

No. 26-116

IN THE

Supreme Court of the United States

WES ALLEN, ALABAMA SECRETARY OF STATE, et al.,
Petitioners,

v.

MARCUS CASTER, et al.,
Respondents.

**On Petition for a Writ of Certiorari Before
Judgment to the United States Court of
Appeals for the Eleventh Circuit**

**CASTER RESPONDENTS' RESPONSE TO
ALABAMA'S PETITION FOR A WRIT OF
CERTIORARI BEFORE JUDGMENT**

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QUESTIONS PRESENTED

1. Whether Petitioners' challenge to the preliminary injunction of Alabama's 2023 congressional districting plan is moot where the injunction applies only to the 2026 election, and this Court has stayed the injunction for the 2026 election.
2. Whether Alabama's 2023 congressional districting plan likely violates Section 2 of the Voting Rights Act as articulated in *Louisiana v. Callais*, 146 S. Ct. 1131 (2026), where it replicates the identical defects that this Court determined violate Section 2 in *Allen v. Milligan*, 599 U.S. 1 (2023).

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INTRODUCTION

Alabama seeks to appeal an injunction that, by its own terms, applies only to the 2026 elections. This Court, however, has already stayed that injunction for the 2026 elections. The appeal is therefore moot. Because the challenged injunction will never take effect, there is no live controversy or any remaining injury to Alabama that this Court could remedy.

In addition to facing a dispositive procedural problem, Alabama dead-ends on substance. The merits question in this case is whether a state can avoid liability for racial discrimination by contriving post-hoc proxies for its true intentions and recasting those goals in the syntax of politics. If the Court answers yes, then we do not have a “color-blind” Constitution. *Contra Plessy v. Ferguson*, 163 U.S. 537, 559 (1896) (Harlan, J., dissenting). Our founding charter will, once again, facilitate a “superior, dominant, ruling class of citizens,” *contra id.*—specifically on the basis of race—as long as the perpetrators disclaim their true motives.

Here, Alabama justified the dilution of Black electoral opportunities in its congressional map by naming an interest in preserving the predominantly White “Gulf Coast community,” rooted in “French and Spanish colonial heritage.” App.650a. But a preference for White ancestry is not a defense. It is a confession. See *Rice v. Cayetano*, 528 U.S. 495, 517 (2000) (“Distinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose

institutions are founded upon the doctrine of equality.” (quoting *Hirabayashi v. United States*, 320 U.S. 81, 100 (1943)).

Upon receipt of this Court’s decision in *Callais v. Louisiana*, 146 S. Ct. 1131 (2026), Alabama attempted to retrofit its 2023 Plan with partisan justifications. But nothing in the guidelines that informed the 2023 Plan or the “legislative findings” that accompanied its release make any mention of partisan goals. *Callais* did not invite Alabama to repackage its 2023 intent with 2026 hindsight.

Nor may Alabama justify racial discrimination under the guise of incumbent protection. Preventing Black voters from replacing incumbent antagonists with their preferred alternative *is* racial discrimination in an exceptionally pernicious form. In no other circumstance would this Court invoke the interests of individuals benefitting from discrimination to justify the discrimination. If that were the rule, this Court would have to reverse every race case from the past 150 years.

Ultimately, Alabama claims legal immunity for any discrimination that it cloaks—after the fact—in the garb of “politics.” But all racial discrimination is political. The reason elected officials discriminate against racial groups is to deprive those racial groups of political power. The reason Congress ratified the Reconstruction Amendments was to put an end to exactly that.

“Eliminating racial discrimination,” this Court said, “means eliminating all of it.” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard*

Coll., 600 U.S. 181, 206 (2023). In the redistricting context, like any other, eliminating discrimination requires withholding total credulity when a state’s “main response” to criticism “is, essentially, ‘trust us.’” *Id.* at 217. Alabama believes it can parry Section 2’s prohibitions through pretext and evasion, *cf. id.* at 230 (warning against exactly this), but the district court saw through that scheme. It recognized, as this Court did, that Plaintiffs produced illustrative maps that were drawn without race as a districting criterion, *see Allen v. Milligan*, 599 U.S. 1, 19 (2023); that those illustrative maps satisfied all of the state’s legitimate districting criteria; that plaintiffs established racialized voting in every coherent way; and that the totality of circumstances demonstrates relevant present-day discrimination.

The petition should be denied.¹

STATEMENT

I. Alabama’s 2021 Plan

Alabama has consistently and repeatedly refused to create a second district in which Black voters have the opportunity to elect candidates of their choice. Alabama’s 2021 Plan cracked Black voters in southern

¹ This suit has been litigated in tandem with two related actions that challenge Alabama’s congressional map on both Section 2 and constitutional grounds. *See Allen v. Milligan*, No. 26-117; *Allen v. Singleton*, No. 26-118. If the Court summarily affirms in those appeals, it should grant the Petition and do the same here. If the Court sets *Milligan* and *Singleton* for argument, the Court should grant the Petition and consolidate the appeals.

Alabama across three congressional districts—CDs 1, 2, and 3—such that they constituted an ineffective minority in each, while packing other Black voters into CD 7, the only district in which Black voters had the opportunity to elect their preferred candidates. Finding that the Plan likely violated Section 2, the district court preliminarily enjoined Alabama’s use of the map in January 2022 and ordered a new map to include “either an additional majority-Black congressional district, or an additional district in which Black voters otherwise have an opportunity to elect a representative of their choice.” *Caster v. Merrill*, No. 2:21-CV-1536-AMM, 2022 WL 264819, at *3, *5 (N.D. Ala. Jan. 24, 2022).

This Court stayed that injunction for the 2022 election, citing the potential for voter confusion, *see Merrill v. Milligan*, 142 S. Ct. 879 (2022) (mem.), before eventually affirming the district court’s decision, *see Allen*, 599 U.S. 1. The Court found “no reason to disturb the District Court’s careful factual findings” and no “basis to upset the District Court’s legal conclusions,” which “faithfully applied our precedents.” *Id.* at 23. The Court specifically rejected the State’s “overdrawn argument” that plaintiffs’ illustrative maps were not reasonably configured for failing to maintain the Gulf Coast region in one congressional district. *Id.* at 21 (citation omitted).

