

In the Supreme Court of the United States

DENNY HOSKINS, in his official capacity as Missouri Secretary of State,

Applicant,

v.

RICHARD VON GLAHN,

Respondent.

**BRIEF FOR MISSOURI VOTERS JAKE MAGGARD AND
GREGG LOMBARDI AS AMICI CURIAE IN OPPOSITION
TO EMERGENCY APPLICATION FOR STAY**

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September 7, 2026

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INTEREST OF AMICI CURIAE¹

Secretary of State Denny Hoskins (the “Secretary”) asks this Court to second-guess the Missouri Supreme Court’s application of Missouri law and its rejection of his transparent scheme to deprive Missourians of their constitutional referendum right. Under fundamental principles of federalism, this is plainly improper: Missouri’s highest court, not this Court or any other, is the final arbiter of the meaning of that state’s constitution and laws. Unsurprisingly given the circumstances, the Secretary can offer only the flimsiest pretexts for federal intervention: an Elections Clause theory that is foreclosed by precedent; claims of “disenfranchisement” that cannot withstand scrutiny; and a *Purcell*-inflected argument that ultimately hinges on the fact that the Missouri Supreme Court—having correctly identified the Secretary himself as the cause of the “federal-election-administration disaster” he hyperbolically proclaims—balanced the equities in a way the Secretary simply does not like. His disappointment is not, of course, a valid basis to invoke this Court’s emergency power and stay the Missouri Supreme Court’s injunction.

Nor can the Secretary ignore Missouri law and ask this Court to allow enforcement of House Bill 1 (“HB 1”), a congressional map that never took effect and thus, in a legal sense, *does not exist*. The Missouri Supreme Court held that “HB 1 is not the law and has never been the law,” App. 12a n.8, because a “measure referred to the people shall take effect when approved by a majority of the votes cast thereon, *and not otherwise*,” Mo. Const. art. III, § 52(b) (emphasis added). Crediting the Secretary’s insistence that the November general election be conducted under the HB 1 map just because it was used in the August primary would double down on a lawless act and reward the Secretary’s guile. Two wrongs don’t make a right.

¹ Pursuant to this Court’s Rule 37.6, counsel for Amici Curiae Jake Maggard and Gregg Lombardi (“Amici”) state that no party or counsel for a party, or any other person other than Amici and their counsel, made a monetary contribution to fund the preparation or submission of this brief.

Further use of HB 1 would deny Missouri voters their “share of the [legislative] power.” *State ex rel. Barrett v. Dallmeyer*, 245 S.W. 1066, 1068 (Mo. 1922). Under the Missouri Constitution, the people “reserve[] a share of the legislative power *for themselves* to serve as a check on the legislature.” *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484, 489 (Mo. 2022) (emphasis added). Enforcing referred legislation before Missourians vote to approve it would not merely undermine their constitutional referendum right but vitiate it altogether.

As qualified Missouri voters who signed the HB 1 referendum petition and plan to cast ballots in the upcoming midterms—both to approve or reject HB 1 and to elect members of Congress—Amici Curiae Jake Maggard and Gregg Lombardi (“Amici”) have an undeniable interest in the outcome of the Secretary’s pending stay application and urge this Court to deny it. After signed referendum petitions were submitted late last year, the Secretary embarked on an orchestrated (and publicly acknowledged) campaign to force use of the HB 1 map by manipulating the statutory certification process. Confronted with such conduct, each Amici has a personal stake in safeguarding the right to cast a meaningful vote in the HB 1 referendum—and in ensuring that the people’s constitutionally reserved share of the legislative power is not held captive to partisan machinations.

