

No. 26A388

IN THE
Supreme Court of the United States

PEOPLE NOT POLITICIANS AND RICHARD VON GLAHN,

Applicants,

v.

CONGRESSMAN ROBERT ONDER, *ET AL.*,

Respondents,

and

STATE OF MISSOURI AND DENNY HOSKINS,
in his official capacity as Missouri Secretary of State,

Respondents.

**BRIEF OF *AMICI CURIAE* CAMPAIGN LEGAL CENTER, AMERICAN
CIVIL LIBERTIES UNION OF MISSOURI FOUNDATION, AND AMERICAN
CIVIL LIBERTIES UNION FOUNDATION IN SUPPORT OF APPLICANTS**

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INTERESTS OF *AMICI CURIAE*¹

Campaign Legal Center (“CLC”) is a nonpartisan, nonprofit organization dedicated to securing free and fair elections for all voters. CLC regularly litigates before this Court and state high courts on voting rights and redistricting matters, including as counsel for parties or *amici curiae* in *Watson v. Republican National Committee*, 146 S. Ct. 2165 (2026), *Moore v. Harper*, 600 U.S. 1 (2023), *Rucho v. Common Cause*, 588 U.S. 684 (2019), *Gill v. Whitford*, 585 U.S. 48 (2018), and *Arizona State Legislature v. Arizona Independent Redistricting Commission*, 576 U.S. 787 (2015).

The American Civil Liberties Union (“ACLU”) is a nationwide, non-profit, non-partisan organization with more than 1.7 million members, founded in 1920 and dedicated to the principles of liberty and equality enshrined in the Constitution. In support of those principles, the ACLU has appeared before this Court as counsel or *amicus curiae* in numerous cases involving electoral democracy or redistricting, including *Smith v. Allwright*, 321 U.S. 649 (1944), *Reynolds v. Sims*, 377 U.S. 533 (1964), *Thornburg v. Gingles*, 478 U.S. 30 (1986), *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), *Department of Commerce v. New York*, 588 U.S. 752 (2019), *Allen v. Milligan*, 599 U.S. 1 (2023), and *Moore v. Harper*, 600 U.S. 1 (2023). The ACLU has an interest in promoting free and fair elections and fair districting, including specifically in Missouri, having served as counsel in *Wise v.*

¹ No counsel for any party has authored this brief in whole or in part, and no entity or person, aside from *amici curiae* and their counsel, made any monetary contribution intended to fund the preparation or submission of this brief.

State, 732 S.W.3d 827 (Mo. 2026), and *Missouri State Conference of the National Association for the Advancement of Colored People v. Ferguson-Florissant School District*, 894 F.3d 924 (8th Cir. 2018); both cases sought to address the harmful impacts of the challenged districts on minority voters in Missouri.

The American Civil Liberties Union of Missouri (“ACLU-MO”) is the statewide affiliate of the ACLU, with over 20,000 members and a longstanding interest in and history of protecting the constitutional rights of all Missourians. Through direct representation or on behalf of *amicus curiae*, the ACLU-MO regularly engages in litigation to protect rights related to voting, including the right to referendum. These cases include, but are not limited to *Maggard v. State*, 733 S.W.3d 411 (Mo. 2026), *State v. League of Women Voters of Missouri*, 730 S.W.3d 591 (Mo. 2026), *Missouri State Conference of the National Association for the Advancement of Colored People v. State*, 730 S.W.3d 550 (Mo. 2026), *Coleman v. Ashcroft*, 696 S.W.3d 347 (Mo. 2024), *State ex rel. Fitz-James v. Bailey*, 670 S.W.3d 1 (Mo. 2023), *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484 (Mo. 2022), and *Missouri State Conference of the National Association for the Advancement of Colored People v. Ferguson-Florissant School District*, 894 F.3d 924 (8th Cir. 2018).

