

No. 26A388

IN THE SUPREME COURT OF THE UNITED STATES

CONGRESSMAN ROBERT “BOB” ONDER, ET AL.,
Plaintiffs-Respondents,

v.

STATE OF MISSOURI,
Respondent,

PEOPLE NOT POLITICIANS AND RICHARD VON GLAHN,
Applicants.

Application from the United States Court of Appeals
for the Eighth Circuit (Nos. 26-2797 & 26-2827)

**PLAINTIFFS-RESPONDENTS’ BRIEF IN OPPOSITION TO
APPLICANTS’ RENEWED EMERGENCY APPLICATION FOR
STAY PENDING DISPOSITION OF A PETITION
FOR A WRIT OF CERTIORARI**

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RULE 29.6 STATEMENT

As required by Supreme Court Rule 29.6, Plaintiffs-Respondents state that they are natural persons.

Date: September 23, 2026

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TABLE OF CONTENTS

RULE 29.6 STATEMENT	i
TABLE OF CONTENTS	ii
TABLE OF AUTHORITIES	iv
INTRODUCTION	1
OPINIONS BELOW	4
STATEMENT OF THE CASE	4
REASONS FOR DENYING THE APPLICATION	7
I. APPLICANTS LACK ARTICLE III STANDING TO SEEK A STAY OR CERTIORARI FROM THIS COURT	8
A. The Eighth Circuit’s Own Majority Could Not Confirm Applicants’ Standing, and Judge Stras Would Have Ended the Case Without Ever Reaching the Merits.	8
B. PNP’s Interest in Enforcing Missouri’s Referendum Law Is a Generalized Grievance, Not a Particularized Injury.	10
C. Von Glahn Has Identified No Personal, Particularized Injury as a Voter.	11
D. A Circuit Judge’s Unresolved Dissent on Applicants’ Own Standing Further Undermines Any Prospect of Four Votes to Grant.	12
II. THIS CASE WILL BE MOOT BEFORE CERTIORARI COULD BE GRANTED, AND IT PRESENTS NO QUESTION WORTHY OF THIS COURT’S REVIEW	13
A. The Certiorari Calendar Cannot Outrun the November 3 Election.	13
B. A Stay Would Not Preserve a Live Controversy for This Court to Decide — It Would Manufacture an Irreversible Fact on the Ground.	14
C. This Case Presents No Question Warranting the Court’s Discretionary Review.	16
III. APPLICANTS ARE NOT LIKELY TO PREVAIL ON THE MERITS	17
A. The Eighth Circuit Correctly Held That Article I, Section 2 Forbids Missouri from Using a Different Map in the General Election Than It Used in the Primary.	17
B. The Equal Protection Clause Independently Supports the Judgment Below.	20

C. Applicants’ Jurisdictional Objections Were Correctly Rejected on Every Ground Raised Below.	23
IV. THE PURCELL PRINCIPLE REQUIRES DENYING A STAY — JUST AS IT REQUIRED DENYING ONE BELOW.....	26
A. Purcell Protects the Status Quo, and the Status Quo Is the 2025 Map.	27
B. Every One of Justice Kavanaugh’s Four Purcell Factors Confirms That a Stay Is Unwarranted — the Eighth Circuit Already Applied All Four and Found Each One Favors Denial. ..	27
C. This Court’s Own Precedent Forecloses the Theory Applicants Will Advance — That <i>Purcell</i> Bars Any Federal Check on a Late State-Court Decision.....	30
D. A Stay Would Recreate the Exact Dueling-Injunction Chaos the Eighth Circuit Worked to Prevent.....	31
E. Applicants Cannot Invoke <i>Purcell</i> on Their Own Behalf. ..	35
CONCLUSION.....	36

TABLE OF AUTHORITIES

Cases

<i>Anderson v. Celebrezze</i> , 460 U.S. 780 (1983)	20, 21, 22
<i>Arizonans for Off. Eng. v. Arizona</i> , 520 U.S. 43 (1997)	8
<i>Beadle v. City of Omaha</i> , 983 F.3d 1073 (8th Cir. 2020)	24
<i>Burdick v. Takushi</i> , 504 U.S. 428 (1992).....	20, 21, 22, 23
<i>Bush v. Gore</i> , 531 U.S. 98 (2000) (per curiam)	23
<i>Carson v. Simon</i> , 978 F.3d 1051 (8th Cir. 2020)	27
<i>Chafin v. Chafin</i> , 568 U.S. 165 (2013).....	14
<i>Colorado River Water Conservation District v. United States</i> , 424 U.S. 800 (1976).....	24
<i>Curtis v. City of Des Moines</i> , 995 F.2d 125 (8th Cir. 1993).....	8
<i>Democratic Nat’l Comm. v. Wis. State Legislature</i> , 592 U.S. 1039 (2020) 30, 31	
<i>Does 1-3 v. Mills</i> , 142 S. Ct. 17 (2021)	15
<i>Dunn v. Blumstein</i> , 405 U.S. 330 (1972)	22
<i>Espinoza v. Mont. Dep’t of Revenue</i> , 591 U.S. 464 (2020).....	32
<i>Ex parte McCardle</i> , 74 U.S. (7 Wall.) 506 (1869)	12
<i>Exxon Mobil Corp. v. Saudi Basic Indus. Corp.</i> , 544 U.S. 280 (2005)	25
<i>Gill v. Whitford</i> , 585 U.S. 48 (2018).....	11
<i>Gray v. Sanders</i> , 372 U.S. 368 (1963).....	23
<i>Grove v. Emison</i> , 507 U.S. 25 (1993).....	27
<i>Hall v. Beals</i> , 396 U.S. 45 (1969) (per curiam).....	14
<i>Hollingsworth v. Perry</i> , 558 U.S. 183 (2010) (per curiam).....	8, 13
<i>Hollingsworth v. Perry</i> , 570 U.S. 693 (2013)	2, 10, 11, 35
<i>Hoskins v. Von Glahn</i> , No. 26A304, 2026 WL 2647016 (U.S. Sept. 8, 2026)	6
<i>Ill. State Bd. of Elections v. Socialist Workers Party</i> , 440 U.S. 173 (1979).....	22
<i>INS v. Chadha</i> , 462 U.S. 919 (1983).....	25
<i>Juidice v. Vail</i> , 430 U.S. 327 (1977).....	26
<i>Klein v. United States</i> , 176 F.2d 184 (8th Cir. 1949)	18
<i>Lance v. Dennis</i> , 546 U.S. 459 (2006)	25
<i>Malliotakis v. Williams</i> , 146 S. Ct. 809 (2026).....	34
<i>McLain v. Meier</i> , 851 F.2d 1045 (8th Cir. 1988)	12

