No. 25A608

In the Supreme Court of the United States

GOV. GREG ABBOTT, *in his official capacity as Governor of the State of Texas, et al.*,
Applicants,
v.
LEAGUE OF UNITED LATIN AMERICAN CITIZENS, *et al.*,
Respondents.

BRIEF OF *AMICUS CURIAE* STATE OF MISSOURI AND TWENTY-ONE OTHER STATES SUPPORTING THE APPLICATION FOR STAY

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To the Honorable Samuel A. Alito,
Associate Justice of the Supreme Court of the United States and
Circuit Justice for the U.S. Court of Appeals for the Fifth Circuit.

INTRODUCTION AND INTERESTS OF *AMICI*

"Redistricting constitutes a traditional domain of state legislative authority." *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 7 (2024). And "[f]ederal-court review of districting legislation represents a serious intrusion on the most vital of local functions." *Miller v. Johnson*, 515 U.S. 900, 915 (1995). *Amicus* the State of Missouri and twenty-one other States strongly object to a U.S. district court's severe intrusion on Texas's sovereign and "most vital" right to redistrict. *Id.*; App. 1a–160a. The district court issued a preliminary injunction in favor of Plaintiffs, transparently attempting to weaponize the federal judiciary to repeal the will of Texas's elected representatives. *See* App. 160a. The court's decision transfers *five* congressional seats to Plaintiffs' preferred political party. *Id.* at 93a, 160a; *see also id.* at 194a (Smith, J., dissenting).

That kind of order—with that kind of remedy—should set off loud alarm bells. This Court's precedents required the district court to "be wary of plaintiffs who seek to transform federal courts into 'weapons of political warfare' that will deliver them victories that eluded them 'in the political arena.'" *Alexander*, 602 U.S. at 11 (citation omitted). The district court paid no heed to this directive. Rather, in a 2-1 split decision, the court obliged Plaintiffs' dramatic request, reasoning that the Texas Legislature racially gerrymandered its congressional map. The district court issued this holding even though it is obvious to the whole country that Texas's map was motivated by partisan considerations—just like redistricting efforts in other

States. *See, e.g.*, Shane Goldmacher & Laura Rosenhall, *California Approves New House Maps in a Major Win for Democrats and Newsom*, N.Y. Times (Nov. 4, 2025); Gregory S. Schneider & Erin Cox, *Here's the redistricting plan Virginia Democrats want voters to approve*, Washington Post (Oct. 29, 2025); Gavin Newsom (@GavinNewsom), X (Aug. 20, 2025) ("It's on, Texas.");[1] Governor Gavin Newsom (@CAgovernor), X (Nov. 18, 2025) ("Donald Trump and Greg Abbott played with fire, got burned—and democracy won.").[2]

Worst of all, the district court performed its intrusion while artificially distinguishing this Court's precedent in *Alexander v. South Carolina State Conference of the N.A.A.C.P*, 602 U.S. 1 (2024). *Alexander* requires plaintiffs advancing racial gerrymandering claims to present, except in the most unusual circumstances not present in this case, an alternative map that could satisfy the legislature's political goals in a race-neutral manner. *Id.* at 10, 34–35. Plaintiffs here made no efforts to comply with this requirement. Instead, they incredulously claimed that drafting an alternative map was impossible at the preliminary-injunction stage. But Plaintiffs know better. Their *own* expert boasted that "she could run 'a million maps in a matter of seconds' *on a digital watch* and have her robot execute a hundred thousand simulations in about an hour." App. at 237a (Smith, J., dissenting) (quoting Tr. 10/6/2025 AM 75:25–77:5) (emphasis in original). Even so, the district court disregarded the alternative-map rule, and it unilaterally

[1] https://x.com/GavinNewsom/status/1958314191032607038 (accessed Nov. 24, 2025).