CLC, ACLU, and ACLU-MO participated as *amici* before this Court in *Hoskins v. Von Glahn*, No. 26A304, 2026 WL 2647016 (U.S. Sep. 8, 2026), and *People Not Politicians v. Onder*, No. 26A326, 2026 WL 2659767 (U.S. Sep. 10, 2026), and before the Eighth Circuit below in the current appeal. They also submitted *amicus* briefs in *Von Glahn v. Hoskins*, No. SC101805, 2026 WL 2628846 (Mo. Sep. 3, 2026), and

Luther v. Hoskins, 730 S.W.3d 567 (Mo. 2026), and were counsel for the plaintiffs in *Wise v. State*, 732 S.W.3d 827 (Mo. 2026). Each has an interest in ensuring Missourians the opportunity to vote in lawful congressional districts and in the sound interpretation of federal law governing redistricting and redistricting litigation.

SUMMARY OF ARGUMENT

By ordering a permanent injunction identical to the temporary restraining order already stayed by this Court, a panel of the Eighth Circuit has defied this Court's commands, exceeded its jurisdiction, and flouted the Federal Rules. The 2026 election is underway pursuant to Missouri's 2022 congressional map. This Court has spoken on the matter twice. And yet, the Eighth Circuit has ordered the district court to enter a permanent injunction on the same grounds, with the precise same relief, as the TRO that this Court stayed almost two weeks ago—even though Plaintiffs did not submit any additional argument or evidence.

Pursuant to this Court's orders and the Missouri Supreme Court's ruling on state law, election administration has proceeded under the 2022 map, ballots have already been mailed, and voting has begun. The court below lacked jurisdiction—because only a three-judge district court convened under 28 U.S.C. § 2284 may issue an injunction—and is now actively causing further confusion and chaos with an unauthorized order that also bypasses the procedures necessary for the issuance of an injunction and final judgment. This Court must once again step in to restore order by granting the Applicants' requested relief.

On September 3, the Missouri Supreme Court unanimously declared that Missouri's 2022 congressional map would govern the 2026 election and that the HB

1 map is not the law and will not be unless approved by a majority of Missouri voters in November. On September 8, Justice Kavanaugh denied an application to stay that unanimous decision. Less than an hour later, a federal district court issued what it called a “TRO,” purporting to enjoin use of any map *other* than the HB 1 map. This Court swiftly granted a stay of that TRO on September 10, with no noted dissents. By the plain words of the order, this Court’s stay remains in place “pending the disposition of the appeal in the United States Court of Appeals for the Eighth Circuit *and* disposition of a petition for a writ of certiorari in this Court, if such a writ is timely sought.” *People Not Politicians v. Onder*, No. 26A326, 2026 WL 2659767, at *1 (U.S. Sep. 10, 2026) (mem.) (emphasis added). This is the standard language this Court uses when granting such stays and could not be clearer.

The appeal before the Eighth Circuit below was taken from the district court’s TRO. That’s it. And this Court has stayed the TRO. But instead of recognizing the limited (and practically inconsequential) nature of the appeal before it given this Court’s stay, the Eighth Circuit instead issued an extraordinary decision it called a “final judgment on the merits,” App. 18a, that attempts to circumvent the stay by instructing the district court to re-issue the same order under a new name. There has been no additional briefing, and no hearing or trial in the district court (even on Plaintiffs’ motion for a *preliminary* injunction as required by Rule 65(a)), and no motion for a permanent injunction was ever made. The parties have not even physically appeared before the district court. This case was at its first, not final, step. Yet the Eighth Circuit simply tossed out all rules of civil and appellate procedure to

effectuate an end-run around this Court's stay order. The Eighth Circuit's decision is egregiously wrong several times over.

First, the Eighth Circuit's decision effectively compels the district court to disobey this Court's stay order by granting the exact same relief (with a different label) that this Court previously stayed, though the parties did not present any additional arguments or record evidence. This inverts the judicial structure on its head. This Court's superior Article III power over lower federal courts cannot be evaded in this manner.