II. Alabama’s 2023 Plan

On remand, the district court afforded the Alabama legislature an opportunity to remedy the Section 2 violation. In a special session, the legislature readopted its 2021 redistricting guidelines for the

2023 Plan. The guidelines gave highest priority to population equality, compliance with state and federal law, contiguity, and compactness. App.635a–38a. The guidelines also provided that the following policies shall be observed “to the extent that they do not violate or subordinate” any of the foregoing criteria: avoiding incumbent pairings “whenever possible,” respecting communities of interest, minimizing the number of counties in each district, and preserving the cores of existing districts. *Id.* Representative Pringle, the committee co-chair, testified that these guidelines—which have been largely unchanged since the 1990s—“cover all the bases.” App.203a. Absent from those guidelines was any statement of partisan motivation, any desired partisan effect, or any instruction to ensure the re-election of particular incumbents. *See* App.45a (finding that, while the legislative findings “state with great particularity many goals,” they “omit entirely party politics”).

“On the morning the 2023 Plan was enacted, the Legislators saw *for the first time*” eight pages of “legislative findings” embedded in the bill that were “materially different” from the previously-adopted guidelines and “were not requested by the Committee chairs,” who “had never seen anything like them in any redistricting legislation.” App.34a (emphasis added). These “findings,” for the first time, designated certain criteria—including keeping the two Gulf Coast counties of Mobile and Baldwin in a single district—as “non-negotiable.” App.37a. As “[a]ll parties readily agreed,” “keeping those counties whole and together made it mathematically impossible” to create a second

district in which Black voters could elect candidates of their choice. App.595a.

Like the enjoined 2021 Plan, the 2023 Plan included only a single district in which Black Alabamians had the opportunity to elect a candidate of their choice. App.14a–15a. The district court found that the 2023 Plan replicated the 2021 Plan’s likely Section 2 violation, and preliminarily enjoined its use. *See Caster v. Allen*, No. 2:21-CV-1536-AMM, 2023 WL 6005545, at *2 (N.D. Ala. Sep. 5, 2023). Alabama once again appealed and sought an emergency stay of the district court’s injunction, which this Court denied. *Allen v. Milligan*, 144 S. Ct. 476 (2023) (mem.). The district court directed a Special Master to propose remedial maps and adopted the Special Master Plan, which “satisfied all constitutional and statutory requirements while hewing as closely as possible to the Legislature’s 2023 Plan,” App.16a, and in which “boundaries . . . were not drawn on the basis of race.” *Singleton v. Allen*, No. 2:21-CV-1291-AMM, 2023 WL 12166468, at *17 (N.D. Ala. Sep. 25, 2023); *see also* App.17a (“The Special Master Plan was drawn race-blind.”). Alabama subsequently withdrew its appeal, App.118a, and the 2024 elections were held under the court-adopted Special Master Plan.

In February 2025, the district court held an 11-day trial where it heard from 23 witnesses, including 13 experts, and designated testimony from 28 others; admitted more than 790 exhibits; considered 39 pages of stipulated facts; and reviewed the record from the first two preliminary injunction hearings. App.18a. This evidence, the court found, confirmed that the

2023 Plan violated Section 2 and further established that the “Legislature acted with discriminatory intent when it passed the 2023 Plan.” App.616a. On August 7, the district court entered a final judgment permanently enjoining the 2023 Plan and ordering the Secretary to administer Alabama’s congressional elections using the Special Master Plan. *Milligan v. Allen*, No. 2:21-CV-01530-AMM, 2025 WL 2451498, at *1 (N.D. Ala. Aug. 7, 2025). Alabama appealed a third time, and this Court conferenced the appeals in November 2025. *Allen v. Caster*, No. 25-243.

III. Post-*Callais* Proceedings

On May 8, nine days after this Court issued its decision in *Callais*, Alabama’s governor signed House Bill 1, which authorized a “special primary election” in the event a court vacated the injunction of the 2023 Plan.² Defendants simultaneously filed an Emergency Application in this Court requesting a stay pending appeal of the August 2025 injunction barring the State from using the 2023 Plan. *See* Emergency Application for Stay at 25, *Allen v. Caster*, No. 25A1229 (U.S. May 8, 2026). On May 11, this Court vacated the injunction and remanded this case for further consideration in light of *Callais*. *See Allen v. Caster*, 146 S. Ct. 1196, 1196 (2026) (mem.). With absentee voting in Alabama’s May 19 congressional primary well underway, Governor Ivey issued a proclamation directing a

² H.B. 1, 2026 Gen. Assemb., Spec. Sess. 1 (Ala. 2026), <https://arc-sos.state.al.us/cgi/actdetail.mbr/detail?page=act&year=2026&act=612>.

special primary election to be held on August 11, 2026 using the 2023 Plan.³

Plaintiffs promptly moved to enjoin the 2023 Plan once more. After a hearing held on May 22, the district court “re-examined all evidence admitted in *Singleton, Milligan, and Caster*” in light of *Callais*, “fully revisit[ed] the merits of each claim,” App.28 & n.10, and concluded “at the end of the fresh analysis” that Plaintiffs are “likely to establish a Section Two violation under *Callais*.” App.50a. The court also reiterated its finding that it “cannot understand the 2023 Plan as anything other than intentionally discriminatory.” App.3a. And it found “[t]he record is crystal clear: administering Alabama’s 2026 congressional elections under the Special Master Plan is simpler by an order of magnitude than administering the elections under the 2023 Plan.” App.9a; *see also* App.8a (crediting testimony from Alabama’s Director of Elections that “the voter reassignment process must conclude by June 2, when the voter records will lock again”). Accordingly, the court enjoined Alabama “from conducting the 2026 congressional elections according to the 2023 Plan” and ordered Alabama to “administer ... [the] 2026 congressional elections according to the Special Master Plan.” App.6a, 80a. This “limited remedy” was explicitly “time-limited.” App.77a.

Defendants filed another Emergency Application in this Court requesting a stay, which this Court granted on June 2, clearing the way for Alabama to

³ Proclamation by Governor Kay Ivey (May 12, 2026), available at <https://perma.cc/9TMH-93QA>.

use the 2023 Plan for the 2026 congressional election. *Allen v. Caster*, No. 25A1316 (U.S. June 2, 2026). Defendants then petitioned for certiorari before judgment in this case and filed jurisdictional statements in *Milligan* and *Singleton*.

