

IN THE
Supreme Court of the United States

PEOPLE NOT POLITICIANS AND RICHARD VON GLAHN,

Applicants,

v.

CONGRESSMAN ROBERT “BOB” ONDER; RICHARD “RICK” BRATTIN; PATRICIA “PAT”
THOMAS; AND DEBRA HAVENS,

Respondents,

and

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

Respondents.

REPLY BRIEF FOR APPLICANTS

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TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
INTRODUCTION	1
ARGUMENT	1
I. Neither Respondents nor the lower courts may ignore this Court’s stay.	1
II. Respondents address <i>Purcell</i> by turning it on its head.....	3
III. Applicants have standing.	6
A. People Not Politicians has standing.....	6
B. Richard von Glahn has standing.	8
CONCLUSION.....	9

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Allen v. Milligan</i> , 608 U.S. 511 (2026)	4
<i>Am. Fed’n of State, Cnty. & Mun. Emps. v. Soc. Sec. Admin.</i> , 172 F.4th 361 (4th Cir. 2026).....	2
<i>Carson v. Simon</i> , 978 F.3d 1051 (8th Cir. 2020)	5
<i>DHS v. D.V.D.</i> , 145 S. Ct. 2627, 2629–30 (2025)	2
<i>Hollingsworth v. Perry</i> , 570 U.S. 693 (2013)	6, 7, 8
<i>Merrill v. Milligan</i> , 142 S. Ct. 879 (2022)	5
<i>Nat’l Insts. of Health v. Am. Pub. Health Ass’n</i> , 145 S. Ct. 2658 (2025)	2, 3
<i>Republican National Committee v. Democratic National Committee</i> , 589 U.S. 423 (2020)	6
<i>Rodriguez v. Popular Democratic Party</i> , 457 U.S. 1 (1982)	5
<i>Trump v. Boyle</i> , 145 S. Ct. 2653 (2025)	2
<i>United States v. Classic</i> , 313 U.S. 299 (1941)	5
<i>Va. House of Delegates v. Bethune-Hill</i> , 587 U.S. 658 (2019)	9
Constitution	
Mo. Const. art. III, § 52(b)	7

Statutes

Mo. Rev. Stat. § 115.297	9
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INTRODUCTION

Respondents’ opposition is disconnected from the Order this Court has already entered and the election that is already underway. Rather than address those realities—or engage with the arguments in Applicants’ motion—Respondents largely recycle the Eighth Circuit’s faulty analysis, including its premise that this Court’s stay is a hurdle lower courts may simply overleap. On that basis, they insist that a stay from this Court is the greater threat—not the Eighth Circuit’s unprecedented intrusion requiring Missouri to change maps after voting has begun. But Missouri’s election officials have their marching orders from both the highest court in the state *and* the highest court in the nation—the November election will proceed under the 2022 map—and those instructions are being followed. Respondents’ refusal to confront the actual posture of this case leaves Applicants’ showing un rebutted. The Motion to Clarify, or alternatively the Application for Stay, should be granted.

ARGUMENT

I. Neither Respondents nor the lower courts may ignore this Court’s stay.

Respondents begin by asserting that the Eighth Circuit “answered” the “question this Court left open.” Pls.’ Opp. 1. Wrong. This Court did not ask the Eighth Circuit to determine what map Missouri should use for the November election. It stayed the district court’s earlier injunction “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 (U.S. Sep. 10, 2026) (emphasis added). That order permitted the Eighth Circuit to decide the appeal—not change the interim posture

already set by this Court. The injunction may “resume in force—if ever—only after events that would post-date [the Eighth Circuit’s] decision and over which [it] ha[s] no control.” *Am. Fed’n of State, Cnty. & Mun. Emps. v. Soc. Sec. Admin.*, 172 F.4th 361, 374 (4th Cir. 2026) (en banc).