<i>Merrill v. Milligan</i> , 142 S. Ct. 879 (2022).....	28, 29, 34, 35
<i>Moore v. Harper</i> , 600 U.S. 1 (2023).....	31
<i>Nken v. Holder</i> , 556 U.S. 418 (2009).....	7, 15
<i>Norman v. Reed</i> , 502 U.S. 279 (1992)	22
<i>Novus Franchising, Inc. v. Dawson</i> , 725 F.3d 885 (8th Cir. 2013).....	28
<i>Onder v. State of Missouri</i> , Nos. 26-2797 & 26-2827 (8th Cir. Sept. 21, 2026)	passim
<i>People Not Politicians v. Onder</i> , No. 26A326 (U.S. Sept. 10, 2026)	1, 4
<i>Purcell v. Gonzalez</i> , 549 U.S. 1 (2006) (per curiam)....	1, 3, 4, 12, 26, 27, 28, 30, 31, 34, 35, 36
<i>Republican Party of Pa. v. Boockvar</i> , 592 U.S. 1068 (2020)	30
<i>Reynolds v. Sims</i> , 377 U.S. 533 (1964)	23
<i>Schlesinger v. Reservists Comm. to Stop the War</i> , 418 U.S. 208 (1974)	11
<i>Shapiro v. McManus</i> , 577 U.S. 39 (2015)	24
<i>Smith v. Allwright</i> , 321 U.S. 649 (1944).....	16, 18
<i>Spokeo, Inc. v. Robins</i> , 578 U.S. 330 (2016)	8, 12
<i>Sprint Commc'ns, Inc. v. Jacobs</i> , 571 U.S. 69 (2013).....	26
<i>Steel Co. v. Citizens for a Better Env't</i> , 523 U.S. 83 (1998)	8, 13
<i>Steffel v. Thompson</i> , 415 U.S. 452 (1974)	26
<i>Tashjian v. Republican Party of Conn.</i> , 479 U.S. 208 (1986)	16, 18
<i>United States v. Classic</i> , 313 U.S. 299 (1941)	16, 17
<i>Va. House of Delegates v. Bethune-Hill</i> , 587 U.S. 658 (2019)	10
<i>von Glahn v. Hoskins</i> , 2026 WL 2628846 (Mo. Sept. 3, 2026) (banc).....	5, 31
<i>Wesberry v. Sanders</i> , 376 U.S. 1 (1964)	16, 18, 19

Constitutional Provisions

U.S. Const. art. I, § 2, cl. 1	3, 6, 7, 9, 16, 17, 18, 20
U.S. Const. art. VI, cl. 2	32, 34

Statutes

28 U.S.C. § 2283	24
28 U.S.C. § 2284	24
Mo. Rev. Stat. § 116.200.1.....	10

Rules

Fed. R. Civ. P. 65(c)	35
Sup. Ct. R. 13.1	13

Other Authorities

Br. of Amici Curiae Rachel Lightfoot & Brianna L. Lennon, <i>von Glahn v. Hoskins</i> , No. SC101805 (Mo. Aug. 24, 2026)	29
Br. of Defendants State of Missouri and Missouri Secretary of State, <i>Onder v. State of Missouri</i> , Nos. 26-2797 & 26-2827 (8th Cir. Sept. 15, 2026) ..	32, 33
Br. of Intervenor-Appellants, <i>Onder v. State of Missouri</i> , Nos. 26-2797 & 26-2827 (8th Cir. Sept. 15, 2026).....	26, 30, 33
Emergency Application for Order Holding Secretary of State in Contempt at 4, <i>von Glahn v. Hoskins</i> , No. SC101805 (Mo. Sept. 8, 2026)	33
Suggestions Regarding Contempt at 12, <i>von Glahn v. Hoskins</i> , No. SC101805 (Mo. Sept. 9, 2026)	33

INTRODUCTION

Thirteen days ago, this Court stayed a district court order requiring Missouri to use its 2025 congressional map for the November 2026 general election. *People Not Politicians v. Onder*, No. 26A326, 2026 WL 2659767, at *1 (U.S. Sept. 10, 2026). Since then, the question this Court left open has been answered — decisively, and against Applicants.¹ The United States Court of Appeals for the Eighth Circuit, sitting on an expedited basis that took the case from oral argument to judgment in four days, held that the Constitution forbids Missouri from using a different congressional map in the November general election than the one it used for the August primary, and has applied the very *Purcell* framework this Court’s own precedent supplies and found that every factor favors the 2025 map — over a lengthy separate opinion from Judge Stras, who did not dispute either conclusion but would have ended the case without reaching them, on the ground that Applicants lack standing to be here at all.

The court of appeals accordingly affirmed the district court’s temporary restraining order, ordered entry of a permanent injunction, and administratively stayed that injunction only long enough — until September

¹ As before the Eighth Circuit, “PNP” refers collectively to People Not Politicians and its executive director, Richard von Glahn. App. 5a. This is the second time in under two weeks that PNP has asked a court to freeze Missouri’s congressional map on an emergency basis. The first time, PNP asked this Court to preserve an appeal that had not yet been decided. This time, PNP asks this Court to override an appeal that PNP lost — decisively, on the merits, and by a fully reasoned opinion of a three-judge panel that heard expedited argument and promptly ruled four days later.

28, 2026, at 5:00 p.m. Central Daylight Time — for this Court to act if it chooses to. App. 35a.² The panel did not pick that date by accident. It expressly anticipated, and expressly rejected, the possibility that Applicants would run out the clock by waiting until the ordinary certiorari deadline to file — long after Missourians have voted. *Id.*

Applicants now ask this Court to use that narrow window to freeze in place a congressional map that the court of appeals has just held violates the Constitution, for an applicant whose own standing to be in this case a panel majority affirmatively found; over the dissent of one judge who would have rejected it outright. Nothing has changed since September 10 except that Applicants have lost before the very court whose interlocutory posture justified this Court’s first, temporary pause. The application should be denied for four independent reasons, each sufficient on its own.

First, Applicants lack Article III standing. The Eighth Circuit’s majority found standing in a single unelaborated sentence, resting on a factual representation by counsel that the panel itself, in the same breath, admitted it could not verify anywhere in the record. App. 12a & n.11. Judge Stras — applying this Court’s own decision in *Hollingsworth v. Perry* — would have resolved the entire appeal on that basis alone, and never reached the merits at all. *Id.* at 36a–40a (Stras, J., concurring in part and dissenting in part). An applicant whose presence in the case is controversial at best, and who one

² Citations to “App.” are to Applicants’ Appendix.

member of the panel below would not permit, cannot show a reasonable probability that four Justices will vote to grant certiorari, let alone a fair prospect of reversal.

Second, this case will be moot before a certiorari petition could realistically be resolved, and it presents nothing worthy of this Court’s discretionary review in any event. The general election is five weeks away, and the Eighth Circuit built its own remedy around exactly that clock.

Third, Applicants are not likely to prevail on the merits. The Eighth Circuit’s Article I, Section 2 holding was issued by a panel majority — Judge Stras did not dissent from it; he simply declined to reach it. *Id.* at 36a. The Equal Protection Clause independently supports the same result, on a theory the panel called “compelling” without needing to decide it. *Id.* at 28a. And every jurisdictional objection Applicants raised below — a three-judge panel, adversity, *Rooker-Feldman*, *Younger* abstention — was rejected, several on Applicants’ own concessions.

Fourth, the equities decisively favor Plaintiffs-Respondents, and the *Purcell* principle Applicants will invoke cuts against them, not for them. The Eighth Circuit did not merely gesture at *Purcell*; it walked through the four-factor framework Justice Kavanaugh has articulated across a series of opinions and found that every factor — the clarity of the merits, the certainty of irreparable harm, the absence of delay, and the feasibility of the remedy — favors the map Missouri actually used. App. at 30–32. A stay would not

preserve the status quo. It would be the very “late-breaking” judicial disruption that *Purcell* — and Justice Kavanaugh’s own opinions applying it — warn against.

The application should be denied.

OPINIONS BELOW

The order of the United States District Court for the Eastern District of Missouri granting Plaintiffs-Respondents’ motion for a temporary restraining order (App. 58a) is unreported. This Court’s order staying that temporary restraining order, *People Not Politicians v. Onder*, No. 26A326, 2026 WL 2659767 (U.S. Sept. 10, 2026), is unreported. The opinion of the United States Court of Appeals for the Eighth Circuit (App. 1a) is not yet reported. On remand, the district court entered a permanent injunction consistent with the court of appeals’ mandate on September 21, 2026 (App. 41a), which is not yet reported.