ARGUMENT

I. This appeal is moot.

Article III limits federal judicial power to “Cases” and “Controversies,” and that requirement “subsists through all stages” of a proceeding, including on appeal. *Chafin v. Chafin*, 568 U.S. 165, 171–72 (2013) (quoting *Lewis v. Cont’l Bank Corp.*, 494 U.S. 472, 477 (1990)). A live controversy ceases to exist, and an appeal becomes moot, “when it is impossible for a court to grant any effectual relief whatever to the prevailing party.” *Id.* at 172 (quoting *Knox v. SEIU, Local 1000*, 567 U.S. 298, 307 (2012)). Where an intervening event leaves an appellate court powerless to change the position of the party seeking relief, the appeal “must be dismissed.” *Church of Scientology of Cal. v. United States*, 506 U.S. 9, 12 (1992).

These elementary principles require dismissal of Alabama’s appeal and denial of its petition for certiorari. By staying the district court’s preliminary injunction, this Court already guaranteed Alabama’s ability to use the 2023 Plan in the 2026 elections, which is the very thing—indeed, the only thing, *see* App.6a, 80a—that the injunction prohibited. There is no prospect of an alternative map being implemented for this November’s general election. And therefore,

an order from this Court granting certiorari and eventually reversing the injunction, as Alabama requests, would not “grant any effectual relief whatever to the prevailing party.” *Chafin*, 568 U.S. at 172.

The district court’s injunction was narrow and limited in part because of the “breakneck schedule” required to implement a new map before the State’s asserted June 2 deadline, especially where the State’s election director testified that missing the deadline would risk “large-scale election mismanagement and error.” App.76a–77a. But the district court left for another day the question of which maps would govern Alabama’s congressional elections beyond 2026, presumably following a full trial on the merits. App.80a–81a. That litigation will continue with or without the district court’s preliminary injunction in place. *Cf. Univ. of Tex. v. Camenisch*, 451 U.S. 390, 394 (1981) (explaining that “the case as a whole [can] remain[] alive” even when appeal of preliminary injunction became moot). Further review by this Court at this juncture therefore will not impact future congressional elections.

Because this appeal is now moot, the petition should be denied.

II. The district court faithfully applied this Court’s Section 2 precedent.

If this Court reaches the merits of the State’s appeal in *Milligan* and *Singleton*, it should grant certiorari here and summarily affirm the district court’s injunction in all three cases. In determining that Ala-

bama likely violated Section 2, the district court correctly applied the law, as established by this Court in *Callais*, to the facts, as established on an extensive record.

Just three years ago, this Court affirmed the district court’s determination that Alabama’s congressional map likely violated Section 2. *Allen*, 599 U.S. 1. Although this Court later refined the Section 2 analysis in *Callais*, it expressly did “not overrule[]” *Allen*. 146 S. Ct. at 1162. Still, the district court conducted a “fresh analysis” in light of *Callais*’s instruction that Section 2 “imposes liability only when the circumstances give rise to a strong inference that intentional discrimination occurred.” *Id.* at 1156. The district court determined “[t]he circumstances here give rise to more than a strong inference—they support [a] separate and independent finding that intentional discrimination occurred.” App.50a.

The facts of this case, as found by the district court, are nothing like those in *Callais*. Here, unlike in *Callais*, Plaintiffs’ experts did not inappropriately use race in drawing their illustrative maps, and it is undisputed that the remedial districts were drawn by the special master “race-blind and without reference to any other illustrative or proposed plan.” App.53a (quotation omitted). Here, unlike in *Callais*, the State has not defended the challenged plan as a partisan gerrymander—to the contrary, key legislators disclaimed any partisan motivation. Here, unlike in *Callais*, there is an extensive record of intra-party racial polarization and recent discrimination in voting. And here, unlike in *Callais*, the district court found,

through an extensive analysis of the *Arlington Heights* factors, that the 2023 Plan was enacted with racially discriminatory intent.

A. The district court correctly determined that Plaintiffs’ illustrative maps satisfy *Gingles 1* as articulated by *Callais*.

Callais reaffirmed that “[t]he first *Gingles* precondition is that a community of minority voters must be sufficiently numerous and compact to constitute a majority in a reasonably configured district.” *Callais*, 146 S. Ct. at 1159. To make this showing, “plaintiffs’ illustrative maps must satisfy two conditions.” *Id.* “First, in drawing illustrative maps, plaintiffs cannot use race as a districting criterion.” *Id.* That is, plaintiffs cannot use “a process that would be unconstitutional if a State engaged in such mapmaking.” *Id.* (citing *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 6 (2024)). “Second, illustrative maps must meet all the State’s legitimate districting objectives, including traditional districting criteria and the State’s specified political goals.” *Id.* The district court’s careful and extensive findings of fact make clear that Plaintiffs satisfied this standard.

1. The illustrative maps did not use race as a districting criterion.

The district court rightly concluded that Plaintiffs’ illustrative maps “did not ‘use race’ unlawfully under *Callais*.” App.52a. Alabama does not seriously claim that this finding was clear error. Indeed, pressed by the district court to identify a single scrap of evidence

in the record demonstrating that Dr. Duchin’s illustrative maps used race as a districting criterion, Alabama’s solicitor general came up empty. App.273–74, *Allen v. Caster*, No.25A1316 (U.S. May 27, 2026).

Callais forbids using “race as a districting criterion” “in drawing illustrative maps,” in “a process that would be unconstitutional if a State engaged in such mapmaking.” 146 S. Ct. at 1159 (citing *Alexander*, 602 U.S. at 6). That means that race may not be given “a predominant role in redistricting decisions.” *Alexander*, 602 U.S. at 6. “Under longstanding precedent that *Callais* does not disturb, and as the State conceded at argument, a cartographer may consider ‘relevant racial data’ so long as he ‘generate[s] that data solely for a lawful purpose, namely, to check that the maps he produced complied with . . . Voting Rights Act precedent.’” App.51a (alterations in original) (first quoting *Alexander*, 602 U.S. at 22; and then quoting May 22, 2026 Tr. 171).