[2] https://x.com/CAgovernor/status/1990872695731318937 (accessed Nov. 24, 2025).

re-imposed Texas's old map—awarding Plaintiffs' preferred party *five* congressional seats in the process. This is blatant error. To ensure that racial gerrymandering claims are not used for nakedly political ends, the Court should stay the district court's preliminary injunction pending appeal.

ARGUMENT

I. The district court ignored *Alexander*'s alternative-map rule.

This Court has frankly acknowledged that "redistricting is an inescapably political enterprise." *Alexander*, 602 U.S. at 6. "Legislators are almost always aware of the political ramifications of the maps they adopt, and claims that a map is unconstitutional because it was drawn to achieve a partisan end are not justiciable in federal court." *Id.* "Thus, as far as the Federal Constitution is concerned, a legislature may pursue partisan ends when it engages in redistricting." *Id.*

That said, *racial* gerrymandering is—of course—patently unconstitutional. And Missouri and the undersigned States strongly agree that States cannot intentionally sort voters on the basis of race. *See* Brief of the State of Missouri as *Amicus Curiae*, *Louisiana v. Callais*, Nos. 24-109, 24-110 (U.S., Sept. 24, 2025). "Our constitution is color-blind." *Plessy v. Ferguson*, 163 U.S. 537, 559 (1896) (Harlan, J., dissenting). And "[c]lassifications of citizens solely on the basis of race 'are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality.'" *Shaw v. Reno* ("*Shaw I*"), 509 U.S. 630, 643 (1993) (quoting *Hirabayashi v. United States*, 320 U.S. 81, 100 (1943)).

This Court has also recognized a problem, however, when politically motivated litigants use racial-gerrymandering claims to seek partisan advantage. *Alexander*, 602 U.S. at 11. The problem is that race and political party are, at least sometimes, correlated. In these scenarios, race and political party are "'capable of yielding similar oddities in a district's boundaries.'" *Id.* at 9 (quoting *Cooper v. Harris*, 581 U.S. 285, 308 (2017)). When that happens, partisans often advance racial gerrymandering claims to frame constitutional legislation as if it were enacted in bad faith. *Id.* at 11. Therefore, in *Alexander*, this Court reiterated a common-sense solution to that problem: The alternative-map requirement. *See id.* at 10, 34–35 (citing *Easley v. Cromartie* ("*Cromartie II*"), 532 U.S. 234 (2001)). Under the alternative-map requirement, plaintiffs advancing a racial gerrymandering challenge (unless they have strong direct evidence of discriminatory intent) must present "an alternative [congressional] map showing that a rational legislature sincerely driven" by partisan—rather than racial—"goals would have drawn a different map with greater racial balance." *Alexander*, 602 U.S. at 10. This is an essential tool for snuffing out partisan gerrymandering challenges masquerading as racial gerrymandering challenges.

To understand the alternative-map requirement, one must keep the *Alexander* case itself in mind. *Alexander* involved a challenge to South Carolina's redistricting efforts in the wake of the 2020 Census. *Id.* at 7. Based on nothing other than circumstantial evidence, a three-judge district court unanimously held that the South Carolina Legislature had racially gerrymandered its congressional map. *Id.* But

on appeal, this Court reversed, holding that the district court's factual findings were clear error. *Id.*

In doing so, this Court emphasized two foundational principles: First, "a party challenging a map's constitutionality" bears the burden of "disentangl[ing] race and politics if it wishes to prove that the legislature was motivated by race as opposed to partisanship." *Id.* at 6. To succeed, a plaintiff must prove that race, not politics, "'*drove* a district's lines.'" *Id.* at 9 (citation omitted) (emphasis in original). Second, this Court emphasized that "in assessing a legislature's work," courts must "start with a presumption that the legislature acted in good faith"—drawing maps based on a permissible objective rather than race. *Id.* at 6. So if "either politics or race could explain a district's contours, the plaintiff has not cleared its bar" and courts must assume that politics drove the legislature's decision. *Id.* at 11.