While Amici share the referendum and voting rights of their fellow Missourians, their interest here is particularly compelling since they themselves litigated issues now before this Court. In December 2025, once the Secretary’s plan to use HB 1 in this year’s midterms became apparent, Amici filed suit in Missouri state court under the theory that HB 1 was suspended as an operation of law when signed referendum petitions were timely submitted. The Missouri Supreme Court ultimately disagreed with Amici on the particular mechanism of suspension, concluding in May of this year that, until the Secretary completed his process for verifying the sufficiency of the submitted petitions, “it [wa]s impossible to say ... whether the

December 9 referendum petition filing was ‘legal, sufficient, and timely’ and, therefore, whether HB 1 went into effect on December 11 or whether HB 1 was referred to the people as of December 9 and can only go into effect when approved by a majority of the votes cast thereon.” *Maggard v. State*, 733 S.W.3d 411, 420 (Mo. 2026). The *Maggard* decision put the Secretary on notice months ago that the enforceability of HB 1 hinged on his completion of the certification process—an admonition he chose to ignore. *See infra* pp. 5–6, 13–14. Amici, for their part, warned even in May of this year that the Secretary “would later invoke the [*Purcell*] doctrine in an eleventh-hour gambit to deny relief.” Reply Brief of Appellants at 27 n.14, *Maggard v. State*, No. SC101581 (Mo. May 4, 2026). The pending stay application only confirms Amici’s concerns, giving them yet another interest relevant to this brief: making sure their previous efforts to defend the referendum right were not in vain.

INTRODUCTION AND SUMMARY OF ARGUMENT

“The voters of Missouri first adopted a constitutional amendment establishing the right of referendum more than 100 years ago,” “reserv[ing] a share of the legislative power for themselves” and “ensur[ing] that ‘those who have no access to or influence with elected representatives may take their cause directly to the people.’” *No Bans*, 638 S.W.3d at 486, 489 (quoting *Missourians to Protect Initiative Process v. Blunt*, 799 S.W.2d 824, 827 (Mo. 1990)). For over a century, the Missouri Supreme Court—having recognized that “an erroneous interpretation of powers conferred always ends in trouble,” *State ex rel. Drain v. Becker*, 240 S.W. 229, 233 (Mo. 1922)—has zealously defended the boundaries of the referendum right, including when the executive or legislative branches attempted to undermine it through procedural chicanery. The court long ago acknowledged the “prudence” of the people reserving “the right to correct any evils which may result from unwise legislation” and decided this “absolute power” is “immune from obstructive interference *from any source* until the

purpose for which it is exercised has been consummated.” *Id.* at 231–32 (emphasis added).

To borrow a line attributed (apocryphally) to a celebrated Missourian: History doesn’t repeat itself, but it often rhymes. Last week, the Missouri Supreme Court was once again called on to safeguard Missourians’ share of the legislative power, the latest leg of the “unseemly race between the Governor, the Legislature, and the people” that has always accompanied the referendum right. *Becker*, 240 S.W. at 233. The need for the court’s intervention was plain. On December 9, 2025, the Secretary received 691 boxes containing nearly 50,000 pages of signed referendum petitions with more than 300,000 signatures. Since those petitions were delivered, he has done everything in his power to thwart the right of Missouri voters to have their say before HB 1 goes into effect. That the Secretary intended to obstruct the referendum right from the outset is not subject to reasonable dispute: Within one day of the petition filing, he told the Associated Press he was “going to do everything [he] can to protect [HB 1]—the map the General Assembly passed.”²

The Secretary’s chosen strategy? Delay. Adopting the (erroneous) view that HB 1 would be in effect “until the signatures have been certified by the Secretary of State’s office,”³ the Secretary slow-walked the signature-review process to effectively force use of HB 1 in the midterm elections. Attorney General Catherine Hanaway echoed this gambit during a radio interview in January: “As long as the status quo is the new map[], delay works in our favor.”⁴ And delay is indeed what followed. Despite arguing to a federal court in December 2025 that the HB 1 referendum was

² David A. Lieb & Hannah Schoenbaum, *Opponents of Trump-Backed Redistricting in Missouri Submit a Petition to Force a Public Vote*, PBS News (Dec. 10, 2025), <https://bit.ly/491AIKs>.