The district court found that Dr. Duchin offered five illustrative remedial plans that did not use race as forbidden by *Callais*. App.227a–29a. The court first found *in 2022* that Dr. Duchin did “not allow race to predominate in her work, which included four illustrative plans for these cases.” App.52a (citing *Caster v. Merrill*, 2022 WL 264819, at *59, *80). When this Court affirmed that finding, it observed that Dr. Duchin’s algorithms “found plans with two majority-Black districts in literally thousands of different ways,” and that “‘it is certainly possible’ to draw the illustrative maps she produced in a race-blind manner.” App.52a (quoting *Allen*, 599 U.S. at 34 n.7). In

2025, the district court again credited Dr. Duchin’s testimony that she “‘just did not look at race’ as she placed district lines.” App.423a. In 2026, the district court “re-examined Dr. Duchin’s trial testimony carefully” and again “credit[ed] her testimony that she ‘just did not look at race’ as she placed district lines.” App.52a (quoting Trial Tr. 287–89, 292, 365). After being asked by the district court “no less than three times whether race informed the granular process of drawing maps,” “she testified without contradiction that it did not.” App.53a (first citing Trial Tr. 365–66; and then citing App.229a–32a. Alabama offers no reason to disturb these careful findings and credibility determinations under the clear error standard.

Were that not enough, *Caster* Plaintiffs’ expert, Bill Cooper, produced no fewer than *nine* illustrative maps without the impermissible use of race. App.307a–12a, App.320a–25a. The district court credited Mr. Cooper for “the care he took not to alert himself to information about race that might allow it to become predominant.” App.426a. The “only information about race that he was aware of as he placed lines” was his general awareness of where predominantly Black municipalities and precincts were, *id.*, the same as Alabama’s own long-time map drawer who drew the 2023 Plan, *see, e.g.*, App.197a. Mere awareness of general demographic information cannot render a districting map unconstitutionally race-based “because we expect that redistricting legislatures will almost always be aware of racial demographics.” *Alexander*, 602 U.S. at 22 (citing *Miller v. Johnson*, 515 U.S. 900, 916 (1995) (citation modified)); *see also id.* at 37 (“[T]here is nothing nefarious

about [a map drawer’s] awareness of the State’s racial demographics.”).

When Plaintiffs’ experts testified that race was a “consideration,” Pet.17, that means they simply “considered the relevant racial data only *after*” drawing a proposed map, “to check that the maps [they] produced complied with [this Court’s] Voting Rights Act precedent.” *Alexander*, 602 U.S. at 22; *see also* App.461a–462a. That precedent *requires* plaintiffs to adduce an illustrative district where minorities make up more than 50 percent of the voting-age population. *Bartlett v. Strickland*, 556 U.S. 1, 18 (2009). As this Court acknowledged just a few years ago, “[t]he very reason a plaintiff adduces a map at the first step of *Gingles* is precisely because of its racial composition—that is, because it creates an additional majority-minority district that does not then exist.” *Allen*, 599 U.S. at 34 n.7. As the district court explained, “[i]f a cartographer was unable to consider race even to determine whether a map he drew complies with Section Two precedent, no cartographer could comply with that precedent.” App.51a.

Even if the proposed districts submitted by Plaintiffs were not enough, the district court also had the benefit of the remedial plans proposed by the Special Master, which were *undisputedly* “**drawn race-blind**.” App.17a (bold emphasis in original). The parties stipulated—and Alabama does not dispute here—that the Special Master’s cartographer “drafted the Special Master Plan without reference to any illustrative or proposed plan,” “did not display racial demo-

graphic data within the mapping software, Maptitude, while drawing his remedial proposals,” and “drew his proposals based on other nonracial characteristics and criteria.” App.633a (citation modified). That plan “satisfies all constitutional and statutory requirements while hewing as closely as possible to the 2023 Plan (including the cap on county splits).” App.53a (citing ECF 311 at 37–38).⁴

2. The illustrative maps meet all the state’s legitimate districting objectives.

Callais requires that illustrative maps meet “all the state’s legitimate districting objectives, including traditional districting criteria and the State’s specified political goals.” 146 S. Ct. at 1159. Plaintiffs did exactly that.

a. Alabama legislators disclaimed any partisan intent.

As this Court noted, Alabama—in contrast to Louisiana—“did not defend its map on the ground that it was drawn to achieve a political objective.” *Id.* at 1162. The record contains “zero evidence the Legislature enacted the 2023 Plan for partisan purposes,” App.45a, and neither its redistricting guidelines nor its “legislative findings” contain any reference to “the State’s specified political goals” or suggest any partisan targets. *Callais*, 146 S. Ct. at 1159.

⁴ Unless otherwise specified, “ECF” citations are to the electronic case filing docket in *Milligan v. Allen*, No. 2:21-cv-01530-AMM (N.D. Ala.). Pincites are to the ECF page number that appears in the top right-hand corner of each page, if available.

Alabama’s effort to manufacture a partisan defense on appeal falls short. First, Alabama notes that the 2023 Plan was “passed along party lines,” Pet.29, but conveniently leaves out that it was also passed “almost entirely along racial lines” as well. App.194a. Second, Alabama cites its lower-court argument (rather than evidence) that Democrats were excluded from the “map drawing room,” Pet.29, but any such practice reflected the “common” protocol of legislators “meet[ing] in their separate caucuses to discuss legislation without members of the other party present.” Trial Tr. 2373. Third, Alabama mentions that some Republican legislators at some point “spoke of a Republican opportunity plan” to obtain seven Republican seats, Pet.29 (citation omitted), but, as the district court observed, neither of those statements was about the 2023 Plan, and no proposal considered by the Legislature produced seven Republican seats. App.46a. Fourth, Alabama points to a text message from a consultant to Senator Livingston—who has *never* proclaimed partisan motivation—indicating that a proposed map was “not ideal” for a White Republican incumbent in District 2, Pet.29 (citation modified), but that observation was from a non-legislator during discussions of the *racial*—not partisan—composition of the proposed district: the same consultant “testified that he then texted Senator Livingston, ‘would 41.6 BVAP work?’”—referring to the Black voting age population of the proposed District 2. App.201a. Fifth, Alabama notes that Senator Livingston and Representative Pringle testified about “calls they received from the then-Speaker of the U.S. House about Republi-

cans’ slim congressional majority,” Pet.29, but “neither Legislator testified that they acted on those conversations, or even that they seriously considered acting on them,” App.46a. To the contrary, Senator Livingston testified that his conversation with Speaker McCarthy “really didn’t play into [the legislature’s] efforts” at all. *Id.* And there is no evidence that any other legislator received a similar call.

