

No. 26A-304

IN THE SUPREME COURT OF THE UNITED STATES

DENNY HOSKINS, IN HIS OFFICIAL CAPACITY,

Applicant,

REPUBLICAN NATIONAL COMMITTEE, NATIONAL REPUBLICAN
CONGRESSIONAL COMMITTEE, MISSOURI REPUBLICAN STATE COMMITTEE,

Intervenors-Respondents

v.

RICHARD VON GLAHN

Respondent.

Application from the Supreme Court of Missouri

(No. SC101805)

INTERVENORS-RESPONDENTS' REPLY BRIEF IN SUPPORT OF
APPLICANT'S EMERGENCY APPLICATION FOR STAY PENDING
DISPOSITION OF A PETITION FOR A WRIT OF CERTIORARI

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INTRODUCTION

Respondent's opposition only confirms that this Court should stay the Missouri Supreme Court's erroneous judgment supplanting the General Assembly's congressional redistricting authority and throwing Missouri into electoral chaos at the whim of approximately 3.3% of the State's voters. Respondent concedes that the Missouri Supreme Court issued a "prohibitory injunction" against use of the General Assembly's duly enacted House Bill 1 ("HB 1") plan *after* a primary in which more than 1.2 million Missourians voted but *before* the imminent general election. Respondent's Opposition ("Opp.") 18. Respondent identifies no basis on which this Court can ignore the Missouri Supreme Court's multiple violations of federal law, much less sanction the widespread voter confusion and erosion of voter confidence its injunction will visit upon the State.

Indeed, at the threshold, Respondent's procedural arguments miss the dispositive point that the Missouri Supreme Court's injunction *itself* violates federal law and inflicts harm on the Secretary, Intervenor-Respondents, and the public. The Missouri Supreme Court did not address *that* point, much less identify any procedural bar or substantive flaw to it. The injunction therefore does not (and cannot) rest on an adequate and independent state-law ground, and a stay will provide the Secretary and Intervenor-Respondents complete relief.

Respondent's contention that there is no fair prospect of reversal again misapprehends and mischaracterizes both the Missouri Supreme Court's injunction and this Court's governing precedent. On irreparable harm, Respondent does not

contest *any* of the factual premises raised by the Secretary and Intervenor-Respondents or the circuit court’s finding that it would be “impossible” for the State to conduct the imminent general election under any plan other than the General Assembly’s duly enacted HB 1 plan. Respondent, moreover, again misreads the law—but even his misreading provides no escape from *Purcell* and *Malliotakis*, which warrant a stay here. And Respondent does not even *contest* that the case is cert-worthy, so this element indisputably points in favor of a stay.

For each and all of the reasons the Secretary and Intervenor-Respondents have identified, and as explained more fully below, the Court should grant a stay.

ARGUMENT

The Court should grant a stay to preserve the constitutional authority of the Missouri General Assembly, prevent a small minority of voters from “arrogat[ing]” the “power vested in state legislatures to regulate federal elections,” *Moore v. Harper*, 600 U.S. 1, 36 (2023), and ensure Missouri’s elections are conducted according to the laws enacted by its elected representatives, *see* Intervenor-Respondents’ Br. 11-38 (“Br.”).

I. THE MISSOURI SUPREME COURT’S DISREGARD OF FEDERAL LAW IS NOT AN ADEQUATE AND INDEPENDENT STATE-LAW BASIS PRECLUDING A STAY.

Respondent’s first argument posits that the Missouri Supreme Court’s judgment rests upon “an adequate and independent state-law ground.” Opp. 14. Respondent acknowledges that the Missouri Supreme Court held that the federal constitutional questions presented here “fell outside the scope of the Secretary’s

statutory review of the referendum petition” and, thus, that court’s judicial review. *Id.* at 16. Of course, a state court’s *disregard* of federal law is a *reason* for this Court to grant a stay and review, not a *bar* to such review. *See, e.g.*, U.S. Const. art. VI. Otherwise, state courts could *always* oust this Court’s jurisdiction simply by ignoring applicable federal law in the cases before them. *See, e.g., id.*; 28 U.S.C. § 1257(a).