Taking these two principles together, *Alexander* reaffirmed a longstanding rule: To succeed on a racial gerrymandering claim, a plaintiff must—absent extraordinary circumstances—present an alternative map showing that the state legislature could have accomplished all its partisan goals with significantly greater racial balance between congressional districts. *See id.* at 10, 34–35 (citing *Cromartie II*, 532 U.S. 234). "Without an alternative map, it is difficult for plaintiffs to defeat [the] starting presumption that the legislature acted in good faith"—a presumption that "directs district courts to draw the inference that cuts in the legislature's favor when confronted with evidence that could plausibly support multiple conclusions." *Id.* at 10. Later in the *Alexander* opinion, this Court emphasized again: "[W]hen

all plaintiffs can muster is meager direct evidence of a racial gerrymander *only* an alternative map of that kind can carry the day." *Id.* at 34–35 (cleaned up) (emphasis added).

This Court also emphasized that an alternative map is not "difficult to produce." *Id.* at 35. "Any expert armed with a computer 'can easily churn out redistricting maps that control for any number of specified criteria, including prior voting patterns and political party registration.'" *Id.* (citation omitted). Thus, a "plaintiff's failure to submit an alternative map—precisely because it can be designed with ease—should be interpreted by district courts as an implicit concession that the plaintiff cannot draw a map that undermines the legislature's defense that the districting lines were 'based on a permissible, rather than a prohibited, ground.'" *Id.* (quoting *Cooper*, 581 U.S. at 317). The three-judge district court in *Alexander* erred because it failed to "follow this basic logic." *Id.* at 36. And even though the three-judge panel issued a unanimous decision after an eight-day bench trial with hundreds of exhibits, this Court reversed for clear error, citing the *Alexander* plaintiffs' failure to produce an alternative map. *Id.*; *see S.C. State Conf. of NAACP v. Alexander*, 649 F. Supp. 3d 177, 183 (D.S.C. 2023).

The district court here committed the same error. Despite *Alexander*'s strong and straightforward holding, the district court didn't get the message. Although it acknowledged that "the Plaintiff Groups ha[d] not submitted an *Alexander* map," it excused that failure and transferred five congressional seats to Plaintiffs' preferred political party. *See* App. 93a, 132a.

That is an egregious error that calls out for correction. Although following this Court's precedent is never optional, it is *especially* important in this "inescapably political" context rife with federalism and separation-of-powers concerns. *Alexander*, 602 U.S. at 6. "It is well settled that 'reapportionment is primarily the duty and responsibility of the State.'" *Miller*, 515 U.S. at 915 (quoting *Chapman v. Meier*, 420 U.S. 1, 27 (1975)). And this Court has warned repeatedly—in crystal clear terms—that courts must remain wary of partisans who seek to undermine the State legislative process by weaponizing federal courts. *Alexander*, 602 U.S. at 11. Adhering to the alternative-map requirement is *essential* if courts are to avoid being manipulated by partisan litigants seeking political gain through racial gerrymandering claims.

That's exactly what happened here. Plaintiffs asked the district court to transfer *five* seats to their preferred political party, and the district court obliged, even though Plaintiffs had no alternative map and no direct evidence of a racial gerrymander. This is patently unfair to Texas—a State whose elected representatives have the sovereign right to apportion congressional seats. *Alexander*, 602 U.S. at 7; *Miller*, 515 U.S. at 915. Additionally, taking away some States' power to redistrict for political gain, while leaving States like Illinois free to gerrymander at will, is fundamentally unfair. And such decisions threaten to enmesh the courts in the middle of "intensely partisan" fights. *Rucho v. Common Cause*, 588 U.S. 684, 718–19 (2019). Thus, faithfully and carefully enforcing *Alexander*'s alternative-map rule is not just compelled by precedent; it is essential to

preserving the integrity of the federal courts. *Cf. Vieth* v. *Jubelirer*, 541 U.S. 267, 307 (2004) (Kennedy, J., concurring) ("With uncertain limits, intervening courts—even when proceeding with best intentions—would risk assuming political, not legal, responsibility for a process that often produces ill will and distrust.").