Nor can Alabama retroactively establish partisan intent behind the 2023 Plan by pointing to scattered statements from a handful of legislators during the 2026 special session. Pet.29. No redistricting plan was “enacted” in 2026—the special session “simply provided a mechanism for special primary elections to occur if an opportunity to use the 2023 Plan arose.” App.48a. The *only* intent that is relevant to the 2023 Plan that the district court enjoined is the intent of the legislature when it was enacted in 2023. This case is thus nothing like *Abbott v. Perez*, 585 U.S. 579 (2018), where a *new* legislature enacted a *new* map based on a plan already blessed by a federal court after that court enjoined an earlier, intentionally discriminatory plan. *See id.* at 604. Alabama cannot “cure” the 2023 Plan “by making post-hoc statements” in 2026. App.48a. Statements that are “remote in time and made in unrelated contexts” are not “contemporary statements’ probative of the decision at issue.” *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 35 (2020) (plurality op. of Roberts, C.J.) (quoting *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 268 (1977)).

b. Alabama’s Gulf Coast and incumbent-protection criteria are not legitimate districting objectives.

At the start of the 2023 special session, the House redistricting committee re-adopted the same redistricting guidelines used in 2021. Representative Pringle, the committee co-chair, testified that these guidelines “cover all the bases” for the drawing of the 2023 Plan. App.203a. The district court found after trial that Plaintiffs’ illustrative plans “meet or beat the 2023 Plan” on Alabama’s own criteria as stated in these guidelines. App.56a. Post-*Callais*, the district court “carefully re-examined each component of that finding” and “adopt[ed] it again.” App.57a.

Alabama does not dispute on appeal that the illustrative maps “achieve the[] goals” established in the State’s own guidelines “just as well”—if not better than—the 2023 Plan, *Callais*, 146 S. Ct. at 1159. Instead, it faults Plaintiffs for failing to satisfy the “non-negotiable” criteria outlined in the “legislative findings” that accompanied the map. Pet.9. But, as the district court found, there is nothing “legitimate” about these “non-negotiable” redistricting objectives that appeared for the first time in an unprecedented set of “legislative findings.” App.55a. When this Court said in *Callais* that “illustrative maps must meet all the State’s *legitimate* districting objectives” to help “disentangle race from politics,” 146 S. Ct. at 1159, 1161 (emphasis added), it surely did not mean *any* objective the State can possibly identify, including post hoc rationalizations and fabricated justifications. *Cf. Dep’t of Homeland Sec.*, 591 U.S. at 22 (rejecting post

hoc rationalizations); *Fed. Power Comm’n v. Texaco Inc.*, 417 U.S. 380, 397 (1974) (rejecting counsel’s post hoc rationalizations).

The findings were “not the ordinary result of the Legislature’s usual process.” App.34a. They were, instead, drafted by the solicitor general charged with defending the Plan in court, App.200a, and inserted into the bill enacting the 2023 Plan just hours before its passage, specifically in service of this litigation. These novel findings “are replete with sharp departures from (and some outright conflicts with) Alabama’s traditional districting guidelines,” App.602a, and represented “an intentional official effort to entrench the likely vote dilution [the district court previously] found.” App.606a. Criteria that are reverse engineered specifically to circumvent Section 2 liability—and foreclose Section 2 relief—cannot be “legitimate” redistricting objectives. As this Court warned, its “decisions cannot be evaded with such ease.” *Callais*, 146 S. Ct. at 1158 (quoting *Alexander*, 602 U.S. at 21).

1. Start with the Gulf Coast. This Court already rejected Alabama’s argument “that plaintiffs’ [illustrative] maps erred by separating [the Gulf Coast region] into two different districts,” as “not . . . persuasive.” *Allen*, 599 U.S. at 20–21. As this Court explained, the district court “understandably found [the PI record] insufficient to sustain Alabama’s overdrawn argument that there can be no legitimate reason to split the Gulf Coast region.” *Id.* at 21 (citation modified).

Alabama now argues that its inviolable goal of keeping the Gulf Coast together is a “political goal.”

Pet.12. But in the legislative findings, it is cast in explicitly *racial* terms. The findings “describe the ‘French and Spanish colonial heritage’ of one community of interest (the Gulf Coast) while remaining silent on the heritage of **all other** communities of interest in Alabama (including the Black Belt).” App.37a–38a. And the findings “exalt and extol” the Gulf Coast “for pages,” while devoting only “a couple of short paragraphs” to the Black Belt and ignoring communities of interest in half the state. App.37a. The district court rightly found this disparate treatment to be “especially pointed in a voting rights case where one of the allegations is that the majority-White community of interest in the Gulf Coast is being used to entrench race-based discrimination against the majority-Black community of interest in the Black Belt, which shares a heritage of enslavement.” App.604a.

At no point in the 69 lines of text extolling the virtues of the Gulf Coast do the legislative findings once mention partisan politics. App.40a. That is a far cry from Louisiana’s attempt to protect certain incumbents to maintain their leadership positions, *Callais*, 146 S. Ct. at 1161, or South Carolina’s explicit goal of maintaining partisan advantage, *Alexander*, 602 U.S. at 13. Indeed, Alabama’s contention that the Gulf Coast is politically inviolable is belied by its State Board of Education Plan, which splits the Gulf Coast in the very same way that Alabama claims is “non-negotiable.” App.459a.

Unsurprisingly, Alabama’s express aim of prioritizing the Gulf Coast community of White “heritage” had the effect of diluting Black electoral opportunity.

The “cumulative effect” of Alabama’s “non-negotiable” focus on the Gulf Coast “was to prescribe a majority-White district in an unsplittable community of interest, such that an additional opportunity district would be mathematically impossible.” App.520a. In the language of *Callais*, the “strong inference” of discriminatory intent derived from the legislative findings yielded a predictable discriminatory effect, *Callais*, 146 S. Ct. at 1157—precisely what Section 2 prohibits.

2. The district court did not “second-guess state prerogatives.” Pet.13. It did what courts always do and what this Court’s precedents demand: carefully consider the evidentiary record to determine whether the State’s proffered justifications mask—or in this case, reveal—racially discriminatory intent. This Court has never held that a state’s redistricting decisions are unreviewable or that courts must accept *any* justifications a state might provide. Indeed, “the court has not merely the power but the duty to render a decree which will so far as possible eliminate the discriminatory effects of the past as well as bar like discrimination in the future.” *Louisiana v. United States*, 380 U.S. 145, 154 (1965). *Callais* instructs adherence to the “State’s *legitimate* districting objectives,” 146 S. Ct. at 1159 (emphasis added), which surely cannot mean any objective the State can fathom. Facially neutral objectives that are crafted with the purpose and intent of diluting minority votes cannot be “legitimate.” *Id.* at 1156.