Respondent thus pivots to pointing to the Missouri Supreme Court’s statement that the Secretary “waived and abandoned” the federal-law grounds for rejecting Respondent’s referendum petition because he incorporated those grounds by reference in his decision. Opp. 14 (citing 5a n.5). This argument misapprehends both the federal-law violations perpetrated here and the Secretary’s and Intervenor-Respondents’ arguments before this Court. Indeed, as Intervenor-Respondents have explained, the Missouri Supreme Court’s injunction *itself* violates the Constitution. *See, e.g.*, Br. 13-29. The Secretary and Intervenor-Respondents expressly warned the Missouri Supreme Court that an injunction granting Respondent’s requested relief would do just that. *See, e.g.*, 1494a-1515a; 1577a-1591a; 1646a-1656a. The Missouri Supreme Court never even addressed, let alone rejected, *those* arguments on any basis, substantive, procedural, or otherwise. App. 1a-14a. And, as explained, the Missouri Supreme Court’s disregard of federal law foreclosing the relief it ordered cannot bar this Court’s review. *See, e.g.*, U.S. Const. art. VI; 28 U.S.C. § 1257(a).

Thus, here, “resolution of [the] federal question[s]” presented *would* “affect” the Missouri Supreme Court’s “judgment.” *Coleman v. Thompson*, 501 U.S. 722, 730 (1991). The federal-law violations perpetrated by that Missouri Supreme Court are

obviously “interwoven” in its judgment and, thus, presented for this Court’s review. *See Michigan v. Long*, 463 U.S. 1032, 1040 (1983). Accordingly, the various cases Respondent relies upon do not foreclose this Court from granting a stay or review. Two actually *support* a stay because they explain that the state court’s judgment did not rest upon an adequate and independent state-law ground. *See Harris v. Reed*, 489 U.S. 255, 260-61 (1989) (Opp. 2, 14); *Int’l Longshoremen’s Ass’n v. Davis*, 476 U.S. 380 (1986) (Opp. 14). The remainder involve decisions expressly rejecting on procedural grounds the identical arguments raised to this Court that some actor other than the state court violated federal law. None involves a state-court injunction that *itself* violated federal law or the Constitution, let alone did so through a decision ignoring that violation such as the Missouri Supreme Court’s decision here. *See, e.g., Coleman*, 501 U.S. at 729 (failure to exhaust habeas claims) (Opp. 14); *Adams v. Robertson*, 520 U.S. 83, 86-87 (1997) (per curiam) (federal-law argument not presented to state court) (Opp. 14). There is no bar on this Court’s review of the federal-law questions presented here, each and all of which warrant a stay. *See Br.* 13-29.

II. A STAY IS THE PROPER RELIEF HERE.

Respondent’s second argument contends that “a stay would not grant Applicants the relief they seek” because, in his view, a stay would not alter the “status quo.” Opp. 18. If that were true, then one wonders *why* Respondent brought his suit in the first place. Indeed, if Respondent were correct that HB 1 “was *not* the legal status quo before the judgment,” there would have been no reason for him to ask the

Missouri Supreme Court for a “prohibitory injunction against using HB 1 in November.” *Id.*

Unsurprisingly, then, Respondent is not correct. Prior to the Missouri Supreme Court’s decision here, the “status quo” was that HB 1 governed Missouri’s congressional elections. In fact, the Missouri Supreme Court had *sanctioned* that status quo, holding in a prior case that Respondent’s mere “filing of a referendum petition alone” did not “automatically suspend[]” HB 1. *Maggard v. State*, 733 S.W.3d 411, 415 (Mo. banc 2026). Rather, the Missouri Supreme Court recognized that any suspension of an enactment of the General Assembly at minimum had to await the Secretary’s determination whether the petition complied with the “signature requirement.” *Id.* It was not until the Missouri Supreme Court entered its “prohibitory injunction” last week, Opp. 18, that HB 1 was suspended. That is why the State (lawfully) conducted its August congressional primary elections under HB 1. *See, e.g., Maggard*, 733 S.W.3d at 415. It obviously could not have done so if, as Respondent asserts, HB 1 was “*not* the legal status quo before the judgment.” Opp. 18.

In fact, Respondent’s own description of the Missouri Supreme Court’s judgment as a “prohibitory injunction,” *id.*, gives this argument away, as his own cited case confirms. The Missouri Supreme Court’s judgment is an injunction precisely because “it directs the conduct of a party”—here, the conduct of congressional elections, including the imminent 2026 general election, by the State. *Nken v. Holder*, 556 U.S. 418, 428 (2009) (Opp. 2). The relief requested in this Court

would “operate[] upon the judicial proceeding itself” by divesting that prohibitory injunction “of enforceability” and “suspending the source of authority to act . . .[,] not by directing an actor’s conduct.” *Id.* at 428-29. In other words, the relief requested here would “simply suspend[] judicial alteration of the status quo,” and therefore is a “stay.” *Id.* at 429 (quotations omitted). The Court should grant that stay because all requirements for it are easily satisfied. *See* Br. 13-38.