³ Alisa Nelson, *When Does Missouri’s New Congressional Map Take Effect? That Depends on Who You Ask*, MissouriNet (Dec. 10, 2025), <https://bit.ly/4apTGwH>.

⁴ *Missouri Attorney General, Catherine Hanaway - Live at the Capitol*, at 7:20, NewsTalkSTL (Jan. 7, 2026), <https://bit.ly/4qU6ws7>.

constitutionally insufficient, the Secretary waited until the last possible hour to reject the referendum on that very same basis—a transparent effort to delay, as long as possible, a lawsuit challenging that determination and suspending HB 1 as a matter of law. As the Missouri Supreme Court later recounted when ruling on that legal challenge,

[t]here is no dispute the secretary could have issued his certificate any time after the December 9 filing but had to issue it by August 4 at 5:00 p.m. At about 4:00 p.m. on August 4, the secretary issued a “Certificate of Insufficiency of Petition” finding “the referendum petition is insufficient under the Missouri Constitution because the Missouri Constitution does not authorize a referendum on congressional redistricting plans passed by the General Assembly.”

App. 3a.

The Missouri Supreme Court ultimately chose to protect the people’s referendum right against the Secretary’s scheme. “Because the plain language of article III, section 49 of the Missouri Constitution authorizes a referendum as to ‘any act of the general assembly’ and no exception applies,” and because “[t]here is no dispute the [HB 1] referendum petition ... was timely filed” and “has the number of signatures required by the Missouri Constitution,” “the referendum petition was legal, sufficient, and timely.” App. 1a–2a. Accordingly, “because a ‘legal, sufficient, and timely’ referendum petition was filed on December 9—*before* HB 1 went into effect on December 11—HB 1 did not take effect on December 11, HB 1 was ‘referred to the people’ as of December 9, and HB 1 ‘shall take effect when approved by a majority of the votes cast thereon, and not otherwise.’” *Id.* at 11a (quoting *Maggard*, 733 S.W.3d at 420). This was a straightforward application of Missouri law. And in response to the Secretary’s newfound concerns about “the confusion, expense, and practical difficulties that may result from not utilizing the congressional redistricting in HB 1 for the November 2026 election,” the court had a pointed response: “[T]hese arguments are

particularly misplaced given the secretary’s delay created the confusion, expense, and practical difficulties of which he complains.” *Id.* at 12a n.8.

Despite [] clear guidance from [a] federal district court and this Court, the secretary chose to delay his certification until the last possible day—August 4—and, in the meantime, utilized the congressional redistricting in HB 1 while incurring the time and expense of signature verification despite having represented to the federal district court he believed the referendum petition was constitutionally deficient.... The secretary delayed certification until the last possible date and chose not to seek resolution of the constitutional question despite having been told at least as early as December 2025 he had the unique ability as secretary to do so under Missouri statutes. Given these undisputed facts, the secretary’s arguments about confusion, expense, and practical difficulties are wholly unpersuasive.

Id.

The Missouri Supreme Court was correct on the law and correct on the equities: Any logistical difficulties are a problem entirely of the Secretary’s own making, a byproduct—if not the intended effect—of his promise to do “everything [he] can to protect” HB 1 by subverting Missourians’ constitutional referendum right. Now that the jig is up, the Secretary turns to this Court for emergency relief, having ginned up baseless “federal constitutional defenses” that he claims justify an extraordinary and unprecedented intrusion into the Missouri Supreme Court’s prerogative to decide issues of Missouri law. Emergency Appl. for Stay & Administrative Stay Pending Appeal (“Appl.”) 2. His arguments, however, do not withstand scrutiny.

