

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

**ROBERT FOSTER; KATIE LIGON; KIRBY CARTER;
and JOHN WILLIAMS**

PLAINTIFFS

VS.

CIVIL ACTION NO.: 3:26-CV-181-SA-JMV

THE STATE OF MISSISSIPPI, et al.

DEFENDANTS

**REPLY IN SUPPORT OF PLAINTIFFS' URGENT AND NECESSITOUS
MOTION FOR A PRELIMINARY INJUNCTION**

The State Defendants make every argument in the book, except one actually defending the constitutionality of H.B. 1544 and S.B. 2768. Indeed, from the State Defendants' brief, you'd think *Purcell* was the end-all-be-all—a magic wand of sorts that the State Defendants might wave to absolve themselves of any constitutional violation just because it's an election year. But *Purcell* isn't magic. And even if it were, it doesn't apply where a clearcut constitutional violation will occur this November—a bell that can't be unrung—and this Court's intervention is feasible to implement, necessary, and beneficial to the public. A preliminary injunction should issue.

I. Plaintiffs Have Met Their Burden to Obtain a Preliminary Injunction.

Plaintiffs' likelihood of success on the merits is clearcut, exemplified by the fact that no one—neither the State Defendants, nor either putative intervenor—defends the lawfulness of H.B. 1544 and S.B. 2768 on the merits. Doc. No. 43 at 18–20. H.B. 1544 and S.B. 2768 vest in one area four votes for circuit judge and three votes for chancellor, while leaving the remainder of DeSoto County with only three and two votes, respectively. The reason? The State Defendants argue allocation of judicial resources to compensate for DeSoto County's growing population.¹ Doc. No.

¹ The State Defendants repeatedly argue that “any injunction would necessarily cause limited access to DeSoto County's courts.” Doc. No. 43, at 2, 14. However, no form of relief that Plaintiffs seek eliminates the newly created judgeships or otherwise deprives DeSoto Countians of judicial resources currently in operation. Plaintiffs did not request the elimination of the judicial posts at issue here. Further, DeSoto County's court system is already functioning

43 at 14. Nonsense. They could have done that by simply adding judges to be elected district-wide, like the others in DeSoto County, rather than vesting in a race-based subdistrict the exclusive franchise to elect additional judges to the exclusion of every other DeSoto County voter. So what's the real reason? The Legislature was clear: There's no reason other than elevating one racial group over another. Doc. No. 4, at 4–6, 15–18; Doc. No 5. And that's blatantly unlawful.

The injury certainly impending—a denial of the constitutionally protected right to vote—is irreparable. *Robinson v. Ardoin*, 86 F.4th 574, 600 (5th Cir. 2023) (“Once an ‘election occurs, there can be no do-overs and no redress’ for voters whose votes were diluted.” (citing *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014) (“Courts routinely deem restrictions on fundamental voting rights irreparable injury.” (citing *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012); *Williams v. Salerno*, 792 F.2d 323, 326 (2d Cir. 1986); *Alternative Political Parties v. Hooks*, 121 F.3d 876 (3d Cir. 1997)))).

What's the harm that will result if the injunction issues? The State Defendants say information distributed to the subdistrict's voters “will be rendered inaccurate.” Doc. No. 43, at 12.² Of course, the purported falsity of that information—that only the subdistrict's voters will vote for these two judges—doesn't change the fact that the subdistrict's voters will still vote for the judges under Plaintiffs' proposed relief. They'll just do so fairly and constitutionally alongside their fellow DeSoto County voters. Putting that alleged “harm” aside, the State Defendants point to the “chaos” an injunction would cause for state election officials. *See* Doc. No. 43, at 9. But if the Secretary of State's entire office has spent only 30 hours preparing the ballot to be used

with three circuit court judges and the chancellors allocated to the chancery court district of which DeSoto County is currently a part. Thus, an injunction would not limit access to DeSoto County's courts.