Second, the Eighth Circuit lacked jurisdiction to issue this order at all because the district court lacked jurisdiction. Injunctive relief of this kind could be granted only by a three-judge district court panel, but the district court refused to take the necessary steps to convene such a panel, as was required. All parties agree—and the Eighth Circuit held—that the TRO under review was functionally a preliminary injunction. App. 11a-12a. But under federal law, a single-judge district court cannot issue such injunctive relief. And what's more, review of that order lies exclusively in this Court; the Eighth Circuit has no role in granting or reviewing such relief.

Third, even aside from the jurisdictional issues, the election calendar (reinforced by this Court's prior stay) should have been dispositive. Instead, the Eighth Circuit blew right past the giant flashing *Purcell* sign.

Fourth, the injunction violates federal law by leaving Missouri with no congressional map. The injunction prohibits the use of any map *other than* the map

that the Missouri Supreme Court unanimously declared is not and never has been the law and that the State has been separately enjoined from implementing.

The Applicants' requested relief should be granted.

ARGUMENT

I. The Eighth Circuit has in essence ordered the district court to disobey this Court's stay order.

The Eighth Circuit has essentially ordered the district court to disobey this Court's stay order. Under Article III, courts of appeals and district courts are "inferior" to the Supreme Court. U.S. Const. art. III. To evade operation of this Court's stay of the TRO, the Eighth Circuit has now ordered the district court to issue a new *permanent injunction* granting *precisely the same relief* that this Court already stayed. And the district court has now done so, even though there was no further development of the legal arguments or the factual record; nor could there have been, because, consistent with *Purcell*, this Court's last stay order settled matters and permitted the election to get underway using the lawful 2022 congressional map. This Court's orders cannot be evaded by merely changing the label on an injunctive order.

The district court's TRO provided that "the Court . . . enjoins, on federal law grounds, Secretary of State Hoskins . . . from implementing, using, publishing, distributing, or mandating the use of any congressional district map other than the HB 1 map for the November 3, 2026 general election." ECF No. 35 at 13.² This Court stayed that order. *People Not Politicians*, 2026 WL 2659767, at *1. That should have

² ECF citations are to the district court docket below, *Onder v. Missouri*, No. 4:26-cv01424-SRC (E.D. Mo.), unless otherwise stated.

been the final word from federal courts on Missouri congressional redistricting prior to November's election considering the *Purcell* principle.

What came next is as audacious as it is breathtaking. The parties all reasonably understood the matter to be settled for the November election. But a panel of the Eighth Circuit had a different idea. Acting *sua sponte*, the panel suspended the Federal Rules of Appellate Procedure and ordered the entire appellate process to be condensed into a single week.³ Then, days *after* absentee ballots were sent to voters using the 2022 map, the Eighth Circuit released an opinion “issuing a final judgment on the merits,” App. 18a, and instructing the district court to enter the *precise same relief* that this Court stayed under a new label of a “permanent injunction.” And, the same day, the district court promptly obliged. ECF No. 57.

The failure to adhere to the Federal Rules and basic principles of due process is stunning. The district court proceedings have consisted of (1) filing of a complaint, (2) a TRO application, (3) granting of intervention, (4) filing of a motion to dismiss by Intervenor, and (4) entry of a TRO. No parties have physically appeared before the district court. No preliminary injunction hearing has occurred. No party moved to

³ Secretary Hoskins was just as startled by the Eighth Circuit's *sua sponte* conduct. He referred to its order lightning-tracking the appeal amid the ongoing election as a “hand com[ing] up out of the grave.” This Week in Missouri Politics, *This Week in Missouri Politics – September 13, 2026*, at 7:15-55 (YouTube, Sep. 13, 2026), <https://www.youtube.com/watch?v=PXrw1iXfzWg> (Interviewer: “Going forward, there’s a hearing in the Eighth District [sic] United States Court of Appeals. So I guess just when you think the situation is over, a hand comes up out of the grave and ‘not so fast.’ There’s a hearing next week so I guess theoretically Rick Brattin could still be going to Congress.” Sec. Hoskins: “That’s right. . . . [T]he eighth district federal judicial court [sic] has decided to have hearings, oral arguments, on that next week.”).

consolidate the preliminary injunction hearing with the trial on the merits under Rule 65(a)(2). Plaintiffs have not moved for summary judgment (or judgment of any kind). All the Eighth Circuit had before it was an emergency appeal of the TRO.