First, even though this Court has long held (and recently reaffirmed) that congressional maps are subject to referenda, the Secretary tries to undermine that precedent by calling it “anti-democratic.” The strategy is not persuasive; *all* referenda involve the suspension of legislation by a minority of voters. So long as the referendum power is part and parcel of a state’s legislative process—as is the case in Missouri—a congressional map can be suspended using through referendum.

Second, the Secretary’s claims of “disenfranchisement” have no merit. He cites no authority requiring perfect symmetry between the electorates in primary and general elections or otherwise suggesting that the Missouri Supreme Court’s injunction would produce an unconstitutional result. To the contrary, it is *the Secretary* who now risks constitutional deprivation, since his requested relief would deny Missouri voters their right to referendum.

Third, the Secretary’s equitable claims should be rejected out of hand. He chose to delay certifying the HB 1 referendum despite clear admonitions from the Missouri Supreme Court *and* a federal district court, all but inviting the “chaos” he asks this Court to address. And even if he were right on the facts—and even if his hands were not unclean—neither *Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam), nor its progeny provides a principled justification for this Court to interfere with the Missouri Supreme Court’s oversight of Missouri’s elections.

ARGUMENT

I. HB 1 is suspended under the Missouri Constitution’s referendum right—which is wholly consistent with the Elections Clause.

The Secretary does not and cannot argue that the Missouri Supreme Court erred in concluding that, under the Missouri Constitution, HB 1 is now suspended pending a vote of the people to approve or reject it. Although he previously argued in federal court (and suggested when litigating against Amici in the *Maggard* state-court case) that “a referendum on a congressional map would violate the U.S. Constitution’s Elections Clause” and “the Missouri Constitution does not authorize referenda on congressional maps,” Brief of Respondents at 16, *Maggard v. Hoskins*, No. SC101581 (Mo. Apr. 28, 2026), the Missouri Supreme Court has firmly foreclosed the latter contention, *see* App. 5a–11a (concluding that it is “obvious” that “the broad language in article III, section 49 [of the Missouri Constitution] subjecting ‘any act of

the general assembly’ to referendum applies to legislation drawing new congressional districts”).

As for the former argument—that referenda on congressional maps violate the U.S. Constitution’s Elections Clause—the Missouri Supreme Court aptly noted that the Secretary was “correct[]” to avoid renewing that argument because “the United States Supreme Court has held on multiple occasions the United States Constitution permits a state to authorize a referendum as to legislation drawing new congressional districts.” App. 6a. This Court long ago rejected as “plainly without substance” the notion that referenda on congressional maps are “repugnant to” the Elections Clause. *Ohio ex rel. Davis v. Hildebrant*, 241 U.S. 565, 569 (1916). A century later, “[t]his Court [] reinforced the teachings of *Hildebrant* ... in a case considering the constitutionality of an Arizona ballot initiative.” *Moore v. Harper*, 600 U.S. 1, 25 (2023) (citing *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm’n*, 576 U.S. 787, 792 (2015)). And just three years ago, this Court reaffirmed that “[a] state legislature may not ‘create congressional districts independently of’ requirements imposed ‘by the state constitution with respect to the enactment of laws.’” *Id.* at 26 (quoting *Smiley v. Holm*, 285 U.S. 355, 373 (1932)). Accordingly, under *Hildebrant*, *Moore*, and this Court’s other Elections Clause precedent, Missouri’s congressional maps are subject to the referendum right because “the referendum and initiative petition power in article III, section 49, like the Governor’s veto power in article III, section 31, is an essential part of the state’s lawmaking process under the Missouri Constitution.” App. 8a. Full stop.

Confronted with this reality, the Secretary has opted for a new strategy: rewriting precedent. “[T]he Missouri Supreme Court,” his reasoning goes,

concluded that approximately 3.3% of registered voters unilaterally suspended the HB 1 map by submitting a referendum petition. This Court has *never* sanctioned such a profoundly anti-democratic arrangement, and the Elections Clause forbids permitting a small fraction of a State’s

voters from suspending a congressional map—and imposing a new map—before a statewide vote.