STATEMENT OF THE CASE

In 2022, following the decennial census, the Missouri General Assembly enacted a congressional redistricting map, House Bill 2909 (the “2022 map”), which the State used in the 2022 and 2024 elections. App. 3a. In an extraordinary session convened by Governor Kehoe more than a year later, the General Assembly enacted House Bill 1, repealing the 2022 map and adopting

a new one (the “2025 map”). *Id.* at 4a. Governor Kehoe signed House Bill 1 on September 28, 2025. *Id.*

The next day, People Not Politicians and its executive director, Richard von Glahn, submitted a petition to Secretary Hoskins seeking to force a referendum on House Bill 1. *Id.* at 5a. On August 4, 2026 — the statutory deadline for him to act — Secretary Hoskins certified the petition insufficient under Missouri law. *Id.* Von Glahn sued Secretary Hoskins in state court mere hours later. *Id.* at 7a.

That same day, Missouri conducted its statewide primary election under the 2025 map. More than 1.2 million Missourians voted, including Plaintiff-Respondent Pat Thomas and Debra Havens. Congressman Robert “Bob” Onder won the Republican nomination in the 3rd Congressional District, and Plaintiff-Respondent Richard “Rick” Brattin won the Republican nomination in the 5th Congressional District. *Id.* at 6a. More than sixty candidates had filed to run for Missouri’s eight congressional seats under the 2025 map, and campaigns had already spent more than \$6.5 million on advertising targeted to those districts. *Id.*

On September 3, 2026, the Missouri Supreme Court reversed the trial court, ordered Secretary Hoskins to place PNP’s referendum on the November ballot, and — as a matter of state constitutional law — restrained and enjoined Secretary Hoskins from using the 2025 map in the November general election. *von Glahn v. Hoskins*, --- S.W.3d ---, 2026 WL 2628846 (Mo. Sept. 3, 2026)

(banc). The Missouri Supreme Court expressly limited its decision to state law. *Id.* at *2 n.5. The following day, it summarily denied Secretary Hoskins’s motion to stay its own judgment. App. 8a. On September 8, 2026, Justice Kavanaugh, as Circuit Justice for the Eighth Circuit, denied Secretary Hoskins’s separate emergency application to stay that same judgment. *Hoskins v. Von Glahn*, No. 26A304, 2026 WL 2647016 (U.S. Sept. 8, 2026).

Also on September 8, 2026 — after Justice Kavanaugh’s denial — Plaintiffs-Respondents, two congressional candidates and two Missouri voters whose districts would change under the 2022 map, obtained a temporary restraining order from the district court requiring Secretary Hoskins to use the 2025 map in the November general election. App. 9a; App. 58a. PNP intervened and moved unsuccessfully for a stay in the district court and in the Eighth Circuit. On September 10, 2026, this Court granted PNP’s emergency application and stayed the district court’s order “pending the disposition of the appeal in 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*, 2026 WL 2659767, at *1.

The Eighth Circuit expedited the appeal, heard oral argument on September 17, 2026, and issued its opinion four days later, on September 21, 2026. The panel majority, in a per curiam opinion, held that Article I, Section 2 forbids Missouri from using the 2022 map in the November general election after conducting its primary under the 2025 map, affirmed the district court’s

temporary restraining order, and remanded for entry of a permanent injunction. App. 3a, 34a–35a. The panel administratively stayed that injunction only until September 28, 2026, at 5:00 p.m. CDT, and ordered that “the mandate shall issue forthwith.” *Id.* at 35a. Judge Stras concurred in the judgment in part and dissented in part: he agreed that the majority had correctly identified “a probable violation of Article I, section 2,” but concluded that he “would not even get that far because [PNP] lack[s] standing,” and would have dismissed the appeal on that ground alone, without reaching the constitutional question. *Id.* at 36a, 40a & n.28 (Stras, J., concurring in part and dissenting in part). On remand, the district court entered a permanent injunction on September 21, 2026, consistent with the court of appeals’ mandate. App. 41a.

Missouri’s general election is scheduled for November 3, 2026.

REASONS FOR DENYING THE APPLICATION

A stay pending disposition of a petition for a writ of certiorari, like a stay of removal, “is an extraordinary remedy that should not be granted in the ordinary case, much less awarded as of right.” *Nken v. Holder*, 556 U.S. 418, 437 (2009) (Kennedy, J., concurring). To obtain one, an applicant must show a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari, a fair prospect that a majority of the Court will vote to reverse the judgment below, and a likelihood that irreparable harm will result from the denial of a stay; where, as here, the balance of equities also

bears on the analysis, the Court takes that into account as well. *See Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010) (per curiam). Applicants cannot satisfy a single one of these showings, let alone all four.

I. APPLICANTS LACK ARTICLE III STANDING TO SEEK A STAY OR CERTIORARI FROM THIS COURT

Article III’s case-or-controversy requirement follows an applicant to this Court; it does not stay behind at the courthouse door below. Standing “must be met by persons seeking appellate review, just as it must be met by persons appearing in courts of first instance,” *Arizonans for Off. Eng. v. Arizona*, 520 U.S. 43, 64 (1997), and it is, as this Court has said, an “irreducible constitutional minimum,” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016) (citation omitted), without which “federal courts are powerless to act.” *Curtis v. City of Des Moines*, 995 F.2d 125, 128 (8th Cir. 1993); *see also Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 94–95 (1998) (a federal court may not assume “hypothetical jurisdiction” to reach a question it finds interesting while bypassing an unresolved jurisdictional defect). Applicants cannot clear that threshold, and the Court need go no further to deny this application.

A. The Eighth Circuit’s Own Majority Could Not Confirm Applicants’ Standing, and Judge Stras Would Have Ended the Case Without Ever Reaching the Merits.

The majority below found that “PNP has standing” in a single sentence. App. 12a. Its only elaboration appears in a footnote that undercuts, rather than

supports, the conclusion: “counsel for PNP represented that, like the voter Plaintiffs, von Glahn resides in a different congressional district under the 2025 map than he did under the 2022 map,” but “[t]he Court has not found the factual support for this representation in the affidavit that von Glahn filed in support of PNP’s motion to intervene below or elsewhere in the record for this case.” *Id.* at 12a n.11. A standing holding built on a representation the court itself could not verify in the record is not the kind of holding that makes an applicant’s position for certiorari — or a stay — reasonably probable of success.³

Judge Stras went further, independently confirming that Applicants do not belong in this Court. He did not dispute that the majority had identified “a probable violation of Article I, section 2 of the Constitution” — he simply had no occasion to reach it, because in his view the case should have ended at the threshold: “I would not even get that far because People Not Politicians and Richard von Glahn lack standing. For that reason, I would dismiss the appeal.” App. 36a (Stras, J., concurring in part and dissenting in part). Applying this Court’s own rule that standing must “persist throughout all stages of the litigation,” even on appeal, he explained that “[i]ntervenors, who often join the litigation only because someone else had enough of a stake to bring the case in the first place, are no exception” to that rule. *Id.* (quoting *Va. House of*

³ Applicant von Glahn has now submitted for the first time since the inception of this matter, in the Appendix, a verification asserting his district would change under the map from Congressional District 1, in which he has voted, to Congressional District 2 under the order of the Missouri Supreme Court. App. 91a.