Rather than issue a decision regarding the propriety of the TRO (one that would not have disturbed this Court’s stay), the Eighth Circuit instead simply decreed the case over and issued a “final judgment,”⁴ commanding the district court to enter the *same relief* again, this time under a new label.⁵

The decision essentially commands the district court to disobey this Court’s stay order. Orders of this Court cannot be evaded by merely reissuing the same relief under a different title. Yet that is exactly what the Eighth Circuit panel and the district court have done, while simultaneously tossing out every civil and appellate procedural rule that protects litigants’ right to due process. The Eighth Circuit’s stunning decision fails to accede to the superiority of this Court’s authority under Article III and exceeds the bounds on the court of appeals.

⁴ The Eighth Circuit claimed that it could proceed to a final judgment because this case presents no disputed factual questions, App. 22a, but that is improper for several reasons. First, the parties have not even had notice and opportunity to brief whether factual questions exist and whether consolidation with the merits is appropriate. Moreover, even if the merits present a pure legal question, the *Purcell* factors, which the Eighth Circuit analyzed, App. 30a-31a, do involve factual issues for which the district court may receive evidence. *See, e.g., Foster v. Mississippi*, No. 3:26-CV-181-SA-JMV, 2026 WL 2352910, at *14 (N.D. Miss. Aug. 13, 2026) (crediting evidence regarding extent of disruption to election administration); *Ohio Democratic Party v. LaRose*, No. 2:26-CV-1063, 2026 WL 2823280, at *4 (S.D. Ohio Sep. 21, 2026) (finding no evidence of undue delay and that voter confusion will not result from injunction of campaign finance law).

⁵ They are nearly the same word-for-word. *Compare* App. 34a-35a & ECF No. 57, *with* ECF No. 35 at 13.

II. Neither the single federal district judge nor the Eighth Circuit have jurisdiction to enjoin use of a congressional map on constitutional grounds.

Neither the district court (sitting as a single judge) nor the Eighth Circuit have jurisdiction to enjoin the use of a congressional map on constitutional grounds. “A district court of three judges *shall be convened* . . . when an action is filed challenging the constitutionality of the apportionment of congressional districts.” 28 U.S.C. § 2284(a) (emphasis added). This mandatory language “creates an obligation impervious to judicial discretion.” *Shapiro v. McManus*, 577 U.S. 39, 43 (2015) (citation omitted). And the duty is jurisdictional: once it is clear a plausible claim under Section 2284(a) has been alleged, a three-judge court must be convened. *See Armour v. Ohio*, 925 F.2d 987, 989 (6th Cir. 1991); *Kalson v. Paterson*, 542 F.3d 281, 286-87 (2d Cir. 2008). The single district judge to whom the case is assigned must “immediately notify the chief judge of the circuit,” who then designates two other judges. 28 U.S.C. § 2284(b)(1). Though the single judge may issue a TRO upon “a specific finding, based on evidence submitted, that specified irreparable damage will result if the order is not granted,” the single judge may *not* “hear and determine any application for a preliminary or permanent injunction . . . or enter judgment on the merits.” 28 U.S.C. § 2284(b)(3).

Plaintiffs’ complaint seeks to enjoin the use of Missouri’s legally operative congressional map—the 2022 map—based on claims that its use in the 2026 general election would violate the federal Constitution. *See, e.g.*, ECF No. 1 ¶¶ 50-109 (alleging that implementing the 2022 congressional map violates U.S. Constitution

Article I, Section 4, Clause 1; Article I, Section 2 & Amendment XIV); ECF No. 1 at Prayer for Relief (seeking declaration that “failure to use the HB1 Congressional maps—as ordered by *von Glahn*—is unconstitutional”). Plaintiffs’ complaint falls within the plain text of Section 2284 and thus only a three-judge court may grant the relief they seek.