II. The district court's reasons for ignoring the alternative-map rule are erroneous.

The district court tried a few excuses for its decision to brush aside the alternative-map rule, but all fail. App. 130a–34a. If this Court allows the district court's reasoning to stand, lower courts will easily flout the alternative-map requirement, thus reopening the floodgates of nakedly political racial gerrymandering claims.

First, the district court claimed that it need not apply the alternative-map requirement because the case below is at the preliminary injunction stage. App. 132a–34a. But that rule makes no sense because "the burdens at the preliminary injunction stage track the burdens at trial," and the party seeking a preliminary injunction always "bears the burden of demonstrating a likelihood of success on the merits." *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 428–29 (2006). Alternative maps "can be designed with ease," which is precisely why "[a] plaintiff 's failure to submit an alternative map" is dispositive. *Alexander*, 602 U.S. at 35. Any plaintiff whose case would benefit from an alternative map will inevitably produce one. *Id.* So if plaintiffs do not provide an alternative map, they almost certainly cannot prove a likelihood of success on the merits. An *Alexander*

map is central to an effective claim, *id.*, but the district court made it an afterthought by holding that Plaintiffs can prove a likelihood of success without an *Alexander* map.

Consider what the district court's sidelining of *Alexander* incentivizes. If the district court's maneuver is permissible, enterprising partisan lawyers will file last-minute lawsuits, just close enough to an election so that they can feign inability to make an *Alexander* showing. That will force the federal judiciary into rushed disputes, with limited evidence, and opposing political parties (or their proxies) on either side of the "v." That is precisely what happened here, with Plaintiffs seeking (and obtaining) *five* congressional seats for their preferred party in the 2026 midterm elections. App. 93a, 160a; *see also id.* at 194a (Smith, J., dissenting). These are exactly the kind of partisan disputes—thinly disguised as legal fights—that *Alexander* and *Cromartie II* are designed to avoid. Strict adherence to *Alexander* is thus more important during the preliminary-injunction phase, not less.

Second, the district court claimed the Plaintiffs did not have time to prepare an alternative map, suggesting they could potentially offer one at trial. App. 132a–34a. That is just another way of saying Plaintiffs did not meet their evidentiary burden. *Alexander*, 602 U.S. at 35. Regardless, that claim is obviously wrong. Plaintiffs had over *six weeks* to prepare between the date they moved for a preliminary-injunction hearing and the district court's October 1 hearing. *Compare* Doc. 1127, *LULAC v. Abbott*, No. 3:21-cv-259 (W.D. Tex., Aug. 18, 2025), *with* App. 52a. Plaintiffs also requested an "expedited September hearing," Doc. 1127 at 1, even though the court ultimately settled on an October 1 hearing, citing its own

"unmovable commitments," Doc. 1146 at 1, *LULAC v. Abbott*, No. 3:21-cv-259 (W.D. Tex., Aug. 28, 2025). If anything, Plaintiffs had several more weeks than they said they needed to marshal the requisite evidence.

Also, with modern map-simulating technology, Plaintiffs could have prepared an *Alexander* map in minutes if it was possible to achieve Texas's "legitimate political objectives" while producing "significantly greater racial balance." *Alexander*, 602 U.S. at 34 (quoting *Cromartie II*, 532 U.S. at 528). The district court itself acknowledged that Plaintiffs' expert created "tens of thousands" of alternative "congressional maps" before the preliminary injunction hearing. App. 127a. And Plaintiffs' expert boasted that "she could run 'a million maps in a matter of seconds' *on a digital watch* and have her robot execute a hundred thousand simulations in about an hour." App. 237a (Smith, J., dissenting) (quoting Tr. 10/6/2025 AM 75:25–77:5) (emphasis in original). That same expert also submitted an updated report in September, once it became clear that Plaintiffs would have more time to ready their evidence. Doc. 1384-8, *LULAC v. Abbott*, No. 3:21-cv-259 (W.D. Tex., Oct. 6, 2025) (Report dated Sept. 7, 2025). Other Plaintiffs' experts submitted reports even later. *See*, *e.g.*, Doc. 1390-2, No. 3:21-cv-259 (W.D. Tex., Oct. 6, 2025) (Report dated Sept. 29, 2025). None attempted to comply with *Alexander*.