Respondents never confront that problem—or even acknowledge Applicants’ Motion to Clarify. They ignore the stay’s duration, the weight this Court’s interim orders carry, *see Trump v. Boyle*, 145 S. Ct. 2653, 2654 (2025), and the rule that lower courts cannot circumvent a stay by granting the same relief through another order, *see DHS v. D.V.D.*, 145 S. Ct. 2627, 2629–30 (2025) (per curiam). They instead dismiss the stay as a “first, temporary pause” justified only by the Eighth Circuit’s “interlocutory posture.” Pls.’ Opp. 2.

But “when this Court issues a decision,” including a grant or denial of interim relief, “it constitutes a precedent that commands respect in lower courts.” *Nat’l Insts. of Health v. Am. Pub. Health Ass’n*, 145 S. Ct. 2658, 2663 (2025) (Gorsuch, J., concurring in part and dissenting in part). And though not “*conclusive* as to the merits,” this Court’s interim orders “inform how a court should exercise its equitable discretion in like cases.” *Boyle*, 145 S. Ct. at 2654 (emphasis added). Respondents identify *nothing* that distinguishes the circumstances here from those this Court already concluded required a stay. The same merits and equitable arguments were before this Court when it stayed the district court’s first injunction. Those arguments are no stronger for Respondents now. To the contrary, the passage of time has only

strengthened the equitable basis for the stay: the election under the 2022 map has now begun, and ballots have already been cast.

The plain language of this Court’s September 10 Order makes clear that it remains in effect *through certiorari review*, not on some shorter timeline preferred by Plaintiffs or the Eighth Circuit.¹ The district court’s permanent injunction and the Eighth Circuit’s order requiring it are “in every meaningful sense” the same relief this Court has stayed. But “this Court’s precedents . . . cannot be so easily circumvented.” *Nat’l Insts. of Health*, 145 S. Ct. at 2663 (Gorsuch, J., concurring in part and dissenting in part). This Court should grant the Motion to Clarify and confirm that its September 10 Order precludes that workaround.

II. Respondents address *Purcell* by turning it on its head.

Respondents ask this Court to sanction a federal intrusion into an election that is already underway, requiring Missouri to change its congressional map *after votes have already been cast*. Nothing in their opposition justifies that request.

¹ Plaintiffs echo the Eighth Circuit’s sentiment 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, . . . thus preventing [this] Court from considering the merits of this case until after Missouri has conducted the November 2026 general election.” Pls.’ Opp. 13 (quoting App. 35a). But the Eighth Circuit had no authority to impose a “limit” to the stay already issued by this Court (particularly where this Court could have included any such limit itself). And indeed, the whole purpose of the emergency docket is to permit this Court to weigh in on important issues before it becomes too late. This Court did exactly that—both when it declined to stay the Missouri Supreme Court’s injunction, *Hoskins v. von Glahn*, No. 26a304 (U.S. Sep. 8, 2026), and when it stayed the TRO, *People Not Politicians v. Onder*, No. 26A326 (U.S. Sep. 10, 2026). To the extent any party wished to expedite this Court’s consideration of whether the Missouri Supreme Court’s order enjoining the use of HB 1 warranted “correct[ion]” under federal law, App. 29a, both the Secretary and the Intervenors to the state court proceedings could have filed expedited certiorari petitions weeks ago.

Respondents instead attempt to revive arguments that were first presented to this Court in Secretary Hoskins’s stay application, after the Missouri Supreme Court held HB 1 inoperative under Missouri law. Like the Eighth Circuit, Respondents thus treat Missouri’s highest court—which issued its ruling weeks ago, App. 42a—as the true interloper in Missouri’s ongoing election. *See, e.g.*, State Opp. 23 (decrying “the chaos injected by the Missouri Supreme Court”). But *Purcell* is not a mechanism for federal courts to interfere with *state court decisions* they deem disruptive; it bars last-minute *federal court* intervention. *See Allen v. Milligan*, 608 U.S. 511, 514 (2026) (per curiam) (“States are free to decide for themselves whether last-minute changes to an election are in their best interests.” (citation omitted)).