Appl. 17–18. But the Secretary cites no authority or precedent from this Court to support his attempt at “pro-democratic” line-drawing. He can muster only an inapt citation to a concurring opinion from *Democratic National Committee v. Wisconsin State Legislature* in which Justice Gorsuch explained that “[t]he Constitution provides that state legislatures—not federal judges, not state judges, not state governors, not other state officials—bear primary responsibility for setting election rules.” 592 U.S. 1039, 1041 (2020) (Gorsuch, J., concurring in denial of application to vacate stay). That observation does not help the Secretary because, under the Missouri Constitution, “the exercise of legislative power by the people through the referendum is simply a reservation to themselves of a share of the legislature power.” *Dallmeyer*, 245 S.W. at 1068. In other words, as the Missouri Supreme Court reiterated last week, a referendum *is* the legislative power—meaning there is nothing constitutionally suspect about referenda on election rules, congressional maps included, in Missouri.

As for the Secretary’s claim of an “anti-democratic arrangement,” nearly half the states have popular referenda,⁵ which are *always* initiated by some minority share of the electorate. That is just how the process works. And there is nothing unusual about the suspension of laws (including, where permissible, congressional maps) once this minority has referred legislation for popular approval.

Utah, for example, requires “legal signatures equal to 8% of the number of active voters in the state” and, “from at least 15 Senate districts, legal signatures equal to 8% of the number of active voters in that Senate district.” Utah Code Ann. § 20A-7-301(1)(a). Once “a referendum petition is signed by a sufficient number of voters, the law that is the subject of the petition does not take effect unless and until

⁵ See *Initiative and Referendum Processes*, Nat’l Conf. of State Legislatures (Nov. 24, 2025), <https://bit.ly/4ysfQau>.

it is approved by a vote of the people.” *Id.* § 20A-7-301(2). In Maine, a referendum is triggered “[u]pon written petition of electors, the number of which shall not be less than 10% of the total vote for Governor cast in the last gubernatorial election preceding the filing of such petition”—and “[t]he effect of any Act ... shall be suspended upon the filing of such petition.” Me. Const. art. IV, pt. 3, § 17(1)–(2). Arkansas requires petitions signed by 6% of legal voters based on “[t]he total number of votes cast for the office of Governor in the last preceding general election,” and “[a]ny measure referred to the people by referendum petition shall remain in abeyance until such vote is taken.” Ark. Const. art. 5, § 1. Oklahoma’s threshold is 5% of legal voters “based upon the total number of votes cast at the last general election for the Office of Governor.” Okla. Const. art. 5, § 2; *see id.* art. 5, § 3 (“Any measure referred to the people by the initiative or referendum shall take effect and be in force when it shall have been approved by a majority of the votes cast thereon and not otherwise.”). Maryland requires only 3% of the votes cast for governor at the last general election to trigger a referendum and suspend a law. *See* Md. Const. art. XVI, §§ 2–3. And in Missouri, referenda are ordered “by petitions signed by five percent of the legal voters in each of two-thirds of the congressional districts in the state.” Mo. Const. art. III, § 52(a). “Any measure referred to the people shall take effect when approved by a majority of the votes cast thereon, and not otherwise.” *Id.* art. III, § 52(b).

Although the precise signature threshold required to refer and suspend legislation and trigger a popular vote varies with each state’s law, a universal feature of referenda in the United States is that they are triggered by some significantly limited share of the electorate.⁶ So if the Secretary were correct that a referendum on a

⁶ To illustrate, only 60,157 signatures are required for referenda in Maryland, which is 3% of the 2,005,223 voters who cast ballots for governor in 2022. *See Official 2022 Gubernatorial General Election Results for Governor / Lt. Governor*, Md. State Bd. of Elections (Dec. 7, 2022), <https://bit.ly/4dmjz0O>. This amounts to just 1.4% of the state’s 4,322,671 registered voters. *See Maryland Board of Elections Voter*

congressional map triggered by only a small number of voters was constitutionally infirm, then *no* referenda on congressional maps would ever be allowed—which, of course, is not the law, since this Court has reiterated for more than a century that such referenda are consistent with the Elections Clause.