Delegates v. Bethune-Hill, 587 U.S. 658, 662 (2019)). On that ground alone, he would have dismissed PNP’s appeal in its entirety — never reaching, weighing, or endorsing the constitutional question Applicants now ask this Court to resolve on an emergency basis. *Id.* at 40a & n.28.

B. PNP’s Interest in Enforcing Missouri’s Referendum Law Is a Generalized Grievance, Not a Particularized Injury.

PNP’s asserted interest is that it sponsored the referendum petition against the 2025 map. Judge Stras explained why that interest cannot support standing, drawing directly on this Court’s decision in *Hollingsworth*. There, the official proponents of California’s Proposition 8 had a “‘unique,’ ‘special,’ and ‘distinct’ role” in the State’s initiative process — a role Missouri law does not even give PNP. App. 37a (quoting *Hollingsworth*, 570 U.S. at 706). Even so, this Court held that the proponents lacked standing, because they had “no role — special or otherwise — in the [law’s] enforcement,” and were left with no “‘personal stake’ different from the ‘general interest of every citizen’” of the State. *Hollingsworth*, 570 U.S. at 707 (citation omitted). If official ballot-initiative proponents with an acknowledged special role in California law lacked standing, PNP — whose referendum rights under Missouri law are shared with “any citizen,” Mo. Rev. Stat. § 116.200.1 — fares no better. App. 37a.

Nor does the injunction under review — or this litigation — touch the referendum at all. As Judge Stras put it, the district court’s order “will have no

effect on whether the referendum appears on the ballot in November. Neither will this appeal.” *Id.* PNP’s only remaining interest, candidly acknowledged at oral argument, is a generalized desire “to delay the implementation of H.B. 1 pending the November vote” — an interest “merely to enforce Missouri law” that is “[in]distinguishable from the general interest of every citizen’ in the state.” *Id.* at 38a (quoting *Hollingsworth*, 570 U.S. at 707). That interest “is no way to get standing in federal court.” *Id.* (citing *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208, 227 (1974) (rejecting “the proposition that all constitutional provisions are enforceable by any citizen simply because citizens are the ultimate beneficiaries of those provisions”)). Sincerity of purpose is not a substitute for a personal stake: PNP and von Glahn may well be, in this Court’s words, “‘deeply committed’ to ‘zealous[ly]’ challenging the district court’s order,” but “the plea heard throughout oral argument — ‘if not us, then who?’ — . . . has never been ‘a reason to find standing.’” *Id.* at 40a (quoting *Hollingsworth*, 570 U.S. at 707, and *Schlesinger*, 418 U.S. at 227).

C. Von Glahn Has Identified No Personal, Particularized Injury as a Voter.

Von Glahn separately asserts standing as a voter. That status alone is not enough: voters who allege “facts showing disadvantage to themselves as individuals” have standing; voters who assert no individual injury do not. *Gill v. Whitford*, 585 U.S. 48, 67 (2018) (citation omitted). Von Glahn does not allege that his vote has been diluted, *see Gill*, 585 U.S. at 66, or that he will be unable

to elect the candidate of his choice, *see McLain v. Meier*, 851 F.2d 1045, 1048 (8th Cir. 1988), or even that the 2025 map moves him between districts, changes which candidates appear on his ballot, or otherwise affects him differently than any other Missourian. App. 38a–39a. His only asserted fact is that he is “a qualified voter registered to vote in the State of Missouri” who lives in St. Louis County. *Id.* at 39a. “If he has been injured as a voter, he has not told us how. And as the ‘party invoking federal jurisdiction’ by appealing, it was his burden to do so.” *Id.* (quoting *Spokeo*, 578 U.S. at 338).⁴

Nor can *Purcell* fill that gap. As Judge Stras explained, “[t]he *Purcell* principle, as powerful as it may be, cannot be a shortcut around jurisdiction.” *Id.* at 38a n.27 (citing *Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam)). Whatever urgency the election calendar creates, it cannot manufacture a personal stake that does not otherwise exist. *See id.* (citing *Ex parte McCardle*, 74 U.S. (7 Wall.) 506, 514 (1869) (“Without jurisdiction the court cannot proceed at all in any cause.”)).

D. A Circuit Judge’s Unresolved Dissent on Applicants’ Own Standing Further Undermines Any Prospect of Four Votes to Grant.

The Eighth Circuit majority held that PNP has standing, notwithstanding a footnote noting that it could not locate record support for one factual representation by PNP’s counsel about von Glahn’s district. App.

⁴ Von Glahn’s last-minute verification, App. 91a, first filed in this Court yesterday, does not change this analysis.

12a & n.11. Judge Stras dissented from that holding and would have dismissed the appeal for lack of standing without ever reaching the merits. App. 36a–41a (Stras, J., concurring in part and dissenting in part). That unresolved, single-judge dissent on a threshold jurisdictional question this Court would have to resolve for itself forecloses any “reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari,” *Hollingsworth*, 558 U.S. at 190, because this Court could not reach the constitutional question without first resolving a jurisdictional defect that a sitting circuit judge has already analyzed in detail and found dispositive. Jurisdiction comes first, not last. *Steel Co.*, 523 U.S. at 94–95. The Court should deny the application for this reason alone.

II. THIS CASE WILL BE MOOT BEFORE CERTIORARI COULD BE GRANTED, AND IT PRESENTS NO QUESTION WORTHY OF THIS COURT’S REVIEW

A. The Certiorari Calendar Cannot Outrun the November 3 Election.

The Eighth Circuit’s administrative stay of the permanent injunction expires on September 28, 2026, at 5:00 p.m. CDT — a deadline the panel chose for a reason. It recognized that “without a limit to the stay, PNP could wait to file its petition for a writ of certiorari until the December 21, 2026, due date, see Sup. Ct. R. 13.1, thus preventing the Supreme Court from considering the merits of this case until after Missouri has conducted the November 2026 general election.” App. 35a. Missouri’s general election is November 3, 2026 —

five weeks away. Even under the most expedited briefing this Court could order, a certiorari petition, a response, any reply, and the Court’s conference and decision on the petition could not realistically be completed before the November election renders the question academic. A stay that simply preserves the status quo pending an ordinary certiorari timeline would not preserve this Court’s ability to decide anything; it would ensure the dispute is overtaken by events before the Court could reach it.⁵

B. A Stay Would Not Preserve a Live Controversy for This Court to Decide — It Would Manufacture an Irreversible Fact on the Ground.

A case becomes moot under Article III “when the issues presented are no longer ‘live’” or “it is impossible for a court to grant any effectual relief whatever to the prevailing party.” *Chafin v. Chafin*, 568 U.S. 165, 172 (2013) (citation omitted). Once Missouri conducts its general election under whichever map governs, it cannot unwind that election. A stay that forces the November election to proceed under the 2022 map — displacing the map under which the primary was already run — would not preserve anything for this Court to review. This Court has already recognized exactly that dynamic: once the election an applicant sought to affect has been held, “it is now impossible to grant the appellants the relief they sought,” and the case “has therefore lost its character as a present, live controversy.” *Hall v. Beals*, 396 U.S. 45, 48 (1969)

⁵ Yet a stay would not preserve the status quo — it would instead prolong the mid-election disruption that the Missouri Supreme Court’s injunction created. *See infra* Section IV.A.

(per curiam). The November 2026 general election is no different — once Missourians vote under whichever map governs, no court can recast that vote under a different one.