Merely reciting the phrase “community of interest” cannot immunize the legislature’s redistricting choices. The district court made careful and detailed

findings of how Alabama departed from its usual legislative process and developed its “non-negotiable” criteria with the ongoing litigation in mind. *See* App.35a–38a, 42a–43a. It highlighted the highly racialized manner in which the State couched its nostalgia for the Gulf Coast community of interest. App.37a–38a. In painstaking detail, the district court documented the legislature’s intentional effort to misuse the Gulf Coast to dilute minority votes.

3. The same goes for Alabama’s incumbency-protection criteria. The legislative findings elevated to “non-negotiable” status a requirement that “[t]he congressional districting plan shall not pair incumbent members of Congress within the same district.” App.94a. As an initial matter, at least one illustrative plan, Cooper Plan 5, “pairs no incumbents.” *Caster, v. Merrill*, 2022 WL 264819, at *83.⁵ But even setting that aside, this new “non-negotiable” criterion contradicts the 2023 guidelines that governed the 2023 redistricting process, which provided only that incumbent pairings should be “avoided whenever possible.” App.637a. In combination with the exaltation of the Gulf Coast, the elevation of avoiding incumbent pairings to non-negotiable status was designed to prevent the creation of another Black opportunity district. App.606a.

⁵ Moreover, “because two paired incumbents live[d] in the same county just miles apart, a plan would have to split that county to avoid pairing those incumbents,” *Caster v. Merrill*, 2022 WL 264819, at *26, thus placing multiple “non-negotiable” redistricting criteria at odds.

Alabama’s argument also confuses avoiding incumbent *pairings* with attempting to ensure the reelection of incumbents. *See Vera v. Richards*, 861 F. Supp. 1304, 1334 (S.D. Tex. 1994) (drawing districts to “corral voters . . . sympathetic to incumbents” is “much different” from avoiding the pairing of incumbents), *aff’d sub nom. Bush v. Vera*, 517 U.S. 952 (1996); *see also Karcher v. Daggett*, 462 U.S. 725, 740 (1983).

Alabama’s re-definition of its incumbent protection criteria, if accepted, would make Section 2 self-defeating. The *entire point* of a Section 2 claim is to provide minority voters a district in which they have an opportunity to elect the “representatives of their choice.” 52 U.S.C. § 10301(b). It *requires* a showing that minority voters prefer different candidates than their White counterparts. *Callais*, 146 S. Ct. at 1159. If such a claim requires an illustrative plan in which *every single existing representative will win re-election*, then Section 2 is well and truly meaningless. That requirement would make the mere invocation of “incumbent protection,” as Alabama now seeks to redefine it, a kill switch. This Court’s precedent makes clear that states cannot “immunize from challenge a new racially discriminatory redistricting plan simply by” replicating the configuration—and electoral consequences—of “an old racially discriminatory plan.” *Allen*, 599 U.S. at 22; *see id.* (“That is not the law: § 2 does not permit a State to provide some voters ‘less opportunity . . . to participate in the political process’ just because the State has done it before.”); *see also Callais*, 146 S. Ct. at 1162 (“[W]e have not overruled *Allen*.”).

If anything, Alabama’s emphasis on incumbency protection *undermines*—rather than furthers—*Callais*’s central purpose in refining the *Gingles* 1 criterion. *Callais* requires illustrative plans to “meet[] all the State’s legitimate objectives” in order to “‘disentangle race’ from politics and other constitutionally permissible considerations.” *Callais*, 146 S. Ct. at 1159 (quoting *Alexander*, 602 U.S. at 6). Incumbent protection, as Alabama defines it, does no such thing, because it would immunize both racial and partisan gerrymanders alike. Even a hypothetical illustrative district in which Black Republicans cohesively prefer different candidates from their White Republican counterparts for purely racial reasons would not satisfy Alabama’s redefined incumbency-protection criterion. Far from disentangling race from politics, Alabama’s expressed desire to entrench the “representatives of . . . choice” elected under its previous map, 52 U.S.C. § 10301(b), supplies the “strong inference” of intentional discrimination *Callais* demands, 146 S. Ct. at 1157.

B. The district court correctly credited strong evidence of intra-party racial polarization.

The district court, as *Callais* requires, found that racial polarization “exists within both political parties in Alabama and transcends voters’ partisan affiliations.” App.61a. The court “carefully re-examined all the evidence” and concluded that “race is the core driver of voting behavior and election results in Alabama.” App.58a, 61a. As a result, “Black Alabamians

in the districts at issue in these cases have less opportunity than their majority counterparts because of race, not just because of partisan affiliation.” App.62a (quoting *Callais*, 146 S. Ct. at 1159) (citation modified). Alabama’s contention that race and politics could not be disentangled completely misses the extensive quantitative and qualitative evidence adduced by both expert and fact witnesses. And it does not come close to showing that the district court’s finding of racial polarization was clear error.

In *Callais*, there was no evidence that race, rather than party, drove polarized voting patterns. Here, however, the record contains “ample evidence,” including “evidence of intra-party racial bloc voting.” App.58a (citing *Callais*, 146 S. Ct. at 1159, 1162). Start with the experts. Dr. Baodong Liu “testified at length that ‘race is more important than party’ in Alabama elections.” *Id.* (citing Trial Tr. 584–87). His analysis showed that, in 2008, White Democrats in Alabama supported Senator John McCain over then-Senator Barack Obama. *Id.* (citing Trial Tr. 588–90). He “drew a similar conclusion from his analysis of the 2008 Alabama Democratic primary for president.” App.250a. Dr. Liu also testified that in the 2020 District 1 Democratic primary, over 50 percent of Black voters supported the Black candidate, compared to only 16.7 percent of White voters. *Id.* (quoting Trial Tr. 587–88); ECF No. 403-16 at 7. Dr. Liu also analyzed “two nonpartisan Montgomery mayoral runoff elections” and found that “race drove the outcome” even when the party cue was taken away. App.58a (first citing ECF 385-4 at 9–10; and then citing 385-8 at 8). Finally, Dr. Liu showed that, in 2024, the four

Black candidates in the CD-2 Republican primary together amassed only six percent of the primary vote, all of them finishing behind the four White candidates. *Id.* (citing ECF 385-8 at 4). This data, the district court found, “suggests that White Republicans are not willing to support minority candidates” even within their own party. App.491a.