² This argument ignores the fact that the State's Chief Election Officer, the Mississippi Secretary of State, still directs voters to vote absentee *using the dates from the 2026 primary elections*, and is **not** communicating to voters through his primary voter education section of his website, *Y'all Vote*, when voters can vote via absentee ballot in the 2026 general election. *See* Absentee Voting Information, available at <https://www.sos.ms.gov/yall-vote/absentee-voting-information> (last visited July 24, 2026), attached as Exhibit A.

throughout the entire state on election day, *see* Doc. No. 42-1, at 2, that’s hardly a “heroic undertaking” in its own right, even if those 30 hours were spent focusing solely on DeSoto County.³ And it’s absurd to say that spending a fraction of that to remedy this narrow constitutional violation with respect to two seats in two judicial races in one district encompassing one county would reap “chaos” ahead of the SBEC’s single-day meeting. Accepting those arguments would mean minutes (or at most a few hours) spent by the Secretary of State outweighs the rights of voters. But the fundamental rights of voters don’t yield to such trivial alleged harms.

Finally, the State Defendants maintain that “any harm Plaintiffs may suffer without an injunction is outweighed by the public harm that would result from an injunction.” Doc. No. 43, at 17. That misguided argument overlooks the fact that over 75% of “the public” in DeSoto County is being deprived of their right to vote, not to mention the voters within the subdistrict whose votes are being diluted. Yet according to the State, the less than a quarter of DeSoto County’s voters living in the subdistrict is the only “public” that matters in measuring alleged public harm. But those few people in the subdistrict have no right to cast an extra vote to the constitutional detriment of other voters, much less make up the entire “public interest” of DeSoto County. For these reasons, as well as those in Plaintiffs’ opening brief, a preliminary injunction should issue.

II. *Purcell* Is Not Applicable.

The State Defendants begin and end with *Purcell*, suggesting that it’s a merits doctrine that *modifies* the traditional preliminary-injunction framework in election cases. Doc. No. 43, at 7–8; *but see LUPE*, 119 F.4th at 409. On their telling, *Purcell* absolves the State Defendants of any and all constitutional violations simply because they are brought to a Court’s attention during an election year. But *Purcell* is not the “magic wand” State Defendants wish it to be. *People First of*

³ *See Robinson v. Ardoin*, 37 F.4th 208, 230 (5th Cir. 2022) (per curiam); *see also Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring).

Ala. v. Sec’y of State for Ala., 815 F. App’x 505, 514 (11th Cir. 2020) (Rosenbaum, R., and Pryor, J., concurring) (stating that “*Purcell* is not a magic wand that defendants can wave to make any unconstitutional election restriction disappear so long as an impending election exists”).

Indeed, *Purcell* is not a defense to the merits at all. Rather, it’s an equitable consideration for federal courts to consider whether to *stay* an injunction *pending appeal*, as every Fifth Circuit case citing *Purcell* has understood it,⁴ where an injunction issued days or weeks before an election remains in dispute on appeal as the election draws nearer. *See Merrill*, 142 S. Ct. at 879 (Kavanaugh, J., concurring) (“The stay order is not a ruling on the merits, but instead simply stays the District Court’s injunction pending a ruling on the merits.”). The State Defendants confuse the Court’s duty to identify constitutional violations and issue appropriate relief with the subsequent task of timing that relief in light of prudential considerations, such as causing chaos on the eve of an election where the merits aren’t clear and the defendants have appealed.⁵ Here, the merits are clear, and the State Defendants haven’t appealed. Thus, the mere *possibility* that this Court or the Fifth Circuit *might* stay injunctive relief *pending any potential appeal* isn’t sufficient to avoid adjudicating the likelihood of success on the merits and issuing injunctive relief altogether. So *Purcell* isn’t a substantive defense or bar to Plaintiffs’ request for a preliminary injunction.⁶

