanding election rules risk . . . inviting confusion and chaos and eroding public confidence in electoral outcomes." *Id*. at 30 (Gorsuch, J., concurring).

II. The District Court's Injunction Clearly Violated the *Purcell* Principle

Purcell provides that "[c]ourt orders affecting elections . . . can . . . result in voter confusion." 549 U.S. at 4–5. Precisely the kind of confusion imagined by *Purcell* and its progeny would occur if this Court upheld the district court's preliminary injunction.

The new statewide congressional districts drawn by the Texas legislature in August 2025 re-drew the lines for 37 out of 38 congressional districts. The redistricting effort's overt goal was partisan: to flip five U.S. House seats to the

Republican Party.[4] The hearing for a preliminary injunction was held between October 1 and 10, 2025, and the district court issued its opinion over a month later, on November 18, 2025. In granting the preliminary injunction, the court concluded that the remedy was to revert to Texas's 2021 map. Appl. App. 160.

Ten days of Texas' thirty-day filing window for primary candidates had already passed by the time the district court issued its injunction. Tex. Elec. Code § 172.023(b). The filing period ends on December 8, 2025. Tex. Elec. Code § 172.023(a). Furthermore, the Texas primary is only 99 days away, while the mail ballot application period opens just 38 days from now; the deadline for sending UOCAVA ballots is only 54 days away; the deadline to register to vote is only 70 days away; and early voting starts just 85 days from now.[5]

Moreover, the cost of running statewide elections—as well as the cost of overhauling and re-doing preparations already underway—is immense. The Texas Secretary of State spent $52 million running elections in 2024, and Bexar County alone spent over $6 million.[6] Any disruption caused by changing election maps would only increase these costs.

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[4] Stephanie Sy & Kyle Midura, *"We're Allowed to be Partisan" in Drawing Congressional Maps, Texas Republican Says*, PBS NEWS (Aug. 11, 2025) (quoting Representative Carl Tepper: "[W]e are allowed to be partisan in drawing on the maps and that's what we're going to do."), https://www.pbs.org/newshour/show/were-allowed-to-be-partisan-in-drawing-congressional-maps-texas-republican-says.

[5] *Important Election Dates 2025–26*, TEX. SEC'Y OF STATE (last visited Nov. 24, 2025), https://www.sos.state.tx.us/elections/voter/important-election-dates.shtml#2026.

[6] Tex. Sec'y of State, Operating Budget for Fiscal Year 2024 4 (Feb. 8, 2024), available at https://www.sos.state.tx.us/about/publications/fy-operating-budget-2024.pdf; Off. of the Cnty. Manager-Budget & Fin. Dep't, Adopted Annual Budget Fiscal Year 2024–25, at 243 (Sept. 10, 2024), available at https://www.bexar.org/DocumentCenter/View/44495/Complete-FY-2024-25-Adopted-Budget-286-MB-PDF.

Because the 2025 map altered 37 of Texas's 38 congressional districts, switching back to the 2021 map constitutes a wholesale, last-minute change of sweeping and epic proportions for Texas's 2026 primaries. In fact, these changes were so sweeping that some Members of Congress decided to retire based on the 2025 map, including Rep. Lloyd Doggett (CD-37). Now, based on the district court's preliminary injunction, Rep. Doggett has stated that he will run for re-election. *See* Appl. Br. 16. Rep. Al Green (CD-9) is unsure which district he will run in—CD-9 or CD-18. *Id*. Two Republican primary candidates—Briscoe Cain and Josh Cortez—are still campaigning under the 2025 maps. *Id*.

This is the very definition of chaos and confusion. In these circumstances, candidates, political parties, and voters "now do not know who will be running against whom in the primaries" beginning in mid-February. *Merrill*, 142 S. Ct. at 880 (Kavanaugh, J., concurring). "Filing deadlines need to be met" by December 8, 2025, "but candidates cannot be sure what district they need to file for." *Id*. "Indeed, at this point, some potential candidates do not even know which district they live in. Nor do incumbents know if they now might be running against other incumbents in the upcoming primaries." *Id*.