III. THE SECRETARY AND INTERVENORS-RESPONDENTS HAVE A FAIR PROSPECT OF SUCCESS ON THEIR FEDERAL CLAIMS.

Respondent’s various arguments that the Secretary and Intervenor-Respondents “have no fair prospect of success on any federal claim,” Opp. 20, uniformly fail.

A. The Injunction Violates Article I, Section 2 Of The U.S. Constitution.

The Missouri Supreme Court’s injunction requiring a general election to be held under a different congressional map than the one used in the August 4 primary violates Article I, Section 2 of the U.S. Constitution. *See* Br. 14-15. Respondent’s various arguments to the contrary do not prove otherwise.

First, Respondent assures the Court that “[a]ll qualified voters had the opportunity to vote in the primary, and the primary votes were counted and used to select nominees.” Opp. 32. That assurance provides no comfort because it ignores the Article I, Section 2 violation here: the Missouri Supreme Court’s fracturing of the State’s “single instrumentality for the choice of officers” formed by the primary and general elections. *Smith v. Allwright*, 321 U.S. 649, 660 (1944); Br. 14-15.

Respondent, moreover, never explains precisely *what* those votes “were counted” for. Opp. 32. He therefore does not dispute that, at most, they were counted to select nominees who, under the Missouri Supreme Court’s injunction, now must run in the general election in districts *different* from the ones in which “primary votes were counted” and “nominees” were “select[ed].” *Id.* Thus, Respondent merely restates the problem with the injunction; he does not solve it.

Second, Respondent argues that Article I, Section 2 does not confer “entitlement to vote *in the same constituency* at both the primary and general election.” *Id.* But that rule not only is “suggest[ed]” by this Court’s prior decisions, *id.* at 33; it flows from them, *see* Br. 14-15. Respondent offers no explanation as to what rights voters have where, as here, the State has adopted a “single instrumentality for the choice of officers” through an integral primary and general election. *Smith*, 321 U.S. at 660; *see* Br. 14-15. Those rights must be greater than the mere right to have one’s primary vote “counted,” Opp. 32, because a voter *always* has that right, *see Reynolds v. Sims*, 377 U.S. 533, 555-56 (1964). The right of “the People” to choose their “Members” therefore must entail the right to vote under the same congressional districting plan throughout the “single instrumentality” of a primary and general election for selecting those Members. U.S. Const. art. I, § 2; *Smith*, 321 U.S. at 660; Br. 14-15.

Third, the cases Respondent attempts to explain away underscore rather than undermine this result. Prior judicial decisions *declining* to change congressional districting plans between a primary and a general election comport with Article I,

Section 2, as this Court has previously construed it. *See, e.g., Page v. Va. State Bd. of Elecs.*, 58 F. Supp. 3d 533, 554 (E.D.Va. 2014), *vacated sub nom. Cantor v. Personhuballah*, 575 U.S. 931 (2016) (Opp. 33). So, too, do judicial decisions declining to alter other types of redistricting plans between a primary and a general election (which likewise also underscore that equitable considerations foreclose the injunction here, *see infra* part IV). *See, e.g., Terrazas v. Slagle*, 821 F. Supp. 1154, 1159 (W.D. Tex. 1992) (Opp. 32); *Covington v. North Carolina*, 316 F.R.D. 117 (M.D.N.C. 2016) (Opp. 33); *Vera v. Richards*, 861 F. Supp. 1304, 1351 (S.D. Tex. 1994), *aff'd*, *Bush v. Vera*, 517 U.S. 952 (1996) (Opp. 33).