⁴ Plaintiffs are aware of no Fifth Circuit case where *Purcell* has been used to analyze the *merits* of a plaintiff’s claims, as opposed to considering whether the relief ought to be delayed or stayed. After a review of every Fifth Circuit case citing *Purcell*, Plaintiffs understand the only substantive discussion of *Purcell* at the Fifth Circuit to be concerned with whether federal courts should stay an injunction pending appeal. *RNC v. Wetzel*, 120 F.4th 200, 214 (5th Cir. 2024) (discussing *Purcell* in the context of staying district court injunction pending appeal), *reversed and remanded Watson v. RNC*, 2026 WL 1855462 (June 29, 2026); *LUPE v. Abbott*, 119 F.4th 404, 408–09 (5th Cir. 2024) (same); *Petteway v. Galveston Cnty.*, 87 F.4th 721 (5th Cir. 2023) (en banc) (Oldham, J., concurring) (same); *Robinson*, 86 F.4th at 599–600 (same); *Robinson v. Ardoin*, 37 F.4th 208, 228–31 (5th Cir. 2022) (same); *Texas All. for Retired Ams. v. Scott*, 28 F.4th 669, 671 (5th Cir. 2022) (same); *Texas LULAC v. Hughes*, 978 F.3d 136, 142 (5th Cir. 2020) (same); *Texas All. for Retired Ams. v. Hughes*, 976 F.3d 564, 566–67 (5th Cir. 2020) (same); *Mi Familia Vota v. Abbott*, 834 F. App’x 860 (5th Cir. 2020) (same); *Thomas v. Bryant*, 919 F.3d 298, 315 (5th Cir. 2019) (same); *Patino v. City of Pasadena*, 677 F. App’x 950 (5th Cir. 2017) (same); *Veasey v. Perry*, 769 F.3d 890, 892–93 (5th Cir. 2014) (same); *see also Veasey v. Abbott*, 830 F.3d 216, 243 (5th Cir. 2016).

⁵ *See Merrill*, 142 S. Ct. at 881 (Kavanaugh, J., concurring) (“[T]he *Purcell* principle is probably best understood as a sensible refinement of ordinary stay principles for the election context . . .”).

⁶ As explained below, it wouldn’t even justify a stay pending appeal here. *LUPE*, 119 F.4th at 409.

Even if the State Defendants’ fictional version of the *Purcell* principle exists or if the State Defendants appeal an eventual injunction, *Purcell* simply doesn’t apply here—either to bar Plaintiffs’ claim to relief or to stay an injunction pending appeal—where the merits are clearcut and an election isn’t “underway.” “*Purcell* is not an absolute principle.” *LUPE*, 119 F.4th at 409. “It may be overcome . . . ‘if (i) the underlying merits are entirely clearcut in favor of the plaintiff; (ii) the plaintiff would suffer irreparable harm absent the injunction; (iii) the plaintiff has not unduly delayed in bringing the complaint to court; and (iv) the changes in question are at least feasible before the election without significant cost, confusion, or hardship.’” *Id.* (quoting *Merrill*, 142 S. Ct. at 881 (Kavanaugh, J., concurring)). Plaintiffs satisfy each criterion.

The underlying merits are clearcut. With respect to Plaintiffs’ constitutional claims, the Equal Protection Clause prohibits denial of the right to vote based on homesite and race. *See, e.g., Reynolds v. Sims*, 377 U.S. 533, 557–58, 562–63, 567 (1964); *Gray v. Sanders*, 372 U.S. 368, 379–81 (1963). On their plain text, H.B. 1544 and S.B. 2768 discriminatorily deny the franchise to some while granting it to others based on homesite, and looking at the legislative history, the only explainable reason for perpetuating that constitutional violation is race,⁷ making H.B. 1544 and S.B. 2768’s intended use of the subdistrict doubly unconstitutional. No one—neither the State Defendants nor the putative intervenors—seriously disputes that. *See* Doc. No. 43 at 19. Rather, the only argument that such a constitutional violation isn’t entirely clearcut is an offhand citation to *Chisom v. Roemer*, 501 U.S. 380, 402 (1991), for the proposition that “[t]he Supreme Court has