In its order denying a stay of its TRO, the district court reasoned that Section 2284 did not apply because plaintiffs “challenge only that the Secretary of State can, consistent with the United States Constitution, *switch congressional district maps* between the primary and general elections.” ECF No. 49 at 1. “Even if Section 2284(a) applied,” the district court continued, Section 2284(b)(3) permits a single judge to issue a TRO and “[t]he Court’s TRO remains in effect for fourteen days from issuance, *and the Court may extend it.*” ECF No. 49 at 1-2 (emphasis added). The district court is wrong on the first point, and its second point illustrates why its order was not in effect a TRO the court was authorized by Section 2284(b)(3) to issue.

First, the district court cannot recast Plaintiffs’ complaint as merely being about the *timing* of a congressional map’s implementation. Plaintiffs allege that it would violate the Constitution to use the congressional districts as apportioned under current Missouri law in the November 2026 election. They contend that differently apportioned congressional districts must instead be used to comply with the Constitution. That is an action “challenging the constitutionality of the apportionment of congressional districts.” 28 U.S.C. § 2284(a); *see also, e.g., Powers Gardner v. Henderson*, No. 2:26-CV-00084-RJS-JCB, 2026 WL 496448, at *1 (D. Utah

Feb. 23, 2026) (three-judge court empaneled to hear constitutional challenge to means by which congressional map was imposed, not constitutionality of actual district configuration). Plaintiffs’ lawsuit alleges that Missouri’s congressional districts for the November 2026 general election were unconstitutionally apportioned because their configuration did not match that of the map used in the primary election. The district court’s “relabeling” of Plaintiffs’ constitutional challenge to Missouri’s congressional map to evade Section 2284 is “a sure sign that its . . . distinction is made-to-order.” *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 399 (2010). Section 2284’s operation cannot be evaded by semantics.⁶

Second, the district court’s announcement that it could “extend” its TRO beyond 14 days illustrates how the order is not in effect a TRO, but rather a prohibitory preliminary injunction that under the exigent circumstances aimed to accord finality for the only election at issue in Plaintiffs’ complaint. *See Abbott v. Perez*, 585 U.S. 579, 595 (2018) (holding that orders with “practical effect” of injunction are reviewable to avoid “manipulation” of appellate review by a “district court [that] was careful about its terminology”).

⁶ This Court has not adopted the district court’s cramped view of Section 2284. In *Arizona State Legislature v. Arizona Independent Redistricting Commission*, this Court affirmed, on its mandatory appeal docket, a decision of a three-judge court holding that the Arizona Constitution did not violate the U.S. Constitution’s Elections Clause by empowering an independent redistricting commission, rather than the legislative body, to conduct congressional redistricting. 576 U.S. 787 (2015). That is, the Court entertained an appeal under 28 U.S.C. § 1253 from a three-judge court decision about whether the process by which Arizona drew its congressional districts—not the districts themselves—was constitutional. The Court had to assure itself of its appellate jurisdiction.

Moreover, the Eighth Circuit panel acknowledged that the TRO was “in practical effect a preliminary injunction.” App. 12a (quoting *La Belle Dairy, LLC v. Sharpe Holdings, Inc.*, 183 F.4th 606, 612 (8th Cir. 2026)). Such an order exceeds a single judge’s TRO authority under Section 2284(b)(3).

With respect to Section 2284, the Eighth Circuit panel reasoned that it was inapplicable because no party had formally requested a three-judge court to be convened and Section 2284(b)(1) requires the district court to take steps to convene a three-judge court upon “request.” App. 12a-13a. The court reasoned that “[w]ithout a request for a three-judge court, the law did not require the district court to refer this matter for the convening of a three-judge court.” App. 13a.