Finally, Respondent’s rejection of “the premise that the Constitution guarantees every voter an opportunity to participate personally in every electoral step that ultimately determines who represents that voter,” Opp. 33, is baffling in light of his position below but ultimately irrelevant. The Court’s decision in *Rodriguez v. Popular Democratic Party*, 457 U.S. 1, 8-12 (1982) (Opp. 33), did not even address that premise because it involved Puerto Rico’s process for filling interim vacancies in offices *without* elections, not the right of voters to participate in every “electoral step,” Opp. 33, when Article I, Section 2 requires congressional representatives to be chosen by “the People” (or more generally when a State has chosen elections as the method for choosing its officers). In fact, *Rodriguez* recognized that “when a state . . . has provided that its representatives be elected, a citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction.” 457 U.S. at 10 (cleaned up). *Rodriguez* therefore

forecloses, rather than justifies, the Missouri Supreme Court’s fracturing of the State’s “single instrumentality for the choice of officers” formed by the primary and general elections. *Smith*, 321 U.S. at 660; Br. 14-15.

B. The Injunction Violates The Equal Protection Clause.

The Missouri Supreme Court’s injunction also violates the Equal Protection Clause because it creates and “afford[s] unequal treatment to different classes of voters.” *Rodriguez*, 457 U.S. at 10 (Opp. 29); *see also* Br. 15-16. Respondent offers three main arguments, but none rebuts this dispositive point.

First, Respondent points out that *Gray v. Sanders*, 372 U.S. 368 (1963), “invalidated an electoral system that weighted votes in rural areas more heavily than votes in urban centers,” and baldly asserts that “[n]othing comparable is alleged here.” Opp. 28. But it is precisely such unequal treatment of voters and their votes that the Missouri Supreme Court’s injunction perpetrates here because it creates different classes of voters: those who had the opportunity to select their general election candidate and those who did not. *See* Br. 15-16.

Second, Respondent’s opaque contention that “equal protection does not guarantee voters an uninterrupted opportunity to determine who ultimately represents them, let alone who is *nominated* to represent them,” Opp. 29, again misses the point. Respondent does not explain what he means by “uninterrupted opportunity.” In any event, *none* of the cases he cites upholds a state-court order moving hundreds of thousands of voters into new congressional districts between a primary and a general election, or any other regime in which a State (or state court)

created two classes of voters and treated them unequally. *See, e.g., Rodriguez*, 457 U.S. at 10-12 (discussed *supra* at 7). In fact, all voters in the district were treated *identically* in the two circuit cases Respondent cites. *See Donatelli v. Mitchell*, 2 F.3d 508 (3d Cir. 1993) (no voters in district had voted for new senator assigned to the district) (Opp. 30); *Republican Party of Oregon v. Kiesling*, 959 F.2d 144 (9th Cir. 1992) (all voters had equal right to vote for senators whenever staggered terms arose) (Opp. 30). And those cases confirm that the Equal Protection Clause requires that “[a]ll qualified voters” have “an equal opportunity to select a district representative in the general election,” *Donatelli*, 2 F.3d at 517 (quoting *Rodriguez*, 457 U.S. at 10), an opportunity absent under the injunction here, *see* Br. 15-16.

Third, Respondent’s argument that “the ordinary consequences of redistricting, vacancies, and candidate substitution” support the injunction here, Opp. 31, sails wide of the mark. *None* of these scenarios involves unequal treatment of voters when they participate in elections. To the contrary, *all* place voters on equal footing when they participate in elections. For example, a “consequence of redistricting” is that some voters are moved into new districts—but once there, they participate in the next election on the same terms as every other voter in that district. *See, e.g., Donatelli*, 2 F.3d 508; *Republican Party of Oregon*, 959 F.2d 144. Moreover, the “consequence” of filling a candidate vacancy or substituting a candidate is that *no* voter in the district had a previous opportunity to consider that candidate (unless they all did because the candidate ran in the primary or previously stood for election in that district). The “ordinary consequences of redistricting, vacancies, and

candidate substitution” thus do not create two classes of voter subject to unequal treatment during an election. Opp. 31. Those consequences’ *equal* treatment of voters during elections only underscores the Equal Protection violation in the Missouri Supreme Court’s *unequal* treatment of the State’s voters. See Br. 15-16.

C. The Injunction Forces State Officials To Violate UOCAVA.

The Missouri Supreme Court’s injunction also forces State officials to violate UOCAVA. See Br. 17-18. Respondent gives short shrift to this point, and neither of his arguments is persuasive.

Respondent first argues that the Court should ignore that UOCAVA violation because “the only evidence [the Secretary] cites for this proposition is the declaration he wrote and signed himself.” Opp. 39. Respondent, however, points to precisely *nothing* in the record to contest, much less disprove, the Secretary’s declaration. See *id.* Nothing exists. See *id.* The un rebutted record evidence, therefore, establishes the UOCAVA violation in the injunction and the need for this Court’s intervention. See Br. 17-18.