Ultimately, if the Secretary feels that Missouri’s signature threshold is too low, then his recourse is to propose amendment of the Missouri Constitution, not invoke the U.S. Constitution to prompt intervention by federal courts. So long as the referendum is a valid facet of Missouri’s legislative process—and the Missouri Supreme Court just reconfirmed that it is, *see* App. 8a—the state’s congressional maps are subject to referenda, no matter the number of voters it takes to initiate them.

II. The Secretary, not the Missouri Supreme Court, now threatens the constitutional rights of Missouri voters.

The Secretary’s claim that the Missouri Supreme Court’s decision will “disenfranchis[e] hundreds of thousands of voters who will now be moved into new districts and forced to vote for candidates they had no role in selecting,” Appl. 1, does not bear scrutiny. No voters will actually be disenfranchised; nothing the Missouri Supreme Court ordered will prevent Missouri voters from “cho[osing]” the state’s delegation to the House of Representatives as Article I, Section 2 of the U.S. Constitution requires. And no Missourian’s vote for Congress will be worth more than any other’s, *contra* Appl. 27–30; each voter will be able to cast a single vote for a member of Congress. All that has changed is that some voters will find themselves in different congressional districts with candidates other than those they voted for in the primary. But the Secretary cites no decision from this Court foreclosing that outcome, and no wonder: There is nothing inherently or necessarily static about the electorate between a

Registration Activity Report, Md. State Bd. of Elections (Aug. 2026), <https://bit.ly/4qWvGHD>.

primary and general election.⁷ After all, plenty of voters sit out primaries, but they are still perfectly able to cast votes in general elections. Other voters move between districts after a primary but before the general election—meaning they too find new candidates on their general-election ballots. This is true in every election in every state, and the Secretary offers nothing but hyperbole and inapposite caselaw to support his conclusion that this result violates the U.S. Constitution.

Instead, it is *the Secretary* who is on the brink of a constitutional violation, not the Missouri Supreme Court. If he gets his way and the HB 1 map is used in the upcoming general election *before* the people approve the map at the ballot box, then the referendum right will be effectively vitiated because the “[p]urpose of referendum is to suspend or annul a law which has not gone into effect and to provide the people a means of giving expression to a legislative proposition, and require their approval before it become operative as a law; and its purpose *does not intend to invalidate a law already operative.*” *State ex rel. Moore v. Toberman*, 250 S.W.2d 701, 706 (Mo. 1952) (emphasis added) (citation modified). This purpose would be clearly and irreparably subverted if legislation like HB 1 could take effect before it is voted on—just like the gubernatorial veto power would be diminished if legislation could become effective, even temporarily, before a governor had a chance to exercise the veto. *See Nichols v. Robinson*, 211 S.W. 11, 13 (Mo. 1919) (explaining that “[t]he legislative authority in Missouri is not wholly with the General Assembly” because “[t]he Governor is a factor in legislation” and thus “[i]t would be far-fetched to say that the

⁷ The closest authority the Secretary offers is *United States v. Classic*, but there this Court held that, “[w]here the state law has made the primary an integral part of the procedure of choice, or where in fact the primary effectively controls the choice, the right of the elector to have his ballot counted at the primary, is likewise included in the right protected” by the U.S. Constitution, 313 U.S. 299, 318 (1941)—and here, no Missouri voter was denied the chance to vote in the primary election.

legislative body meant that [a] law should become effective without the presentation to the Governor”).