⁷ The State Defendants ignore the statements of authors and sponsors of H.B. 1544 and S.B. 2768 on the floors of their respective bodies, focusing instead on the Legislature’s simultaneous intent to reallocate judicial resources given shifting populations in various districts. But that’s the reddest of red-herrings. That proffered policy goal simply plays into whether DeSoto County would be allocated a fourth circuit judge and third chancellor. It does nothing to support the racially-gerrymandered subdistrict established by H.B. 1544 and S.B. 2768 in DeSoto County. Query how creating a majority-minority subdistrict that exercises the exclusive franchise to select those two judges is even rationally related to the State Defendants’ proffered legislative goal of simply creating more judgeships in DeSoto County. The State Defendants offer no explanation, and none can be given. The only explanation for the creation of this majority-minority subdistrict is race.

‘held the one-person, one-vote rule inapplicable to judicial elections.’” Doc. No. 43 at 19; *see also* Doc. No. 32-2, at 13. But that misreads *Chisom*, relies on a mistaken understanding of the law of precedent,⁸ and misunderstands the one-person, one-vote principle.⁹

Still, *Chisom* expressly held that Section 2 of the Voting Rights Act applies to judicial elections. 501 U.S. at 403–04. And the Supreme Court recently made clear that Section 2 doesn’t permit race-based voting discrimination, absent the State Defendants coming forward with identifiable instances of past discrimination in the election of DeSoto County’s judges and showing that this electoral scheme is the narrowest remedy to resolve any purported past discrimination, *Louisiana v. Callais*, 146 S. Ct. 1131, 1152–53 (2026). Moreover, the one-person, one-vote principle of the Equal Protection Clause also guarantees the opportunity for equal participation by all voters in local government elections. *Fairley v. Hattiesburg, Miss.*, 584 F.3d 660, 675 (5th Cir. 2009) (citing *Avery v. Midland Cnty.*, 390 U.S. 474 (1968)). Neither the State Defendants nor the putative intervenors seriously defend H.B. 1544 and S.B. 2768 under the Voting Rights Act or the Constitution. And because it’s clear from the evidence wholly ignored by the State Defendants and the putative intervenors that H.B. 1544 and S.B. 2768 were passed for a racially discriminatory purpose, there’s a substantial likelihood Plaintiffs will succeed on their claims.

⁸ *Chisom* didn’t hold, nor did it recognize, that “the one-person, one-vote rule [is] inapplicable to judicial elections.” 501 U.S. at 403. Rather, that quotation from *Chisom* appears only in the Court’s characterization of respondents’ arguments and a Fifth Circuit en banc majority opinion en route to reversing the reasoning employed by the Fifth Circuit. *Id.* The State Defendants merely take the same position as the respondents in *Chisom*, relying on *Wells v. Edwards*, 409 U.S. 1095, 1095 (1973)—a one-line affirmance of the judgment issued by Middle District of Louisiana Judge Gordon West, without expressing any view on the reasoning given by Judge West. That one-liner from the Supreme Court didn’t transform Judge West’s reasoning into binding precedent; it only affirmed the *judgment* as to the parties before the Supreme Court.

⁹ As the NAACP Intervenors recognized, the principle applies only to claims about population imbalance in representative districts—a state can’t give the same representation to a district comprised of 5,000 residents and another comprised 5,000,000 residents as a means to dilute the voting strength of 5,000,000 residents. *See* Doc. No. 32-2, at 13. But that’s not Plaintiffs’ equal-protection claim. Whatever label the State Defendants ascribe to Plaintiffs’ equal protection claims, their injuries arise from being denied the right to vote afforded to those living in the same jurisdiction based on homesite and race and having their vote diluted based on race where state law otherwise affords all registered voters an equal right to elect their government officials. Miss. Code Ann. §§ 23-15-11; 23-15-985.

Irreparable harm looms. As with virtually every other constitutional or fundamental right, the denial or abridgment of the right to vote in an election is a harm that can't be remedied.¹⁰ Thus, Plaintiffs will suffer irreparable harm as a matter of law should the November 2026 election utilize the subdistrict to deprive voters of their right to vote or unlawfully dilute their vote.