Similarly, Dr. Max Palmer’s analysis showed that “Black Republicans are rarely successful.” App.332a. There were ten Black candidates in the 2022 and 2024 Republican primaries in Alabama, including two for statewide office. *Id.* Nine of the ten lost to White Republicans, and the only one that succeeded ran in a majority-Black district against a White opponent. *Id.* And after correcting flawed analyses from one of Defendants’ experts, Dr. Palmer concluded that “White voters supported the White Democratic candidate at twice the rate that they supported the Black Democratic candidate.” App.335a. Indeed, he found “strong evidence that Black candidates receive fewer votes than White candidates of the *same party*,” App.333a (emphasis added)—a finding that Defendants’ expert conceded at trial.

The district court also heard and credited extensive testimony that, while Black and White Alabamians both consider themselves to be ideologically conservative and hold similar views on important social issues, their voting patterns do not reflect those shared values. Dr. Joseph Bagley testified that “many Black Alabamians identify as conservative Christians . . . and, yet, they do not vote for Republican candidates.” App.272a–73a (quoting Trial Tr. 1360). Pastor

Valtoria Jackson likewise explained, “that on abortion as well as LGBTQ rights, the Republican Party aligns closely with the Black church.” App.349a (quoting Trial Tr. 1106–07). Plaintiff Evan Milligan likewise testified that many in the Black community “are conservative on issues about sexuality, abortion, gender, and sometimes even in terms of government services.” App.283a (quoting Trial Tr. 1174). These policy alignments between Black Alabamians and the Republican Party show that Black Alabamians vote based on race rather than political ideology. *See* App.59a.

The evidence also shows that White candidates of both parties are less responsive to the needs of Black voters. The president of the Alabama State Conference of the NAACP testified that Black legislators have regularly met with his organization to discuss issues of importance to Black voters, but “he has not seen any White legislators (regardless of party) at those events.” App.60a (citing ECF 441-7 at 36); *see also* App.304a–05a. (noting that “the only elected officials who have met with the NAACP about civil rights issues are Black”). White Democrats previously elected to Congress from Alabama failed to support civil rights bills as recently as 2009. Trial Tr. 716:23–720:8 (L. Jackson). And White Republicans from the Alabama congressional delegation voted against the First Step Act—a 2018 law passed by a Republican-controlled congress and signed by President Trump—intended to reduce racial disparities in sentencing. Trial Tr. 715:13–716:16 (L. Jackson). Because White politicians across parties do not support issues important to Black voters, polarized voting in Alabama cannot be explained by the parties’ appeals to policy.

Even Alabama’s *own experts* support the district court’s conclusions. Alabama offered Dr. Trey Hood to testify to the state’s purportedly race-blind politics, but his testimony was “widely inconsistent” with his own scholarly work, including several articles that “directly refute his litigation opinions.” App.478a. According to Dr. Hood’s scholarship, “[r]ace, especially the Black-White dichotomy, is the largest dividing line between the Republican and Democratic parties in the region. In fact, in terms of party identification, race dwarfs the effects of religion and class.” App.60a (quoting Trial Tr. 587).

Alabama’s other expert on this issue, Dr. Christopher Bonneau, conceded that the data on racial voting patterns “established ‘that White voters in Alabama support White Democrats more than they support Black Democrats.’” App.59a (quoting Trial Tr. 1789). This is consistent with Dr. Liu’s undisputed data demonstrating that White Alabamians of *both* major parties are less willing to support minority candidates. And, while Alabama has made much of the election of “one Black Republican from one majority-White district in 150 years,” App.490a—and relies upon this one election to accuse the district court of “waving away the election of black Republicans in majority-white districts,” Pet.19—even Dr. Bonneau agreed that “Representative Paschal’s election is a ‘unicorn.’” App.490a (quoting Trial Tr. 1688); *see also* App.60a n.18.

Another defense witness, Dr. Carrington, agreed that “Black and White Christians in Alabama hold similar views on abortion.” App.407a (quoting Trial

Tr. 1621). Nevertheless, as other witnesses explained, “both racial issues and other issues that are important to Black Alabamians override[] the obvious alignment between these voters’ conservative Christian beliefs and the Republican Party.” App.493a.

The record evidence relied upon by the district court thus belies this Court’s initial assessment that the district court “failed to follow our instruction in *Callais* that the mere fact that voters of different races vote for different parties is not relevant to proving racially polarized voting patterns,” *Allen v. Milligan*, 608 U.S. 511, 514 (2026). The undisputed evidence goes well beyond the “mere fact” of inter-party voting patterns; it reflects a deep-seated racial divide that transcends party or partisan ideology.⁶

C. The district court correctly weighed the totality of circumstances.

Callais held that “the ‘totality of the circumstances’ inquiry must focus on evidence that has more than a remote bearing on what the Fifteenth Amendment prohibits: present-day intentional racial discrimination regarding voting.” 146 S. Ct. at 1160. Even before *Callais*, the district court declined to “assign Alabama’s shameful history dispositive weight,” App.497a, and did not “grant Section Two relief simply because [it] condemn[s] past discrimination.”

⁶ In any event, it is hardly coherent to discount entirely the relevance of inter-party racial polarization. When members of different races sort themselves into opposing parties with near-perfect precision, that is exceptionally strong evidence of racial antagonism.

Id. Instead, the district court “carefully considered an extensive record about both past and present discrimination,” *id.*, to conclude that “under all the circumstances in Alabama *today*, Black Alabamians have less opportunity than other Alabamians to elect representatives of their choice.” App.667a (emphasis added).

The district court has since “re-examined” the record “in light of” *Callais* and concluded that “every Senate Factor” favors Plaintiffs. App.62a, 73a. “[E]very piece of this intensely local corpus of evidence” says “the same thing: things are still different here in Alabama.” App.73a. These “careful factual findings” are “subject to clear error review,” and as in *Allen*, there is “no reason to disturb” them nor any “basis to upset the District Court’s legal conclusions.” *Allen*, 599 U.S. at 23.

Among the evidence the district court considered was the fact that “Black candidates, *regardless of party*, are almost never elected to statewide or legislative public office in Alabama,” App.64a (emphasis added). It also considered “substantial evidence of official race discrimination in Alabama in the past twenty years,” including discriminatory at-large voting systems, the bailing back of multiple political subdivisions into preclearance review, and a conspiracy among elected officials to depress Black voter turnout. App.66a–67a. Alabama complains that testifying witnesses have all been politically active in recent years despite past discrimination, Pet.21, but this Court has never required the production of witnesses who were physically barred from political participation to find a

Section 2 violation. *See, e.g., Allen*, 599 U.S. at 25. Here, the district court was correct in refusing to punish witnesses who “personally suffered the ill effects of official discrimination and responded with civic engagement in the democracy that discriminated against them.” App.505a.