Put differently, the Secretary’s requested relief would force Amici and other Missourians to vote on whether to approve or reject HB 1 *at the very same time* they elect members of Congress from districts drawn by that referred legislation. The referendum right would lose any meaning or value if voters rejected HB 1 in the general election and yet were still forced to live under its map for the duration of the 120th Congress. That potential injury—dilution of the referendum right—is far more real and immediate than any of the manufactured constitutional injuries contained in the Secretary’s stay application.

III. The equities cannot possibly favor the Secretary given that he orchestrated the current situation.

Finally, the equities militate strongly against rewarding the Secretary for his intentionally dilatory tactics and gamesmanship. His hands are decidedly unclean here, as the Missouri Supreme Court recognized: “In December 2025”—immediately after the signed HB 1 referendum petitions were filed—

a federal district court advised the secretary and the state that, if the referendum petition is sufficient, “the new map will be frozen until after the referendum, which could significantly disrupt the 2026 elections.” At the same time, the federal district court noted the secretary had the ability to declare the petition insufficient based on his argument in the federal litigation—identical to his argument now—that the Missouri Constitution does not permit a referendum as to congressional redistricting passed by the General Assembly. “[T]here is no apparent reason why [the secretary] would incur the significant cost of signature verification given his stated belief that the petition is constitutionally deficient.”

App. 12a n.8 (alterations in original) (citations omitted) (quoting *Mo. Gen. Assembly v. von Glahn*, No. 25-CV-1535-ZMB, 2025 WL 3514277, at *2 & n.2, *4 (E.D. Mo. Dec. 8, 2025)). And yet the Secretary “chose to delay his certification until the last possible day,” waiting until *4 p.m. on primary day*, August 4—the certification

deadline—to reject the HB 1 referendum on *the very same ground* he raised in federal court nearly eight months earlier. App. 12a n.8.

Moreover, nearly three months before the certification deadline, the Missouri Supreme Court made clear that, “[i]f ... the December 9 referendum petition filing is ultimately determined to be sufficient,” then “HB 1 did not take effect on December 11, HB 1 was ‘referred to the people’ as of December 9, and HB 1 ‘shall take effect when approved by a majority of the votes cast thereon, and not otherwise.’” *Maggard*, 733 S.W.3d at 420 (quoting Mo. Const. art. III, § 52(b)). The Secretary was thus on notice that a sufficiency determination would suspend HB 1 and prevent its further use no matter when that determination was made. And yet still he delayed.

The Secretary does not and cannot offer any legitimate justification for his stalling. And it is *his* “delay”—not the Missouri Supreme Court’s straightforward application of state law—“that created the confusion, expense, and practical difficulties of which he complains.” App. 12a n.8.

More gallingly yet, during his prior state-court litigation against Amici, the Secretary offered a contrary position, giving every indication that the *Purcell* principle would *not* be a practical impediment and that HB 1 could be suspended at any time. In arguing that Amici’s injury was not ripe for adjudication earlier this year, the Secretary suggested that suspension of HB 1 could feasibly occur up until the August 4 certification deadline. It was, he said, “highly likely that the Secretary will determine the legal sufficiency of [the HB 1] referendum petition before Missouri’s August 4 primary and November 4 general election in 2026,” in which case “voters will consider [HB 1] before it is used in an election if the Secretary certifies [the] referendum petition as legally sufficient.... The Secretary [] retains authority ... to ultimately suspend [HB 1] through a later certification of [the] referendum petition.” Defendants’ Suggestions in Support of Motion to Dismiss at 13–14, 16, *Maggard v. State*, No. 25AC-CC09120 (Mo. Cir. Ct. Jan. 7, 2026) (emphasis omitted). The

Secretary went so far as to fault Amici for “never explain[ing] why delay would affect their ability to vote on a referendum of [HB 1] before [that map] govern[s] a congressional election.” *Id.* at 17. Put mildly, it is hard to square these assertions and arguments with the Secretary’s belated reliance on *Purcell*.