Nor can Respondents turn the tables by painting a potential stay by this Court as the source of disruption. The State pretends that *a stay* would require Missouri to switch maps. State Opp. 23 (asserting that a stay “would change Missouri’s congressional map for the fifth time since the beginning of September”). It would not. Missouri’s election is well underway *right now* using the 2022 map. *See* App. 85a, 88a (Secretary Hoskins stating that “[f]ollowing the United States Supreme Court’s stay . . . my Office is directing local election authorities to use the 2022 congressional map”). Ballots were mailed to military and overseas voters using the 2022 map. Appl. Background § III. Absentee voting has begun using the 2022 map. *Id.* It is the lower courts’ permanent injunction that would “change Missouri’s congressional map,” State Opp. 23. An order from this Court granting Applicants’ requested relief would prevent that disruption to the status quo.

Respondents further contend that any *Purcell* problem may be excused where “the underlying merits are entirely clearcut in favor of the plaintiff[s].” *Merrill v. Milligan*, 142 S. Ct. 879, 881 (2022) (Kavanaugh, J., concurring); Pls.’ Opp. 28. But here, the opposite is true. *See* Appl. § V. Respondents never explain how a merits theory no court has previously articulated—and this Court has already twice considered and implicitly rejected—could be “entirely clearcut.” Nor do they reconcile that theory with this Court’s decisions. *Classic* expressly distinguished the right to participate in a primary from any guarantee that the primary “determines the ultimate choice of the representative.” *United States v. Classic*, 313 U.S. 299, 318–19 (1941). And *Rodriguez* upheld a system that replaced an elected representative with a person whom the electorate never selected at all. *Rodriguez v. Popular Democratic Party*, 457 U.S. 1, 10–12 (1982). Respondents never explain how Article I, Section 2 nevertheless guarantees voters the same candidates within the same constituency at successive stages of an election. A theory that cannot account for those decisions provides no basis for relief, much less one that is “clearcut” in Respondents’ favor.

Respondents’ final salvo on *Purcell* is to transform it from a freestanding equitable doctrine into a sovereign defense that only the State may raise. State Opp. 24. Nothing supports that claim. And Respondents’ own authority proves otherwise. In *Carson v. Simon*, the Eighth Circuit applied *Purcell* in a suit brought by private elector candidates against a Secretary of State who defended the challenged election change. 978 F.3d 1051, 1062 (8th Cir. 2020) (per curiam). And this Court applied

Purcell at the request of private political parties in *Republican National Committee v. Democratic National Committee*, 589 U.S. 423, 424–25 (2020) (per curiam).

Ultimately, Respondents and the Eighth Circuit tie themselves in knots to try to justify the last-minute intrusion of a lower federal court in an ongoing election. *Purcell* does not countenance such contortions. The general election has begun and is proceeding under the 2022 map, and this Court has twice declined to require otherwise. It should do the same now.

III. Applicants have standing.

Respondents’ primary argument before this Court is that Applicants lack standing to appeal the injunction. That argument fails: Just as Applicants had standing to challenge the district court’s erroneous entry of a TRO nearly two weeks ago, they have standing to challenge the Eighth Circuit’s and district court’s erroneous entry of a permanent injunction on September 21. The argument is also nonsensical in this posture. If Applicants lack standing to appeal the Eighth Circuit’s order to this Court, then they also lacked standing to appeal the TRO to the Eighth Circuit—meaning the Eighth Circuit never had jurisdiction to issue its ruling in the first place and the injunction it ordered must be vacated.

A. People Not Politicians has standing.

Plaintiffs misunderstand this Court’s decision in *Hollingsworth* when they assert that People Not Politicians (“PNP”) has nothing more than a “generalized . . . interest [in] enforc[ing] Missouri law.” Pls.’ Opp. 10 (internal quotation marks and citation omitted). In *Hollingsworth*, this Court recognized that proponents of a

referendum petition had a “‘unique,’ ‘special,’ and ‘distinct’” interest in a law subject to the referendum petition. *Hollingsworth v. Perry*, 570 U.S. 693, 706 (2013). These interests conferred standing to sue “when it comes to the process of enacting the law.” *Id.* The Court made a distinction, however, between referendum petitioners’ standing pre-enactment and post-enactment. Once the law in question “was approved by the voters, the measure became a duly enacted . . . statute,” and at that point, referendum proponents “have no role—special or otherwise—in the enforcement of” the law. *Id.* at 707 (internal quotation marks and citation omitted).