Candidates will also need to spend additional time, money, and other resources to run an entirely "new and different campaign in a short time frame" if the district court's preliminary injunction stands. *Tex. Democratic Party v. Benkiser*, 459 F.3d 582, 586 (5th Cir. 2006). If the map reverts to the 2021 rendition, all the money a candidate spent relying on the 2025 map will have been wasted. The candidate will

have to replan and reorganize volunteer efforts, get out the vote campaigns, polling, and advertising, all with a significant additional cost.

Texas, like all States "need[s] substantial time to plan for elections." *Merrill*, 142 S. Ct. at 880 (Kavanaugh, J., concurring). As in *Merrill*, reverting to the 2021 maps will "require heroic efforts" by Texas in the next couple of months "and even heroic efforts likely would not be enough to avoid chaos and confusion." *Id.*

III. The District Court's Conclusions that *Purcell* Does Not Apply or that the Concerns Underlying It Are Outweighed Are Clearly Wrong

The "legislative power" of each state is responsible for redrawing and reapportioning its Congressional districts. *Ohio ex rel. Davis v. Hildebrandt*, 241 U.S. 565, 568 (1916); *see also Ariz. State Legis. v. Ariz. Ind. Redistricting Comm'n*, 576 U.S. 787, 842 (2015). While reserving the judiciary the power contained within "the ordinary bounds of judicial review," this Court has held that the judiciary should not "arrogate to themselves the power vested in state legislatures to regulate federal elections." *Moore v. Harper*, 600 U.S. 1, 36 (2023). This principle of judicial restraint is exemplified in *Purcell*, where the Court, for the sake of offering "clear guidance to the State of Arizona" as issued by the legislative power of Arizona, overturned the stay placed by the Ninth Circuit Court of Appeals. *Purcell*, 549 U.S. at 5. Likewise, in the face of clear guidance from the legislative power of Texas, the Court should refrain from arrogating the constitutional duties of the state with respect to regulating congressional district boundaries.

The *Purcell* decision is, indeed, a creature of necessity. 548 U.S. at 5–6 ("Given the imminence of the election and the inadequate time to resolve the factual disputes,

our action today shall of necessity allow the election to proceed without an injunction . . . ."). However, the district court completely ignores the fact that this same necessity demands the same judicial restraint less than 100 days from the primary election. The district court claims that:

> [t]his case is not one in which local elections [are] ongoing, poll workers have already been trained, the voter registration deadline is looming, state election officials have been fully operating under the new map for months, a signature deadline has passed, or the state is only days or weeks away from an election.

Appl. App. 148 (internal quotations omitted).

Yet, we stand merely 99 days from the election, the voter registration deadline is looming no less than 70 days away, state elections officials have been operating under the 2025 map for at least three months, and the district court's injunction shortened the primary candidate filing window by no less than ten days. Many of the factors which the district court claims are not present are actually more than apparent upon a close inspection of the facts. And since these factors are indeed present, the court's conclusion that "*Purcell* does not apply" is clearly wrong. *Id*.

In *Merrill*, Justice Kavanaugh presents *Purcell* as "a sensible refinement of ordinary stay principles for the election context." 142 S. Ct. at 881 (Kavanaugh, J., concurring). He asserts that *Purcell* "is not absolute but instead simply heightens the showing necessary for a plaintiff to overcome the State's extraordinarily strong interest in avoiding late, judicially imposed changes to its election laws and procedures." *Id*. Even assuming, *arguendo*, that such a balancing test is the proper approach to applying *Purcell*, the district court's injunction fails to meet this test.

Indeed, if *Purcell* can be characterized as a balancing test, it is unquestionably a balance that tilts heavily in favor of the States, presumptively upholding a state's regulations in all but extraordinary circumstances. As Justice Kavanaugh observed, a plaintiff can only overcome *Purcell* if he or she *"at least"* meets the following criteria:

> (i) the underlying merits are entirely clearcut in favor of the plaintiff; (ii) the plaintiff would suffer irreparable harm absent the injunction; (iii) the plaintiff has not unduly delayed bringing the complaint to court; and (iv) the changes in question are at least feasible before the election without significant cost, confusion, or hardship.