The truth is that Plaintiffs did not create an alternative map because that would not have achieved their objective. Plaintiffs wanted five congressional seats for their preferred party. *See* Doc. 1149 at 27, *LULAC v. Abbott*, No. 3:21-cv-259 (W.D. Tex., Aug. 28, 2025) ("[T]he Court should preliminarily enjoin the use of HB 4's

districts *and order* Texas to continue to use *the prior congressional districts* for the 2026 election." (emphasis added)). But if Plaintiffs had created an *Alexander* map, the district court could not have unilaterally awarded Plaintiffs the result they wanted. Rather, Texas could have remedied the alleged racial gerrymander by simply enacting the *Alexander* map that achieved greater racial balance while pursuing Texas's political ends. App. 238a (Smith, J., dissenting) ("The fact that [Plaintiffs] did not file an alternative map curing the alleged discriminatory infirmity (the one they purport to care about) tells you all that the instant case is about—*partisan gain*. Duchin [Plaintiffs' expert] makes no bones about this, either." (emphasis in original)).

Third, the district court claimed that it could overlook the absence of an *Alexander* map because there was "direct evidence" of racial gerrymandering. App. 132a. But the district court's understanding of sufficient "direct evidence" was far too broad. To avoid thinly veiled partisan suits, *Alexander* makes the presumption of legislative good faith central. *Alexander*, 602 U.S. at 6. And that is why "meager direct evidence of a racial gerrymander" can "*only*" "carry the day" alongside "an alternative map." *Id.* at 34–35 (cleaned up) (emphasis added). Policing this line is critical. Otherwise courts will wrongly characterize circumstantial evidence and meager direct evidence as sufficient to ignore the alternative-map rule.

That's exactly what happened here. The district court's most prominent example of so-called "direct evidence" was a letter from the Department of Justice supposedly asking Texas "to engage in racial gerrymandering." App. 59a–60a. But

a letter from the DOJ is not direct evidence. The DOJ did not draw or enact Texas's map. A "dedicated Republican operative" drew the map, and the Texas Legislature passed it. App. 185a–204a (Smith, J., dissenting). "Direct evidence" concerns the "*relevant state actor*'s" motivations, often "com[ing] in the form" of "express acknowledgment that race played a role in the drawing of district lines." *Alexander*, 602 U.S. at 8. So no matter what the DOJ letter said, the letter alone cannot justify ignoring *Alexander*.

At any rate, the district court failed to cite sufficient direct evidence that the "relevant state actor[s]"—the map drawer and the Texas Legislature—intended to racially gerrymander during the 2025 re-districting. *Alexander*, 602 U.S. at 8; *see* App. 65a–104a. Here, the map drawer was "a paid, experienced, dedicated Republican operative" named Adam Kincaid. App. 185a–86a (Smith, J., dissenting) (citing Tr. 10/7/25 AM 33:25–34:2). Kincaid did most of his work *before* the DOJ letter was even sent. App. 472a–73a. That fact devastates the district court's entire merits theory.

Kincaid's testimony reinforces the Texas Legislature's partisan intent. Indeed, Kincaid frankly testified at the preliminary-injunction hearing: "I drew a race-blind map using partisan results," Tr. 10/8/25 AM 69:6–7, and "I drew my map using politics from start to finish and provided that to the Legislature," App. 520a. He also expressly emphasized, "I don't think it's constitutional to draw maps based off of race." App. 459a. Kincaid testified for two days, meticulously explaining the political rationale for each district on Texas's congressional map. *See* App. 185a–

204a (Smith, J., dissenting) ("[Kincaid's] two-day testimony (without any notes) was detailed, methodical, and meticulous. When given the opportunity to do so, on both direct and cross, he had a perfectly legitimate and candidly partisan explanation for his every decision . . . I easily credit his testimony as wholly convincing and unassailable.").