This Court has held otherwise. In *Shapiro*, this Court held that Section 2284(b)(1) “should not be read as a grant of discretion to the district judge to ignore § 2284(a).” 577 U.S. at 43. The Court likewise noted that Section 2284(b)(3) contained an “explicit command that [a] single judge shall not . . . enter judgment on the merits,” *id.* at 44 (bracket in original), as the district court has done at the Eighth Circuit’s direction. As the Court explained in *Shapiro*:

It would be an odd interpretation that allowed a district judge to do under § 2284(b)(1) what he is forbidden to do under § 2284(b)(3). More likely that Congress intended a three-judge court, and not a single district judge, to enter all final judgments in cases satisfying the criteria of § 2284(a).

Id. The decision below is also in conflict with the Second Circuit’s decision in *Kalson*, in which it held that Section 2284 is jurisdictional notwithstanding the “request”

language of Section 2284(b)(1). 542 F.3d at 286-87.⁷ Section 2284(a) *mandates* a three-judge court for Plaintiffs’ constitutional challenge to Missouri’s congressional districts and Section 2284(b)(3) prohibits a single judge from granting preliminary or permanent injunctive relief or entering judgment. Plaintiffs cannot evade these mandatory provisions by failing to include a request for a three-judge court in their complaint.⁸

Once the Eighth Circuit concluded that the district court’s TRO was, in effect, a preliminary injunction, *see* App. 11a-12a, its sole power was to vacate the TRO with instructions to the district court to take the steps necessary to convene a three-judge court. *See Hicks v. Pleasure House, Inc.*, 404 U.S. 1, 3 (1971) (“[I]f a single judge oversteps his limited authority under [§] 2284(3), a court of appeals may correct his error.”). A court of appeals is “precluded from reviewing on the merits a case which should have originally been determined by a court of three judges.” *Idlewild Bon Voyage Liquor Corp. v. Epstein*, 370 U.S. 713, 715-16 (1962).

Here, the Eighth Circuit did what it plainly lacked jurisdiction to do: it considered the merits and ordered the district court to enter a permanent injunction barring Missouri from using its lawful congressional map in the upcoming election.

⁷ The Eighth Circuit’s conflict with the precedent of both this Court and the Second Circuit easily demonstrates a reasonable probability that four justices would vote to grant certiorari and a fair prospect that a majority would vote to reverse.

⁸ It makes no sense to conclude that Congress created a “choose your own adventure” framework of trial and appellate jurisdiction for litigants challenging the constitutionality of congressional districts. And even if a request were necessary, the Intervenor should have been allowed to make the requisite request after the remand before the district court entered a permanent injunction.

In cases challenging the constitutionality of congressional districts, Section 2284 grants exclusive jurisdiction to enter remedial injunctions in the first instance to a three-judge district court—not to a single-judge district court, and certainly not to any court of appeals. 28 U.S.C. § 2284(a), (b)(3). When the proper district court grants or denies an interlocutory or permanent injunction based on consideration of the merits, the appeal lies directly to this Court. 28 U.S.C. § 1253. The Eighth Circuit thus ordered an injunction it not only lacked jurisdiction to enter but would have lacked jurisdiction even to review had a three-judge court properly entered it. The only question within its jurisdiction was at the threshold: whether a single judge could enter the order without a three-judge court having been convened. *Idlewild Bon Voyage Liquor Corp.*, 370 U.S. at 715-16. It answered that question incorrectly.⁹

This Court’s stay should have made the Eighth Circuit’s task easier still. Before the Eighth Circuit ruled, this Court’s stay of the single judge’s order stated that it would remain in effect until this Court either denies a petition for writ of certiorari or enters judgment after granting one. *People Not Politicians*, 2026 WL 2659767, at *1. The stay provided much-needed finality and certainty by ensuring that Missouri’s lawful 2022 congressional districts will govern the 2026 general election. Even if reaching the merits and affirming the single judge’s order were within the Eighth Circuit’s jurisdiction on appeal (they were not), the stay practically

⁹ The Eighth Circuit’s jurisdictional holdings are also contradictory. The panel cannot simultaneously maintain that it has appellate jurisdiction to review the TRO because the TRO should be construed as a preliminary injunction, App. 11a-12a, while also holding that the district court had authority to issue the TRO because it is not an injunction, App. 13a.