Respondent’s other argument posits that any UOCAVA violation “presupposes that Missouri needs to conduct a new primary, which no court has ordered and no one has requested.” Opp. 39 n.8. But as explained, the injunction *does* require Missouri to conduct a new primary to avoid violating Article I, Section 2 and the Equal Protection Clause. See Br. 14-16; *supra* at 5-9.

D. The Injunction Violates The Elections Clause.

The Missouri Supreme Court's injunction also flouts the U.S. Constitution's express assignment of authority over congressional redistricting to the General Assembly. *See* U.S. Const. art. I, § 4; Br. 18-29. Respondent's Elections Clause standing and merits arguments fall flat.

First, Respondent's argument that the Secretary and Intervenor-Respondents lack standing to seek review of the Elections Clause question, *see* Opp. 21-22, misconstrues this Court's caselaw. As respondents below who opposed the Missouri Supreme Court's judgment, Intervenor-Respondents can obtain appellate review of whether that judgment "along with the relief that may flow from" the injunction is "invalid under federal law" and the Elections Clause. *ASARCO Inc. v. Kadish*, 490 U.S. 605, 618 (1989). Respondent does not dispute that Intervenor-Respondents are suffering an injury from the injunction. *See* Opp. 21-22. Nor could they: Intervenor-Respondents, their voters, and their candidates face *irreparable* harm from the injunction. *See* Br. 12-13; 30-35. That alone establishes their standing to appeal. *See ASARCO*, 490 U.S. at 618.

Respondent's alternative argument that only the General Assembly itself can raise an Elections Clause violation, *see* Opp. 21-22, is incorrect as a matter of law. This Court previously has permitted "a relator [suing] on behalf of the State" to invoke this Court's appellate jurisdiction over a state-court decision implicating the Elections Clause. *Lance v. Coffman*, 549 U.S. 437, 442 (2007) (citing *Smiley v. Holm*, 285 U.S. 355 (1932); *Ohio ex rel. Davis v. Hildebrant*, 241 U.S. 565 (1916)). And

neither of the cases in which this Court found a lack of appellate standing requires that result here. Intervenor-Respondents seek to vindicate their own particularized injury, *see* Br. 12-13; 30-35, not a generalized grievance, *compare Lance*, 549 U.S. at 442 (Opp. 21), and are not a single house of a state legislature seeking to vindicate the institutional prerogative of the entire legislature, *see Va. House of Delegates v. Bethune-Hill*, 587 U.S. 659, 667 (2019) (Opp. 22).

Second, Respondent argues on the merits that “[r]eferendum petitions may properly be applied to congressional redistricting legislation under the Elections Clause.” Opp. 23. But even if that broad proposition were correct, it merely *raises*, rather than *answers*, the question whether the Missouri Supreme Court’s injunction comports with the Clause. As Intervenor-Respondents have explained, the cases Respondent cites establish the very clear-statement rule that the injunction violates. *See* Br. 23-29 (discussing *Hildebrant*, 241 U.S. 565; *Arizona State Legislature v. Arizona Independent Redistricting Comm’n*, 576 U.S. 787 (2015); *Moore*, 600 U.S. 1).

Third, Respondent attempts to speak for Intervenor-Respondents, suggesting that our position asserts that “a ‘clear statement’ is necessary before any entity other than the General Assembly may participate in redistricting.” Opp. 26. Respondent does not explain what he means by “participate in redistricting,” and Intervenor-Respondents are at a loss to understand his meaning. What Intervenor-Respondents consistently have explained is that *this Court’s caselaw* requires a clear statement to supplant the General Assembly’s authority to conduct congressional redistricting granted by the Elections Clause. *See* Br. 23-29. Respondent’s effort to

satisfy that rule by pointing to Missouri’s generic referendum provisions, *see* Opp. 27-28, fails because those provisions say precisely *nothing* about congressional redistricting, *see* Br. 27-28.

Fourth, even if a clear statement were not required to subject congressional redistricting to the referendum, the Elections Clause forbids the arrangement the Missouri Supreme Court sanctioned: one in which a fraction of voters—here, approximately 3.3% of the electorate—can suspend the General Assembly’s duly enacted congressional map and force the State to revert to a repealed plan. *See* Br. 28-29. Respondent’s only retort is *Hildebrant*. But *Hildebrant* did not consider, much less approve, what happened here. In *Hildebrant*, the people of Ohio actually *voted* to reject a redistricting plan, and they did so in a non-election year, outside the context of a primary-to-general election cycle. 241 U.S. at 566; *see* Br. 22-23. No one in *Hildebrant* contended that a small minority of petition signers could unilaterally suspend a congressional map before any statewide vote. And Respondent points to nothing in the Court’s decision that could be read to authorize such an arrangement.