Kincaid's race-blind map was the map provided to the Texas Legislature. App. 520a. To succeed on their claims, the Plaintiffs need to show that the Texas Legislature passed *that* race-blind map predominantly because of racist intentions. *Alexander*, 602 U.S. at 6–8. To this end, the district court collected stray comments from a few legislators showing—at most—that some were aware of the racial makeup of the proposed districts. App. 66a–79a. But that is not enough under *Alexander*. *Alexander* establishes that "there is nothing nefarious about . . . awareness of the State's racial demographics." 602 U.S. at 37. And even if this Court believes that a couple of legislators were mainly motivated by race, that is not direct evidence about the intent of the entire Texas Legislature in passing Kincaid's color-blind map. *See Brnovich v. Democratic Nat'l Comm.*, 594 U.S. 647, 689 (2021) (Legislators "exercise their [own] judgment" and "the legislators who vote to adopt a bill are not the agents of the bill's sponsor or proponents."); *United States v. O'Brien*, 391 U.S. 367, 384 (1968) ("What motivates one legislator to make a speech about a statute is not necessarily what motivates scores of others to enact it . . ."); *League of Women Voters of Fla. Inc. v. Fla. Sec'y of State*, 66 F.4th 905, 932 (CA11 2023) (W. Pryor, C.J.) (same).

At bottom, all the district court has is that four of Texas's congressional districts became majority-Hispanic districts, and a few legislators touted this fact while trying to show that their partisan motivations were not racist. *See* App. 207a–08a (Smith, J., dissenting). But there is no direct evidence that any Texas legislator voted for Kincaid's race-blind map predominantly because they prefer majority Hispanic districts to majority mixed-minority districts. The evidence here is quintessential *circumstantial* evidence—not direct evidence of racist intentions.

With only circumstantial evidence and—at best—"meager direct evidence," the district court grossly erred by ignoring *Alexander*'s alternative-map requirement. *Alexander*, 602 U.S. at 34–35. Once again, this Court has instructed that "only an alternative map" can "carry the day" for claims like Plaintiffs'. *Id.* (cleaned up) (citation omitted). Nothing justified the district court's dramatic departure from precedent here.

* * *

Redistricting is an enormously sensitive political issue that is the concern of State governments. *Alexander*, 602 U.S. at 7; *Miller*, 515 U.S. at 915. Federal courts must remain *neutral*, and not to be used as puppets in partisan games. *Alexander*, 602 U.S. at 11. *Alexander*'s alternative-map requirement is essential to ensure racial gerrymandering claims are not used that way. The alternative-map requirement is the basic way that plaintiffs prove that a state legislature gerrymandered congressional districts for racial reasons, not political reasons. *Id.* at 10, 34–35. The alternative-map requirement also prevents litigants from using

federal courts as a weapon to override the valid policies of the people's elected representatives. *Id.*

By openly defying *Alexander*'s alternative-map requirement, the district court inserted itself into a political dispute and transferred *five* congressional seats to the Plaintiffs' preferred political party. App. 93a, 160a; *see also id.* at 194a (Smith, J., dissenting). That nakedly partisan outcome is the exact opposite of what this Court's precedents require. *See Alexander*, 602 U.S. at 6; *Rucho*, 588 U.S. at 718–19. Only by enforcing its prior holding can this Court ensure that federal courts do not become hopelessly enmeshed in "inescapably political" state redistricting fights. *Alexander*, 602 U.S. at 6; *Miller*, 515 U.S. at 915.

CONCLUSION

This Court should grant the application for stay of the preliminary injunction.

November 24, 2025

Respectfully submitted,

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