Ultimately, the most damning evidence on the totality of the circumstances is the district court’s finding *in this very case* that Alabama intentionally discriminated against Black voters when it enacted the 2023 Plan. *See* App.72a–73a. That finding does not merely “support[] a *strong inference* that the State intentionally drew its districts to afford minority voters less opportunity because of their race,” *Callais*, 146 S. Ct. at 1157 (emphasis added), it conclusively establishes that racial discrimination is *presently* infecting the legislature’s redistricting efforts.

D. The district court heeded the presumption of legislative good faith in finding intentional vote dilution.

The district court’s independent finding of intentional vote dilution under *Arlington Heights* not only fortifies its Section 2 ruling, it withstands *Callais* even if the court’s Section 2 determination does not. Drawing “every inference . . . in the Legislature’s favor,” App.29a, the district court concluded that the Legislature (1) “intentionally refused to create an additional Black-opportunity district for the purpose of entrenching what it knew was discriminatory vote dilution, and (2) that the Legislature did this at least in part because of race, and not party politics,” App.49a.

This finding, subject to clear error review, remains undisturbed by *Callais*.⁷

1. The presumption of legislative good faith is not “a kind of super-charged, pro-State presumption on appeal, trumping clear-error review.” *Cooper v. Harris*, 581 U.S. 285, 309 n.8 (2017). Determining “whether the Legislature acted unconstitutionally” is a task the district court “refus[ed]” to undertake for “years” in the name of judicial “restraint.” App.29a n.11. Even after Alabama responded to the district court’s injunction “with a plan that the state conceded did not provide” an additional opportunity district App.15a, the district court still drew “every inference [it] c[ould] in the Legislature’s favor, ma[d]e no effort to read anyone’s mind, and accuse[d] no legislator of racism.” App.29a. It gave no weight to (and did not even mention in its most recent order) text messages from Senator Livingston referring to Montgomery as “monkey town.” App.567a; *see also* App.41a n.15 (assigning certain comments from legislators “no weight” at all “[i]n service of the presumption of good faith”). It “scoured the record” for *any* evidence that some legislator considered but refused to support a map that

⁷ *Callais* did not and could not change the applicable law on intentional vote dilution under the Fourteenth or Fifteenth Amendments because the Court had no such claim before it—instead, the Court considered whether a redistricting plan enacted to comply with Section 2 was a racial gerrymander. *See Alexander*, 602 U.S. at 38 (“A vote-dilution claim is analytically distinct from a racial-gerrymandering claim and follows a different analysis.” (citation modified)). Nothing in *Callais* casts doubt upon the well-worn *Arlington Heights* standard or how the district court applied it.

provided an additional Black opportunity district because of racial gerrymandering concerns—and came up empty. App.45a. Despite its efforts, “the unique reality of this evidentiary record,” the court explained, “overwhelms the strong presumption of legislative good faith.” App.49a.

2. *Callais* in no way validates Alabama’s supposed fear of racial gerrymandering liability. *Contra* Pet.25. The legislature had assurances from both this Court and the district court that it was possible to draw a “reasonably configured” remedial district that did not give undue consideration to race, *Allen*, 599 U.S. at 20, and in fact could be drawn “race blind,” *id.* at 34 n.7.

3. There can be no “adverse inference” against Plaintiffs from failing to produce an alternative map “that met the State’s avowedly partisan goals,” *Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418, 419 (2025), because Alabama had not avowed any such goals in its lead-up to or defense of the 2023 Plan. *Supra* §§ I.A, I.B.ii. In any event, this Court has never held that an alternative map is needed to establish intentional discrimination, which is “analytically distinct” from racial gerrymandering. *Alexander*, 602 U.S. at 38 (citation omitted).

4. Alabama insists that its refusal to comply with the district court’s preliminary injunction was mere “legal disagreement.” Pet.25. But the district court’s preliminary injunction order was unequivocal: “the appropriate remedy is a congressional redistricting plan that includes either an additional majority-Black congressional district, or an additional district in

which Black voters otherwise have an opportunity to elect a representative of their choice.” *Caster v. Merrill*, 2022 WL 264819, at *3. This Court affirmed that judgment without reservation. *Allen*, 599 U.S. at 42. And the fact that *Allen* was decided in a preliminary injunction posture is irrelevant. Setting aside that the injunction was issued “[a]fter reviewing [an] extensive record,” *id.* at 16, preliminary injunctions are not advisory and compliance is not optional, *see Celotex Corp. v. Edwards*, 514 U.S. 300, 306 (1995) (“[P]ersons subject to an injunctive order issued by a court with jurisdiction are expected to obey that decree until it is modified or reversed, even if they have proper grounds to object to the order.” (quoting *GTE Sylvania, Inc. v. Consumers Union of U.S., Inc.*, 445 U.S. 375, 386 (1980))).⁸

Callais does not make Alabama’s defiance any more reasonable in retrospect. Parties cannot ignore federal injunctions grounded in settled law simply because they think they know better than the Court, or because they hope the law might change. *See Rodriguez de Quijas v. Shearson/Am. Exp., Inc.*, 490 U.S. 477, 484 (1989) (“If a precedent of this Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls.”); *Agostini v. Felton*, 521 U.S. 203, 237 (1997)

⁸ This argument also ignores the question presented in *Allen*, as modified by this Court: “Whether the State of Alabama’s 2021 redistricting plan for its seven seats in the United States House of Representatives violated section 2 of the Voting Rights Act, 52 U.S.C. § 10301.” *Merrill v. Caster*, 142 S. Ct. 1357 (2022) (mem.).

("[Lower courts] should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions." (citing *Rodriguez de Quijas*, 490 U.S. at 484)).

CONCLUSION

The Court should deny the Petition for Certiorari before Judgment or, if it reaches the merits of the jurisdictional statements in *Milligan* and *Singleton*, summarily affirm across all three cases. If the Court sets *Milligan* or *Singleton* for argument, it should grant the petition and consolidate this action with those appeals, as it did in *Allen*.

Respectfully submitted,

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