Respondent appears to think that because *Hildebrant* approved referenda on congressional maps (which, as explained, it did not, *see* Br. 24-26), it also approved every mechanism a state might attach to the referendum process. That does not follow. Any approval this Court has lent to the referendum rests on its democratic foundation. A statewide referendum vote at least carries democratic legitimacy because the majority of the electorate speaks. *Cf. Arizona State Legislature*, 576 U.S. at 793-94, 819-24. But a suspension triggered by petition signatures from a small

minority of the electorate does the opposite, overriding the legislature’s express authority without any majoritarian check. Unsurprisingly, Respondent points to no precedent—from this Court or any other—upholding such an arrangement as applied to congressional redistricting. The reason is straightforward: nothing like it has ever happened before. *See* Br. 18-19. That Respondent cannot locate a single historical analogue for the maneuver he defends is itself a “telling indication of [a] severe constitutional problem.” *Free Enterprise Fund v. Public Co. Accounting Bd.*, 561 U.S. 477, 505 (2010) (quotations omitted). Intervenors-Respondents have shown a fair prospect of reversal on this basis as well. *See* Br. 28-29.

IV. THE SECRETARY AND INTERVENORS-RESPONDENTS WILL SUFFER IRREPARABLE HARM ABSENT A STAY.

Respondent does not dispute the facts that establish irreparable harm. *See* Br. 30-35. HB 1 survived four separate legal challenges before the Missouri Supreme Court. *See id.* at 1. Every state election official implemented it for the August 4 primary elections. 19a ¶ 14. More than 1.2 million Missourians voted under it in those elections. 19a-20a ¶ 15. Candidates have built campaigns around its districts, raised tens of millions of dollars, and organized for a general election under those boundaries. 1251a ¶¶ 12-15; 1256a-1257a ¶¶ 12-15; 1262a ¶¶ 12-15. Until last Thursday, the entire State operated on the settled understanding that HB 1 controlled the 2026 primary and general elections. *See Democratic Nat’l Comm. v. Wis. State Legislature*, 141 S. Ct. 28, 31 (2020) (mem.) (Kavanaugh, J., concurring) (“When an election is close at hand, the rules of the road should be clear and settled.”).

Respondent also does not contest the consequences of upending that understanding. The 2026 primary results do not map onto the 2022 districts. So nominees selected by voters in one set of districts now face the prospect of running in entirely different ones, or not running at all. The Missouri Supreme Court offered no guidance on how to resolve this mismatch. It did not say whether the primary nominees carry over, whether new primaries must occur, or how candidates should proceed. Respondent’s suggestion that party candidates select replacement nominees—which the Missouri Supreme Court did not *mention*—only underscores the chaos. Opp. 40. That mechanism has never been used for this purpose, its legality in this context remains untested, and the statutory window for party nomination of replacement candidates closes *today*. Mo. Rev. Stat. § 115.379.1-.2. Meanwhile, Respondent’s own counsel has publicly acknowledged that losing primary candidates could bring election contests. *See Jacob Barker, A ‘crisis’ in Missouri elections? Supreme Court puts the blame on one state official*, St. Louis Post-Dispatch (Sept. 6, 2026).

Nor can Respondent dispute that the only factual finding in the record establishes that it would be “impossible” for election officials to conduct the general election under the 2022 map. The Missouri Supreme Court did not reverse, question, or even mention that finding. It simply did not care. *See* 12a n.8 (deeming “confusion, expense, and practical difficulties” of its order “irrelevant”). That indifference does not make the harm go away; it makes a stay all the more urgent to preserve “the integrity of our electoral processes . . . essential to the functioning of our participatory

democracy.” *Bost v. Ill. State Bd. of Elections*, 607 U.S. 71, 80 (2026) (quotations omitted); *see also Abbott v. League of United Latin American Citizens*, 607 U.S. ----, 146 S. Ct. 418, 419 (2025).

Against this mountain of undisputed harm Respondent offers two arguments. Neither withstands scrutiny.