left the Eighth Circuit with nothing to accomplish by doing so with respect to the November 2026 election. The only thing this Court’s stay left for the Eighth Circuit to do, within its own jurisdictional limits, was to correct the district court’s jurisdictional errors: failing to “immediately” take steps to convene a three-judge court, and entering what was in effect an injunction that only a three-judge district court could order. *See Hicks*, 404 U.S. at 3; *Idlewild Bon Voyage Liquor Corp.*, 370 U.S. at 715-16. The Eighth Circuit instead blew past its jurisdictional limits by reaching the merits of the case and ordering the district court to enter an injunction reimposing the same relief this Court stayed.

The Eighth Circuit therefore lacked jurisdiction to direct the district court to order injunctive relief, and so this Court should grant the Applicants’ requested relief.

III. *Purcell* bars the injunction.

The Eighth Circuit panel and the district court ordered injunctive relief against a map Missouri is using to conduct its general election, three days *after* voting under that map began. Following this Court’s stay of the same injunction 13 days ago, Secretary Hoskins directed Missouri election officials to use the 2022 map, the State’s only lawful map.¹⁰ With that clarity, election officials continued the “extraordinarily complicated and difficult” task of running the 2026 statewide election. *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring) (mem.). Last Friday, ballots reflecting the 2022 lines were sent to overseas voters,

¹⁰ Stmt. from Mo. Sec’y of State Denny Hoskins (Sep. 10, 2026), perma.cc/VMT7-SHMH.

which could be immediately returned through the Secretary of State’s online portal.¹¹ And, as of yesterday, absentee ballots reflecting the 2022 lines are available to all Missouri voters, as the Eighth Circuit itself acknowledged. App. 21a. By the time the Eighth Circuit’s seven-day administrative stay expires on September 28, thousands of Missourians will have voted under the 2022 map. Under these circumstances, to ask if *Purcell* bars the lower court’s injunction is to answer the question. And if *Purcell* does not apply, the doctrine serves no purpose.¹² This “prescription for chaos” should be immediately stayed. *Merrill*, 142 S. Ct. at 880 (Kavanaugh, J., concurring).

IV. Federal law bars the injunction.

The Eighth Circuit’s opinion (and the district court’s subsequent injunction) violates federal law by leaving Missourians with no possible congressional map for the November 2026 election. 2 U.S.C. § 2c requires that representatives be elected only from districts “established by law.” This requirement obligates both state and federal courts to ensure that states have a map in place for a federal election. *See Branch v. Smith*, 538 U.S. 254, 272 (2003).¹³ The injunction and the opinion

¹¹ Rudi Keller, *Missouri Election Officials Begin Mailing Ballots as They Await Ruling on Congressional Map*, Mo. Indep. (Sep. 19, 2026), perma.cc/JS7U-F2VQ (roughly 1,500 in St. Louis County and 115 in Boone County alone).

¹² The Eighth Circuit’s assertion that “*Purcell* supports, not prevents,” the chaos its decision unleashes, App. 32a, rests on an inverted analysis that, *inter alia*, misstates the status quo under Missouri law, calls the merits “entirely clearcut” after previously characterizing the claim as merely “colorable,” App. 27a, ignores that ballots have *already gone out*, and fails to account for the irreparable harm of conducting an election under an unlawful map.

¹³ And Section 2c’s use of the phrase “by law” of course includes remedial redistricting conducted by a state or federal court, either when the state fails to redistrict or when its redistricting map violates state or federal law. *See id.* But neither the Eighth

mandating it leave Missouri with no congressional map whatsoever, barely more than a month before election day.

The Missouri Supreme Court made clear that HB 1, the 2025 map, is “not the law and has never been the law,” held that the 2022 map remains in force and must govern the November 2026 general election, and enjoined the Secretary from implementing the 2025 map in November or anytime thereafter unless and until it is approved by a majority of voters in November. *Von Glahn*, 2026 WL 2628846, at *1 & *6 n.8. Under Missouri law, the 2022 map is the only map that exists.