Plaintiffs (and the Eighth Circuit concurrence) conflate pre- and post-enactment standing. Here, HB 1 has not yet been subject to a referendum; Applicants are pre-enactment referendum petitioners who have standing to ensure that the correct “process of enacting the law” is being followed. *Id.* at 706. That process is set forth in the Missouri Constitution, which provides that “[a]ny measure referred to the people [via valid referendum petition] shall take effect when approved by a majority of the votes cast thereon, *and not otherwise.*” Mo. Const. art. III, § 52(b) (emphasis added). The Missouri Supreme Court has made clear that essential to that process is that the bill at issue does not become law “[u]nless and until the voters approve” it. App. 53a n.8.

Respondents give short shrift to the full scope of protections afforded by the Missouri Constitution, pretending that once a referendum appears on the ballot its proponents’ interests fall away. But Applicants’ interest is not just in ensuring “the referendum appears on the ballot in November,” Pls.’ Opp. at 10–11, it is also in

ensuring HB 1 is not implemented before it is approved by the voters, as required by Missouri law. Applicants are not attempting to “enforce[]” or challenge a law that has been enacted pursuant to a referendum, so Plaintiffs’ reliance on *Hollingsworth* is inapposite. Because the Eighth Circuit’s mandated injunction purports to eliminate Applicants’ state constitutional right to the full referendum process, Applicants have standing.

B. Richard von Glahn has standing.

Richard von Glahn also has individual standing, as the Eighth Circuit recognized. App. 12a (finding standing because “like the voter Plaintiffs, von Glahn resides in a different congressional district under the 2025 map than he did under the 2022 map”). Plaintiffs fault Applicants for the Eighth Circuit’s apparent inability to locate von Glahn’s assertion in the record, Pls.’ Opp. 11–12, but his standing was made clear in his Petition for Declaratory and Injunctive Relief in the Missouri trial court, where he stated that under the 2022 map he would “cast his vote . . . in Congressional District 2” and under HB 1, he would “cast his vote . . . in Congressional District 1.” Verified Pet. For Declaratory & Inj. Relief at 3–4, *von Glahn v. Hanaway*, No. 26AC-CC00248 (Cole Cnty. Cir. Ct. May 18, 2026).² Von Glahn also filed a declaration with this Court affirming the same. *See* App. 91a. Thus, even if Plaintiffs

² Plaintiffs’ apparent incredulity at the lack of a fulsome record before the Eighth Circuit is belied by the fact that Applicants never had an opportunity to create a record before the district court issued the permanent injunction. The TRO was entered about two hours after Applicants were granted intervention, and the permanent injunction was entered within an hour after the Eighth Circuit issued its mandate.

could plead ignorance about von Glahn’s standing before yesterday, they can no longer ignore that von Glahn is an affected voter just as much as they are. *See, e.g., Va. House of Delegates v. Bethune-Hill*, 587 U.S. 658, 662–63 (2019) (“As a jurisdictional requirement, standing to litigate cannot be waived or forfeited.”).

Von Glahn’s affidavit also makes clear that “[o]n September 22, 2026,” he “voted in person absentee, pursuant to Missouri law” in District 2 and therefore faces a risk of disenfranchisement if the Eighth Circuit’s and district court’s orders are not stayed and he is later moved into District 1. App. 91a; *see also* Appl. 31 (citing Mo. Rev. Stat. § 115.297). Plaintiffs never address this basis for standing or the fact that von Glahn—along with all of the military, overseas, and absentee voters who submit ballots before September 28, when the district court’s stay is set to expire—face a real risk that their votes will not be counted if the map is changed mid-stream while the general election is underway.

CONCLUSION

The Motion to Clarify should be granted. In the alternative, this Court should grant the Application for a Stay of the district court’s injunction and the Eighth Circuit’s order requiring its entry and recall and stay the mandate to the extent necessary to preserve the status quo under the 2022 map.

Respectfully submitted,

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