That mechanism is no technical quirk; it is a central defect in the relief Applicants seek. The Eighth Circuit is the only court in this litigation to have issued a reasoned decision on the constitutional merits, reached after full adversarial briefing and expedited oral argument. A stay extending through the election would not hold that decision in suspension for later review — because, as mentioned, there would be no later review left to hold it for. The stay would therefore do far more than pause the Eighth Circuit’s judgment: it would nullify that judgment as a practical matter, determine the map governing the election, and extinguish the controversy — all without this Court, or any court on further review, ever deciding the question Applicants ask it to decide.

That is an especially consequential use of a remedy that is “extraordinary” and “should not be granted in the ordinary case, much less awarded as of right.” *Nken v. Holder*, 556 U.S. 418, 437 (2009) (Kennedy, J., concurring, joined by Scalia, J.). The concern is sharper still on the emergency docket, where litigants should not be permitted to “force the Court to give a merits preview” on “a short fuse without benefit of full briefing and oral argument.” *Does 1-3 v. Mills*, 142 S. Ct. 17, 18 (2021) (Barrett, J., concurring in denial of application for injunctive relief, joined by Kavanaugh, J.). Here,

the requested stay would go well beyond a merits preview: it would produce the case’s final, practical disposition without ever permitting a merits decision from this Court at all. Denying the stay, by contrast, leaves the only reasoned merits judgment entered after full adversarial consideration in force for the election it governs — preserving both the map under which the primary was conducted and this Court’s own ability to decide the constitutional question in the ordinary course, rather than letting interim relief silently supplant that judgment before any court can review it.

C. This Case Presents No Question Warranting the Court’s Discretionary Review.

Even setting timing aside, this case is a poor candidate for certiorari. The Eighth Circuit’s constitutional holding was issued by a panel majority — even Judge Stras, who would have ended the case on standing grounds, did not dispute that the majority had identified “a probable violation of Article I, section 2.” App. 36a (Stras, J., concurring in part and dissenting in part). That holding rests on settled doctrine — *United States v. Classic*, 313 U.S. 299 (1941); *Wesberry v. Sanders*, 376 U.S. 1 (1964); *Tashjian v. Republican Party of Conn.*, 479 U.S. 208 (1986); *Smith v. Allwright*, 321 U.S. 649 (1944) — applied to a narrow and expressly cabined set of facts. The panel was careful to hold only that Article I, Section 2 requires “continuity in the constituency” for the election already underway, and that its decision does not “freeze congressional district lines indefinitely or restrict Missouri’s authority to

redraw them for future elections.” App. 26a & n.20. Applicants identify no circuit split, no disagreement among the courts below on the constitutional question, and no recurring issue of exceptional importance — only their disagreement with a panel majority’s application of settled law to Missouri’s singular decision to switch maps between its own primary and general elections.

III. APPLICANTS ARE NOT LIKELY TO PREVAIL ON THE MERITS

Even if Applicants could clear the standing and certworthiness thresholds, they could not show a fair prospect that a majority of this Court would reverse. The Eighth Circuit’s judgment rests on multiple, independently sufficient grounds, each correctly decided — and each already tested against every objection Applicants have raised.

A. The Eighth Circuit Correctly Held That Article I, Section 2 Forbids Missouri from Using a Different Map in the General Election Than It Used in the Primary.

Article I, Section 2 provides that the House of Representatives “shall be composed of Members chosen every second Year by the People of the several States.” U.S. Const. art. I, § 2, cl. 1. That text creates “a right of qualified voters within a state to cast their ballots and have them counted at Congressional elections,” *United States v. Classic*, 313 U.S. 299, 315 (1941), and means that “no matter where he live[s], each voter should have a voice equal to that of

every other in electing members of Congress,” *Wesberry v. Sanders*, 376 U.S. 1, 10 (1964). That guarantee is not limited to the general election; it “applies to the entire process by which federal legislators are chosen,” *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 227 (1986), and “[w]here the state law has made the primary an integral part of the procedure of choice,” it encompasses “the right to choose at a primary election, a candidate for election as representative,” *Classic*, 313 U.S. at 315, 318. Missouri’s primary and general elections are, for this purpose, “fused” “into a single instrumentality for choice of officers.” *Smith v. Allwright*, 321 U.S. 649, 660 (1944); accord *Klein v. United States*, 176 F.2d 184, 187 (8th Cir. 1949) (the primary is “an integral part of the general election laws of the state for the election of public officers, including Members of Congress,” and “the right to vote at such a primary . . . , and to have the vote counted as cast, is a right secured by the Federal Constitution”).

That free choice is made by a defined constituency. A congressional primary selects the candidates who will compete to represent a particular district, and the general election determines which of those candidates will represent that same district. Article I, Section 2’s right to participate in the procedure of choosing a member of Congress “requires continuity in the constituency throughout all stages of a single election”; “[c]hanging district lines between the primary and general election prevents an affected voter from participating in either district’s complete procedure of choice.” App. 26a. A

voter moved from District A to District B after the primary “participated in selecting District A’s nominees but cannot participate in the general election choice between them,” while having to “make a general election choice between District B’s nominees without having participated in their selection” — receiving, in the panel’s words, only “two halves of two different procedures.” *Id.* at 26a n.19.

That is not a hypothetical harm. More than 1.4 million Missourians could not vote for the congressional district nominees who will appear on their November 2026 general election ballot, and more than a quarter-million Missourians who voted in the August 2026 primary election cast a vote for a congressional district candidate who now cannot represent them. *Id.* at 24a. In the 5th Congressional District alone, 57 percent of residents under the 2025 map would find themselves in a different district under the 2022 map — meaning a majority of that district’s residents would have had no voice in choosing the nominees who would appear on their November ballot. *Id.* at 24a–25a. As this Court held long ago, it “would defeat the principle solemnly embodied in the Great Compromise — equal representation in the House for equal numbers of people — for [a court] to hold that, within the States, legislatures may draw the lines of congressional districts in such a way as to give some voters a greater voice in choosing a Congressman than others.” *Wesberry*, 376 U.S. at 14.

The Eighth Circuit’s holding is narrow and unremarkable in scope. It does not hold that voters have a right to any particular candidate, and it does not freeze Missouri’s map for future election cycles. App. 26a n.20. It holds only that, having chosen to conduct its primary under the 2025 map, Missouri cannot switch to a different map for the general election that immediately follows. That holding was issued by a panel majority. Judge Stras, who parted ways with the majority on standing, did not dispute that the majority had correctly identified “a probable violation of Article I, section 2.” *Id.* at 36a (Stras, J., concurring in part and dissenting in part).

B. The Equal Protection Clause Independently Supports the Judgment Below.

The Eighth Circuit found Plaintiffs-Respondents’ Equal Protection Clause claim “colorable” and the district court’s analysis of it “compelling,” but it noted that “no party has explicitly addressed the applicable standard of review” and declined to reach the claim only because the Article I, Section 2 holding independently resolved the case. App. 27a–28a. That standard is not difficult to state, and once stated, it confirms the district court’s instinct. This Court evaluates constitutional challenges to state election rules under the flexible balancing framework of *Anderson v. Celebrezze*, 460 U.S. 780 (1983), and *Burdick v. Takushi*, 504 U.S. 428 (1992): a court must weigh “the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate” against “the

precise interests put forward by the State as justifications for the burden imposed by its rule,” taking into account “the extent to which those interests make it necessary to burden the plaintiff’s rights.” *Burdick*, 504 U.S. at 434 (quoting *Anderson*, 460 U.S. at 789) (internal quotation marks omitted). Where the burden is severe, “the regulation must be narrowly drawn to advance a state interest of compelling importance”; only “reasonable, nondiscriminatory restrictions” can be justified by the State’s “important regulatory interests” standing alone. *Id.*

Measured against that standard, Missouri’s mid-cycle map switch fails at either end of the sliding scale. The burden here is not the ordinary friction of an election regulation — a filing deadline, a signature requirement, a ballot-access rule that merely channels the exercise of the franchise. It is the complete exclusion of a defined class of voters from the only election that selects the candidates who will appear on their general-election ballot. Voters moved from one district to another between the primary and the general election had no opportunity to help choose either party’s nominee for the district in which they were told, only after the fact, that they actually reside — while their neighbors who happened to remain in the same district throughout retained a full voice in that choice. App. 24a–25a.