The Eighth Circuit’s opinion below instructs the district court to enter an injunction “prohibiting Secretary of State Hoskins,” or those acting in concert with him, from implementing “any congressional district map other than the 2025 map for the November 3, 2026, general election.” App. 34a-35a. And the district court did just that. ECF No. 57. This injunction does not affirmatively require a specific map; it prohibits the use of any map other than the 2025 map, which does not exist as a matter of Missouri law and has already been separately enjoined by the Missouri Supreme Court. *Von Glahn*, 2026 WL 2628846, at *1. The conclusion is logically inescapable: Missouri is left with no judicially permitted map, which violates 2 U.S.C. § 2c.

The Eighth Circuit disputes that its order leaves Missouri with no map. *See* App. 33a. But the fact that the Supremacy Clause makes federal law superior to state

Circuit nor a single district court judge had jurisdiction to impose HB 1 as a remedial map to remedy alleged constitutional violations. *See* Part II.

law does not explain how an order simply restraining the use of any map but the 2025 map does anything else. The Eighth Circuit seems to believe it is instructing the district court to affirmatively order use of the 2025 map. But the plain words of its opinion do no such thing. The only way for the district court to order Missouri to conduct its elections under a map that currently does not legally exist would be to order it as an equitable remedy via an affirmative injunction. No language to that effect appears in the Eighth Circuit’s mandated injunction. All it has done is leave Missouri with no map, which violates federal law. *See Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 327 (2015) (“The power of federal courts of equity to enjoin unlawful . . . action is subject to express and implied statutory limitations.”); *United States v. Oakland Cannabis Buyers’ Co-op.*, 532 U.S. 483, 497 (2001) (“[A] court sitting in equity cannot ‘ignore the judgment of Congress, deliberately expressed in legislation.’”).

Even if this Court agrees with the Eighth Circuit’s (procedurally inappropriate) assessment of the merits, it must still stay or vacate the Order because the equities weigh heavily against the injunctive relief ordered or implied.¹⁴ The

¹⁴ The Eighth Circuit noted that *amicus* Campaign Legal Center is counsel for parties who obtained a writ of mandamus from the Texas Supreme Court challenging Galveston County’s voluntary adoption of a new local redistricting map between the primary and general elections. *See* App. 27a-28a n.21. The Texas Supreme Court concluded that state law did not permit “a *voluntary* alteration of precinct lines implemented between the primary and general election” but that such a change may be appropriate in light of “some overriding obligation of state or federal law” *In re Rose*, No. 26-0916, 2026 WL 2672098, at *3, *4 (Tex. Sep. 11, 2026) (emphasis added). Here, the change was involuntary to comply with the Missouri Constitution. For this and other reasons, the Galveston case is nothing like this case.

Secretary violated both Missouri and federal law by implementing HB 1 in the primary. Under 2 U.S.C. § 2c, the Secretary was obligated to use “only” the map established “by law.” As the Missouri Supreme Court held, that was the 2022 map. He failed to do so. To the extent the federal Constitution is implicated by using different maps in the primary and general election, injunctive relief that either (1) leaves the state with no possible congressional map or (2) compels the use of an unlawful map in the general election merely because it was illegally implemented in the primary election, is contrary to the balance of equities and the public interest. “Equity will not sanction a cure which is worse than the disease.” *Buscaglia v. Dist. Ct. of San Juan*, 145 F.2d 274, 282 (1st Cir. 1944). Imagine if the Secretary conducted the primary election under a map he drew himself—*i.e.*, a map that has as much legal effect as HB 1. Would anyone think the federal Constitution compels a federal court to order the Secretary’s map to be used again in the general election merely because he illegally used it in the primary election? But that is the gravamen of the Eighth Circuit’s opinion and of the district court’s injunction. A federal court injunction that compounds the violation of state and federal law is not an appropriate remedy.

CONCLUSION

For the foregoing reasons, the Court should grant the application.

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