First, Respondent points to a newspaper article quoting the directors of the Jackson County Election Board, who stated only that they were “equipped to make the necessary changes.” Opp. 38. But no court has credited that assertion, even though it was before both the circuit court and the Missouri Supreme Court. By contrast, the circuit court credited the sworn affidavit of a 25-year veteran Missouri election official that it would be “impossible” to make the necessary changes in time for November 3. 52a. At any rate, even accepting that article at face value, it proves nothing. Jackson County represents one of 116 local election authorities in Missouri. If some counties can switch and others cannot, the election still cannot go forward.

Second, Respondent contends that the *Purcell* principle does not apply to a state-court injunction. Opp. 36-37. That misses the point. *Purcell* identifies the concrete harms that flow to voters, candidates, and election officials from last-minute judicial changes to election rules. Those harms go directly to irreparable injury, which even Respondent concedes this Court must weigh. Opp. 41; *see also Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010). The identity of the court issuing the order does not alter those harms. Voters are no less confused, candidates no less upended, and election officials no less burdened because the disruptive order came

from a state court rather than a federal one. Respondent does not even attempt to argue otherwise. Opp. 36-37.

In any event, *Purcell* does apply. This case involves a state court altering the rules for a *federal* election. If this Court requires some federal hook to trigger *Purcell*, it plainly exists. This Court recognized as much in *Malliotakis v. Williams*, 146 S. Ct. 809, 810-11 (2026) (Alito, J., concurring in grant of stay), where it stayed a *state*-court order altering New York’s congressional map before an upcoming federal election. If *Purcell* concerns warranted a stay there—four months before a primary—they apply with overwhelming force here, where more than 1.2 million people have already voted. Respondent’s contrary position would mean that a state court could redraw a congressional map in the middle of mail voting, or two days before Election Day, and this Court would stand powerless to intervene. That cannot be the law.

V. RESPONDENT DOES NOT DISPUTE THIS CASE IS CERT-WORTHY.

The most conspicuous feature of Respondent’s opposition is what it does not say. “A reasonable probability” that this Court will grant certiorari is a prerequisite to a stay. *Hollingsworth*, 558 U.S. at 190; *see also Does 1-3 v. Mills*, 142 S. Ct. 17, 17-18 (2021) (Barrett, J., concurring). Intervenor-Respondents explained that this case easily clears that bar because it will set the ground rules for when, and at what juncture, a State can change its congressional map. Intervenor-Respondents put the question to Respondent directly: If the Missouri Supreme Court can nullify a completed federal primary and force candidates into entirely different districts weeks

before a general election, what stops *any* state from doing the same thing tomorrow, or at any point before November 3? Br. 36.

Respondent does not answer—and his silence is deafening. The reason he does not answer is that, on his legal theory, nothing stops that result. According to Respondent, *no* federal guardrails prevent a state court from changing a state’s congressional map whenever it pleases, including after every primary vote has been cast and every campaign dollar spent. Given every opportunity to identify a limiting principle, Respondent instead doubles down. He says that this Court has “*no basis*” to “impinge upon the Missouri Supreme Court’s authority to decide whether last-minute election changes are in the best interests of the State.” Opp. 37 (emphasis added). In other words, his argument would be exactly the same if the Missouri Supreme Court had intervened a month from now. If this Court permits what happened here, it will hand every state court and litigant a blueprint for last-minute election manipulation.

Respondent tries to repackage this as a dispute over state election administration. But this Court occupies a central role when a state court restructures districts for *federal* congressional elections. A state court exercising authority over the manner of electing members of Congress intrudes in a domain the U.S. Constitution checks and constrains. *See Moore*, 600 U.S. at 34-35. This Court thus has a “duty to safeguard limits imposed by the” U.S. Constitution on that process, especially when a state court attempts to evade them. *Id.* at 35.

This case illustrates why. The trial court found as a matter of fact that “changing the maps at this late juncture . . . is impossible.” 52a. The Missouri Supreme Court did not disturb that finding; it simply deemed that consequence “irrelevant.” 12a n.8. That holding creates a very real possibility that Missouri cannot conduct congressional elections on November 3. Respondent’s answer to all of this is that it is none of this Court’s concern. That is wrong. Whether a state court’s order can render a federal election impossible to conduct is plainly an “important federal question,” and one that warrants this Court’s intervention. Sup. Ct. R. 10.

CONCLUSION

The Court should stay the Missouri Supreme Court’s order.

Respectfully submitted,

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