Further, candidate Plaintiffs bear the identical burden from the other direction: Representative Onder and Mr. Brattin each won their August primary under the district lines the 2025 map drew, and the 2022 map would

force each of them to stand for election in November before a substantially different, non-consenting electorate — voters who never had any occasion to decide whether either man should be their party’s nominee at all. App. 9a.

Anderson-Burdick applies to both burdens with equal force, because “the rights of voters and the rights of candidates do not lend themselves to neat separation; laws that affect candidates always have at least some theoretical, correlative effect on voters.” *Anderson*, 460 U.S. at 790. Voters and candidates alike, then, are as severely burdened here as this framework recognizes, and that burden triggers its demanding end: exacting scrutiny of a compelling state interest, narrowly achieved. Missouri has none to offer.⁶ The 2022 map was not revived by any legislative judgment about the interests a district-line change would serve; it was imposed by a state supreme court order construing state referendum law, on a record that never purported to identify — let alone weigh — any state interest in disrupting an election already midway through. App.

⁶ Missouri’s silence on this point has been consistent throughout this litigation: at no stage — not before the district court, not before the Eighth Circuit, and not in anything filed with this Court — has the State identified an interest the 2022 map serves that the 2025 map does not. See App. 27a–28a. And to the extent the Missouri Supreme Court believed reviving the 2022 map was necessary to administer PNP’s referendum petition lawfully under state law, that showing would not satisfy *Anderson-Burdick*’s tailoring requirement in any event. See *Burdick*, 504 U.S. at 434 (severe burdens “must be narrowly drawn to advance a state interest of compelling importance” (quoting *Norman v. Reed*, 502 U.S. 279, 289 (1992))). Narrow tailoring is the State’s burden to carry, not the voters’ burden to disprove. See *Ill. State Bd. of Elections v. Socialist Workers Party*, 440 U.S. 173, 184 (1979) (“When such vital individual rights are at stake, a State must establish that its classification is necessary to serve a compelling interest.”); *Dunn v. Blumstein*, 405 U.S. 330, 335 (1972) (State “must show a substantial and compelling reason” for a law burdening a fundamental right). And no court in this litigation has ever asked — let alone answered — why placing House Bill 1 on the November ballot required displacing the district lines under which more than a million Missourians had already voted, rather than some less sweeping alternative. A referendum interest, even a legitimate one, cannot justify a burden the State has never shown was necessary to serve it.

8a (Missouri Supreme Court confined its ruling to state law). An interest that was never articulated cannot be compelling, and a burden this total cannot be the “reasonable, nondiscriminatory” kind that lesser interests would excuse. *Burdick*, 504 U.S. at 434.

This is precisely the evil the Equal Protection Clause forbids in administering elections. “Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person’s vote over that of another.” *Bush v. Gore*, 531 U.S. 98, 104–05 (2000) (per curiam). Missouri did exactly that: it granted every 2025-map voter an equal opportunity to help select the nominees who would appear on the November ballot, then arbitrarily withdrew that opportunity from voters who happened to live in districts the 2022 map redraws — for no reason tied to anything those voters did, and no interest the State has ever identified. *See also Gray v. Sanders*, 372 U.S. 368, 379 (1963) (“[o]nce the geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote”); *Reynolds v. Sims*, 377 U.S. 533, 567 (1964) (“[t]he fact that an individual lives here or there is not a legitimate reason for overweighting or diluting the efficacy of his vote”). The Court of Appeals was right to call this analysis compelling, and it remains even more compelling under the very standard of review the panel below found missing.

C. Applicants’ Jurisdictional Objections Were Correctly Rejected on Every Ground Raised Below.

On appeal, the Eighth Circuit confronted PNP’s four separate grounds for avoiding a decision on the merits — three jurisdictional theories and a fourth resting on *Younger* abstention — and rejected every one.⁷ App. 12a. PNP raised each of these objections below, and for the reasons that follow, the Court properly rejected them; accordingly, they cannot justify the stay Applicants now seek.

1. No Three-Judge Court Was Required.

PNP argued that 28 U.S.C. § 2284(a) required a three-judge district court. But the current version of that statute requires a district judge to refer a case for a three-judge court only “[u]pon the filing of a *request* for three judges.” *Shapiro v. McManus*, 577 U.S. 39, 44 (2015) (emphasis in original) (quoting 28 U.S.C. § 2284(b)(1)). PNP never filed one — its sole citation was to a passage in its own motion to dismiss faulting Plaintiffs-Respondents for not requesting a three-judge court, not a request of its own. App. 13a. And even had PNP requested a three-judge court, § 2284(b)(3) independently authorizes a single district judge to grant a temporary restraining order without referring the matter for a three-judge panel. *Id.*

⁷ The district court rejected PNP’s arguments that it should abstain under *Colorado River Water Conservation District v. United States*, 424 U.S. 800 (1976), and that the Anti-Injunction Act, 28 U.S.C. § 2283, barred relief. PNP did not renew either argument on appeal, and the Eighth Circuit held both waived. App. 17a n.13 (citing *Beadle v. City of Omaha*, 983 F.3d 1073, 1075 (8th Cir. 2020) (“by not briefing the issue, [the appellant] has waived review”)).

2. The District Court and Secretary Hoskins Were Genuinely Adverse.

PNP argued the suit presented no case or controversy because Plaintiffs-Respondents and Secretary Hoskins shared the same litigation position. But adversity survives when, as here, the government defendant is bound to act in a way adverse to the legal interests of the private plaintiffs — and Secretary Hoskins was bound by the Missouri Supreme Court’s injunction to use the 2022 map, contrary to Plaintiffs-Respondents’ interests, the very day this suit was filed. *INS v. Chadha*, 462 U.S. 919, 939–40 (1983); App. 13a–14a. This Court’s decision “thus will have ‘real meaning’”: if the Court rules for Plaintiffs-Respondents, Missouri uses the 2025 map; if it rules for Applicants, Missouri uses the 2022 map. *Id.* at 14a (quoting *Chadha*, 462 U.S. at 939).

3. Rooker-Feldman Does Not Apply.

Rooker-Feldman bars only suits by “state-court losers complaining of injuries caused by state-court judgments” who were themselves parties to the state-court judgment. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). Plaintiffs-Respondents “were plainly not parties to the underlying state-court proceeding” in *von Glahn* — a circumstance this Court addressed in the “remarkably similar” case of *Lance v. Dennis*, 546 U.S. 459, 464–66 (2006), which likewise involved citizen-plaintiffs seeking, in federal court, to use a legislatively enacted map rather than one imposed by a state

supreme court. App. 14a–15a. Indeed, PNP’s own counsel conceded at oral argument that “*Lance* is a problem for [their] *Rooker* analysis.” *Id.* at 15a.