Id. (emphasis supplied). Justice Kavanaugh makes clear that a plaintiff must satisfy *all four* of these conditions, yet here, at least two of these conditions are not satisfied.

First, the underlying merits of the case are not "entirely clearcut in favor of the plaintiff." *Id*. The district court assumes the merits are clearly in Plaintiffs' favor here, all the while "recogniz[ing] the panel's non-unanimous decision weighs against this finding." Appl. App. 152. The DOJ Letter of July 7, 2025, was not the basis for the redistricting. By that date, Adam Kincaid had already begun drafting the map, and his testimony makes clear that his only consideration was to increase Republican districts by five seats. Appl. App. 90–96. The district court ignores the wide berth the Court gives to state legislatures drawing districts for partisan aims. In *Rucho v. Common Cause,* the Court ruled that "partisan gerrymandering claims present political questions beyond the reach of the federal courts." 588 U.S. 684, 718 (2019). *Rucho* noted that this Court "never struck down a partisan gerrymander as unconstitutional—despite various requests over the past 45 years." *Id*. The "expansion of judicial authority . . . into one of the most intensely partisan aspects of

American political life" in a manner that is "unlimited in scope and duration" and would "recur over and over again around the country with each new round of districting" is "extraordinary and unprecedented." *Id.* at 718–19. Furthermore, the Court continues to permit political gerrymandering, as indicated in *Alexander*:

> When partisanship and race correlate, it naturally follows that a map that has been gerrymandered to achieve a partisan end can look very similar to a racially gerrymandered map. For that reason, '*[o]ur prior decisions have made clear that a jurisdiction may engage in constitutional political gerrymandering*, even if it so happens that the most loyal Democrats happen to be black Democrats and even if the State were conscious of that fact.'

602 U.S. at 9 (quoting *Hunt v. Cromartie*, 526 U.S. 541, 551 (1999)) (emphasis added). As such, since the Court routinely allows political gerrymandering on the same footing as how the Texas legislature crafted the 2025 map, the district court's injunction fails to make an overwhelming showing of favorability on the merits. If the "underlying merits appear to be close," they are obviously "not clearcut in favor of the plaintiffs." *Merrill*, 142 S. Ct. at 881 (Kavanaugh, J., concurring).

Second, reinstatement of the 2021 map is not "feasible" before Texas's elections without "significant cost, confusion, or hardship." *See id.* Because the Texas primary is less than 100 days away and the district court's injunction has already significantly obstructed Texas's primary candidate filing deadline, confusion and hardship would abound if Texas candidates were forced to abandon procedures that they have been operating under these past three months.

The district court's preliminary injunction thus fails even Justice Kavanaugh's balancing test, and the Court should invoke *Purcell* to stay the preliminary injunction pending this Court's further disposition.

CONCLUSION

For the foregoing reasons, the preliminary injunction entered by the district court should be stayed pending further order of this Court.

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Respectfully submitted,

Jason Torchinsky
Counsel of Record
Holtzman Vogel Baran Torchinsky & Josefiak PLLC
2300 N. Street NW, Suite 643
Washington D.C. 20037
202.737.8808 (phone)
540.341.8809 (fax)
Email: jtorchinsky@holtzmanvogel.com

Elizabeth Price Foley
Holtzman Vogel Baran Torchinsky & Josefiak PLLC
2333 Ponce de Leon Blvd., Suite 600
Coral Gables, FL, 33134
315.379.1601 (phone)
540.341.8809 (fax)

Bill Duffin
Daniel Bruce
Holtzman Vogel Baran Torchinsky & Josefiak PLLC
15405 John Marshall Hwy
Haymarket, VA 20169
540.341.8808 (phone)
540.341.8809 (fax)