At any rate, although the Secretary spills considerable ink analyzing the facts here under “this Court’s *Purcell* precedents,” Appl. 34–37, he misses a critical step: explaining why *Purcell* even applies here in the first place. The *Purcell* principle “is infused with *federalism* concerns, arising from the notion that *federal* courts should show a degree of caution before they intervene in state-created election procedures that could bollix up the management of an election by state officials.” *Democratic Senatorial Campaign Comm. v. Pate* (“DSCC”), 950 N.W.2d 1, 15 (Iowa 2020) (Appel, J., specially concurring) (emphasis added); see, e.g., *Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418, 419 (2025) (purpose of *Purcell* is to avoid “upsetting the delicate federal-state balance in elections”); *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring in grant of applications for stays) (“This Court has repeatedly stated that *federal* courts ordinarily should not enjoin a state’s election laws in the period close to an election, and this Court in turn has often stayed lower federal court injunctions that contravened that principle.” (emphasis added)).

“There is, of course, no federalism consideration in this case,” *DSCC*, 950 N.W.2d at 15 (Appel, J., specially concurring); the *Missouri* Supreme Court adjudicated an issue under the *Missouri* Constitution and ordered *Missouri* election officials to use the state’s 2022 congressional map. As much as the Secretary might want this Court to validate concerns that the Missouri Supreme Court properly rejected on equitable grounds, see App. 12a n.8—and even if the Secretary were correct that “the chaos present here easily dwarfs that in *any* case where this Court ever invoked *Purcell*-related concerns to grant a stay,” Appl. 2—the *Purcell* principle does not give this Court license to second-guess how a state’s highest court addresses issues of state

election law, *cf. Michigan v. Long*, 463 U.S. 1032, 1040 (1983) (emphasizing this Court’s “[r]espect for the independence of state courts”).⁸ And just as it is the Secretary (and not the Missouri Supreme Court) who is threatening the deprivation of Missourians’ constitutional rights, *see supra* pp. 12–13, so it is also the Secretary who is now inviting a *Purcell* violation by asking a federal court to upend the state-law status quo—to wit, use of the 2022 congressional plan, Missouri’s only lawfully enacted map currently in existence—on the eve of the general election.

* * *

Today in Missouri,

[t]here is only one valid congressional redistricting in effect—the congressional redistricting the General Assembly established in 2022.... Regardless of any confusion, expense, or practical difficulties caused by the secretary’s delay and incorrect assumption about whether the referendum petition would be deemed sufficient, simply continuing to utilize the congressional redistricting in HB 1 does not comport with the Missouri Constitution *because the 2022 map is the only map in effect*.

App. 12a–13a n.8 (emphasis added). The Missouri Supreme Court, consistent with the people’s referendum right and the state’s legislative process, has ordered this lawfully enacted map to be used in the 2026 general election. The Secretary might not like this outcome—and it might foil his carefully laid plans, *see supra* pp. 4–5—but he provides this Court with no compelling argument that it violates the U.S. Constitution. Nor can he offer any justification or cite any authority for using a legally nonexistent congressional map in the upcoming election.

⁸ The Secretary suggests that *Malliotakis v. Williams*, 146 S. Ct. 809 (2026), allows “a state court order that disrupts congressional maps before an upcoming election” to be stayed based on “*Purcell*-related equitable concerns,” Appl. 35. But this Court had an independent basis for intervening in that case. *See Malliotakis*, 146 S. Ct. at 810–11 (Alito, J., concurring in grant of stay) (indicating that case “concern[ed] a state-court order that blatantly discriminates on the basis of race” such that “this Court would likely strike down” any map resulting from that order). Here, in contrast, this Court has no basis for “strik[ing] down” the Missouri Supreme Court’s decision.

In the end, this case fundamentally concerns an issue of Missouri law that the Missouri Supreme Court has finally ruled on. This Court should not interfere.

CONCLUSION

The Secretary's application should be denied.

September 7, 2026

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