4. Younger Abstention Does Not Apply.

Younger abstention is confined to three categories of “exceptional” state proceedings, none of which is present here. *Sprint Commc’ns, Inc. v. Jacobs*, 571 U.S. 69, 73 (2013). The Missouri Supreme Court’s contempt proceeding against Secretary Hoskins — the only proceeding PNP identified — did not begin until after the district court’s temporary restraining order was issued. Yet, regardless, Plaintiffs-Respondents were never parties to it and had no opportunity to raise their federal claims there. App. 16a (citing *Juidice v. Vail*, 430 U.S. 327, 337 (1977)); *see also id.* (“[r]equiring the federal courts totally to step aside when no state [civil proceeding] is pending against the federal plaintiff would turn federalism on its head” (quoting *Steffel v. Thompson*, 415 U.S. 452, 472 (1974)))).

IV. THE PURCELL PRINCIPLE REQUIRES DENYING A STAY — JUST AS IT REQUIRED DENYING ONE BELOW

PNP told the Eighth Circuit that “the *Purcell* principle bars interference in Missouri’s election machinery at this late date.” App. 28a (quoting Br. of Intervenor-Appellants at ii, *Onder v. State of Missouri*, Nos. 26-2797 & 26-2827 (8th Cir. filed Sept. 15, 2026) [hereinafter PNP Br.]). A panel majority — applying the very framework this Court’s own Justices have built — held the

opposite. Applicants will make the identical argument here, to the same effect: none.

A. *Purcell* Protects the Status Quo, and the Status Quo Is the 2025 Map.

“[T]he *Purcell* principle is a presumption against disturbing the status quo.” *Carson v. Simon*, 978 F.3d 1051, 1062 (8th Cir. 2020); App. 30a. And “the Constitution’s answer” for who sets that status quo “is generally the state legislature” — here, the Missouri General Assembly that enacted the 2025 map. *Carson*, 978 F.3d at 1062; accord *Grove v. Emison*, 507 U.S. 25, 34 (1993) (the Constitution leaves with the States, and in the first instance their legislatures, primary responsibility for congressional apportionment). More than sixty candidates filed to run under the 2025 map; candidates and their supporters spent a year and millions of dollars building campaigns around it; and more than 1.2 million Missourians voted under it in August. App. 30a. “The Missouri General Assembly ‘set the status quo,’ the Missouri Supreme Court ‘upset it,’ and it is our duty, consistent with *Purcell*, to at least preserve the possibility of restoring it.” *Id.* (quoting *Carson*, 978 F.3d at 1062). A stay would do the opposite: it would use this Court’s emergency docket to displace, six weeks before the election, the only map Missouri has actually used this cycle.

B. Every One of Justice Kavanaugh’s Four *Purcell* Factors Confirms That a Stay Is Unwarranted — the Eighth

**Circuit Already Applied All Four and Found Each One
Favors Denial.**

Justice Kavanaugh has explained that the *Purcell* principle “reflects a bedrock tenet of election law: When an election is close at hand, the rules of the road must be clear and settled,” *Merrill v. Milligan*, 142 S. Ct. 879, 880–81 (2022) (Kavanaugh, J., concurring in grant of applications for stays), but that the principle is not “absolute,” and has articulated a four-part framework for applying it. *Id.* at 881. The Eighth Circuit walked through all four factors, on this record, and found that each one favors Plaintiffs-Respondents. App. 30a–32a.

First, “the underlying merits are entirely clearcut in favor of the plaintiff[s].” *Merrill*, 142 S. Ct. at 881 (Kavanaugh, J., concurring). As explained above, the Eighth Circuit’s panel majority held the merits “entirely clearcut” in Plaintiffs-Respondents’ favor. App. 30a.

Second, “the plaintiff[s] would suffer irreparable harm absent the injunction.” *Merrill*, 142 S. Ct. at 881 (Kavanaugh, J., concurring). Voter Plaintiffs-Respondents are irreparably harmed if forced to vote in different districts than the ones in which they voted in August, and candidate Plaintiffs-Respondents are irreparably harmed if forced to campaign, with only weeks remaining, in different districts than the ones in which they have campaigned for a year — harm that is “certain and great and of such imminence that there is a clear and present need for equitable relief.” App. 30a–31a (quoting *Novus Franchising, Inc. v. Dawson*, 725 F.3d 885, 895 (8th Cir. 2013)).

Third, “the plaintiff[s] ha[ve] not unduly delayed bringing the complaint to court.” *Merrill*, 142 S. Ct. at 881 (Kavanaugh, J., concurring). Plaintiffs-Respondents filed suit and moved for injunctive relief the same day the Missouri Supreme Court denied a stay of its own judgment — the day after Justice Kavanaugh denied Secretary Hoskins’s parallel application. App. 9a, 31a.

Fourth, “the changes in question are at least feasible before the election without significant cost, confusion, or hardship.” *Merrill*, 142 S. Ct. at 881 (Kavanaugh, J., concurring). The Eighth Circuit considered and rejected the cost and confusion concerns Applicants’ own amici raised, noting that reprinting-cost estimates ranged only from a few hundred dollars in small jurisdictions to \$15,000–\$30,000 in larger ones, that not every jurisdiction would even need to change ballots, and that two members of the very association that raised those concerns had already told the Missouri Supreme Court that “the Court need not consider that concern in this case.” App. 31a–32a (quoting Br. of Amici Curiae Rachel Lightfoot & Brianna L. Lennon, *von Glahn v. Hoskins*, No. SC101805 (Mo. Aug. 24, 2026)). The panel also found that using the 2025 map “will lead to the least amount of confusion for voters,” because Missouri has operated under it for a year, and “[a]ny confusion stems from the last-minute decision by a state court to switch the congressional map” — not from preserving it. *Id.* at 32a.

C. This Court’s Own Precedent Forecloses the Theory Applicants Will Advance — That *Purcell* Bars Any Federal Check on a Late State-Court Decision.

PNP’s theory below was not a modest one. It argued that *Purcell* affirmatively “forbids” a federal court from enjoining implementation of a state supreme court’s eleventh-hour interpretation of state election law, no matter how that interpretation collides with the federal Constitution. App. 29a (quoting PNP Br. 21). The Eighth Circuit rejected that theory using this Court’s own words. “[U]nder the U.S. Constitution, the state courts do not have a blank check to rewrite state election laws for federal elections.” *Id.* (quoting *Democratic Nat’l Comm. v. Wis. State Legislature*, 592 U.S. 1039, 1048 n.1 (2020) (Kavanaugh, J., concurring in denial of application to vacate stay)). “The 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.” *Id.* (quoting *Democratic Nat’l Comm.*, 592 U.S. at 1041 (Gorsuch, J., concurring in denial of application to vacate stay)). And “[t]he provisions of the Federal Constitution conferring on state legislatures, not state courts, the authority to make rules governing federal elections would be meaningless if a state court could override the rules adopted by the legislature simply by claiming that a state constitutional provision gave the courts the authority to make whatever rules it thought appropriate for the conduct of a fair election.” *Id.* (quoting *Republican Party of Pa. v. Boockvar*,

592 U.S. 1068, 1070 (2020) (statement of Alito, J., joined by Thomas & Gorsuch, JJ.)).

This Court reached a related conclusion in *Moore v. Harper*, 600 U.S. 1 (2023), which confirms that state courts do not enjoy unreviewable authority to override a state legislature’s regulation of federal elections; a state court’s interpretation of state election law remains subject to the ordinary bounds of judicial review, and an interpretation that exceeds those bounds is not immune from federal correction merely because it is dressed in the language of state constitutional law. *See Id.* at 30 (Kavanaugh, J., concurring). That is precisely what happened here: the Missouri Supreme Court itself confined its ruling to state law and never purported to resolve the federal constitutional question the Eighth Circuit ultimately answered. App. 8a (citing *von Glahn*, 2026 WL 2628846, at *2 n.5).⁸ Refusing to correct that kind of “late-breaking” state-court decision on the theory that *Purcell* forbids it would “turn *Purcell* on its head.” *Id.* at 29a (quoting *Democratic Nat’l Comm.*, 592 U.S. at 1044 (Kavanaugh, J., concurring in denial of application to vacate stay)).

**D. A Stay Would Recreate the Exact Dueling-Injunction
Chaos the Eighth Circuit Worked to Prevent.**

⁸ The Missouri Supreme Court’s disclaimer is not a technicality to be brushed aside; it is dispositive of the argument Applicants will make. A state court that expressly confines its judgment to state law, and never purports to adjudicate a federal question, leaves that federal question exactly where the Constitution places it — with the federal courts, and ultimately with this Court — free of any obligation to treat the state court’s silence as an interpretation of federal law entitled to deference, still less as a shield against review. Applicants cannot invoke *Purcell*’s solicitude for state courts’ authority over state election law to insulate a federal constitutional violation that no state court ever purported to bless.

The Eighth Circuit’s injunction runs against Secretary Hoskins and all those acting in concert with him, including local election authorities. App. 34a–35a & n.24. The panel devoted an entire section of its opinion to explaining why the Supremacy Clause requires the Missouri Supreme Court’s conflicting state-law injunction to yield, and stated that it “trusts that the Missouri Supreme Court will respect this Court’s decision under the Supremacy Clause.” *Id.* at 34a (citing *Espinoza v. Mont. Dep’t of Revenue*, 591 U.S. 464, 488 (2020)). It likewise made clear that it “trusts that counsel will not instruct local election authorities to violate the Constitution as clearly established by this opinion.” *Id.* at 35a n.24 (citing 42 U.S.C. §§ 1983, 1985(3)).

That confidence is aspirational, not demonstrated: the very conflict the panel hoped to foreclose already happened once, before its opinion ever issued. Secretary Hoskins complied with the district court’s original restraining order and used the 2025 map, and the Missouri Supreme Court responded by opening contempt proceedings, at the behest of PNP, against him. App. 10a. Only once this Court’s stay relieved him of any obligation under that order did the Missouri Supreme Court agree he had purged the contempt — by directing local election authorities to use the 2022 map instead. *Id.*

That history is not over. Secretary Hoskins has since asked this Court directly for “guidance on what effect a federal injunction — issued on federal legal grounds — has on a conflicting state-law injunction issued on state-law grounds,” *id.* at 32a (quoting Br. of Defendants State of Missouri and Missouri

Secretary of State at 33, *Onder v. State of Missouri*, Nos. 26-2797 & 26-2827 (8th Cir. filed Sept. 15, 2026) [hereinafter State Br.]), because he has already been sanctioned once for guessing wrong about which order controlled. Applicants cannot even agree with themselves on the answer: PNP told the Eighth Circuit that the district court’s order “effectively nullifie[d]” the Missouri Supreme Court’s judgment, PNP Br. 54, while telling the Missouri Supreme Court the opposite — that its injunction “is in full force” and that “regardless of other orders (except from the United States Supreme Court) the Missouri Secretary of State must comply with this court’s injunction.” App. 32a–33a (quoting Emergency Application for Order Holding Secretary of State in Contempt at 4, *von Glahn v. Hoskins*, No. SC101805 (Mo. Sept. 8, 2026), and Suggestions Regarding Contempt at 12, *von Glahn v. Hoskins*, No. SC101805 (Mo. Sept. 9, 2026)). Local election authorities should not be left to guess where even Applicants cannot agree — and here, they need not: PNP has already conceded, in those same Missouri Supreme Court filings, that language no narrower than the Eighth Circuit’s injunction here “undoubtedly covered” those very officials. *Id.* at 35a n.24.

That legal uncertainty compounds a burden Justice Kavanaugh has already identified as severe in its own right. “[S]tate and local election officials need substantial time to plan for elections” because “[r]unning elections state-wide is extraordinarily complicated and difficult,” requiring “enormous advance preparations by state and local officials” and posing “significant

logistical challenges.” *Merrill*, 142 S. Ct. at 880–81 (Kavanaugh, J., concurring in grant of applications for stays). Local election authorities do not just need time to prepare; they need to know which court’s order actually controls that preparation. A stay would cost them both.

It would cost them more than that — though not in the way it might first appear. A stay operates on the injunction, not on the Eighth Circuit’s underlying holding: the panel majority’s determination that switching to the 2022 map for the general election is unconstitutional, App. 26a, stands unless and until this Court says otherwise, and the Supremacy Clause binds Missouri’s own officials to that determination independent of whether an injunction currently compels it. A stay would not undo that holding. It would only remove the one thing that has, so far, actually secured compliance with it — the threat of a federal court order local officials can be held to. It would leave those officials, who are not parties to this litigation, bound by a state supreme court injunction that remains in full effect and by a federal constitutional holding they may not lawfully ignore, with no live federal order left to reconcile the two. That is precisely the “disruption” and “unanticipated and unfair consequences for candidates, political parties, and voters” that *Purcell* exists to prevent. *Malliotakis v. Williams*, 146 S. Ct. 809, 811 (2026) (Alito, J., concurring in grant of stay) (quoting *Merrill*, 142 S. Ct. at 881 (Kavanaugh, J., concurring)). The only difference is the source: here, it would be a stay from this Court — not the state-court decision the Eighth Circuit already corrected.

E. Applicants Cannot Invoke *Purcell* on Their Own Behalf.

Whatever force the *Purcell* principle has here, it does not run in Applicants' favor. *Purcell* protects a State's "extraordinarily strong interest in avoiding late, judicially imposed changes to its election laws and procedures." *Merrill*, 142 S. Ct. at 881 (Kavanaugh, J., concurring). Applicants are not the State of Missouri; the State itself — through Secretary Hoskins — has aligned with Plaintiffs-Respondents in defending the 2025 map. Applicants' attempt to invoke an interest that belongs to a sovereign they do not represent only underscores what Section I of this opposition already demonstrates: that they lack standing to be here. *See Hollingsworth*, 570 U.S. at 709, 714 (explaining that ballot-measure proponents ordinarily may not assert the State's interest, and that these particular proponents "plainly do not qualify as" agents of the State who could do so).

Nor is this the first time in this litigation that Applicants have tried to invoke a protection that belonged to someone else. The Eighth Circuit already rejected PNP's argument that the district court abused its discretion by not requiring a bond under Rule 65(c), holding that PNP "lack[ed] standing to raise this argument because it was not the party 'enjoined or restrained.'" App. 21a (quoting Fed. R. Civ. P. 65(c)). The same defect recurs here: the *Purcell* interest Applicants invoke belongs to the State, not to them, and they can no more manufacture standing to assert it than PNP could manufacture standing to assert a bond protection that belonged to Secretary Hoskins. *See also* App. 38a

n.27 (Stras, J., concurring in part and dissenting in part) (“[t]he *Purcell* principle . . . cannot be a shortcut around jurisdiction”).

CONCLUSION

The application for a stay should be denied.

Respectfully submitted,

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