And any delay in bringing this action is excusable. The statutes at issue were passed into law in April 2025, and H.B. 1544 took effect upon passage, while Senate Bill 2768 took effect July 1, 2025. Miss. Laws 2025, Ch. 513 (H.B. 1544), § 44; Miss. Laws 2025, Ch. 507 (S.B. 2768) § 35. At least one legislator from DeSoto County now acknowledges that he either didn't know or was misled regarding the contents of both bills and their effect on DeSoto County.¹¹ But putting that aside, one can't forget the context of the year between the statutes' passage and today.

When those laws were passed, the State of Mississippi faced litigation for failing to have or create more majority-minority districts in the State's electoral maps. *See White v. State Bd. of Election Comm'rs*, 795 F. Supp. 3d 794 (N.D. Miss. 2025); *Miss. State Conf. of NAACP v. State Bd. of Election Comm'rs*, 782 F. Supp. 3d 349 (S.D. Miss. 2025). And the State initially lost those cases because federal courts faulted the State for not adequately taking race into account. *Ibid*.

Enter *Louisiana v. Callais*, 146 S. Ct. 1131 (2026). While *Callais* was pending at the Supreme Court, Governor Reeves assured Mississippians that a special session would be called to

¹⁰ *Robinson*, 86 F.4th at 600 (“Once an ‘election occurs, there can be no do-overs and no redress’ for voters whose votes were diluted.” (citing *League of Women Voters of N.C.*, 769 F.3d at 247 (“Courts routinely deem restrictions on fundamental voting rights irreparable injury.” (citing *Obama for Am.*, 697 F.3d at 436; *Williams*, 792 F.2d at 326; *Alternative Political Parties*, 121 F.3d 876))))); *see also, e.g., BST Holdings, LLC v. OSHA*, 17 F.4th 604, 618 (5th Cir. 2021) (“For the individual petitioners, the loss of constitutional freedoms ‘for even minimal periods of time . . . unquestionably constitutes irreparable injury.’” (citation omitted)); *Book People, Inc. v. Wong*, 91 F.4th 318, 341 (5th Cir. 2024); *accord Mich. State A. Philip Randolph Inst. v. Johnson*, 833 F.3d 656, 669 (6th Cir. 2016) (“When constitutional rights are threatened or impaired, irreparable injury is presumed. A restriction on the fundamental right to vote therefore constitutes irreparable injury.” (citation omitted))).

¹¹ Mark Randall, THE DESOTO TIME-TRIBUNE, *Supervisor Robert Foster sues state over judicial redistricting* (July 2, 2026), available at: https://www.desototimes.com/news/supervisor-robert-foster-sues-state-over-judicial-redistricting/article_4ef7b0af-6c39-4620-a3c8-98cf87461c80.html.

address the changing seasons in the law that he anticipated.¹² *Callais* was decided days later on April 29, 2026. 146 S. Ct. 1131 (2026). The Supreme Court entered judgment on May 4, 146 S. Ct. 1111 (2026), and denied motions to recall the judgment on May 6, --- S. Ct. ----, 2026 WL 1235969, at *1 (May 6, 2026). After *Callais* was final, the Fifth Circuit and the Supreme Court vacated the district courts' decisions in *White* and *Miss. State Conf. of NAACP*, respectively, in mid-May. *White v. State Bd. of Election Comm'rs*, 2026 WL 1340213, at *1 (5th Cir. May 11, 2026); *Bd. of Election Comm'rs v. NAACP*, --- S. Ct. ----, 2026 WL 1377105, at *1 (May 18, 2026). Against that backdrop, Plaintiff Robert Foster sought to avoid litigation, along with his colleagues on the DeSoto County Board of Supervisors, by asking the Governor to call a special session to rectify the constitutional concerns with H.B. 1544 and S.B. 2768. *See* Doc. No. 42-15.

But Governor Reeves cancelled a special session the next month.¹³ Upon hearing that a special session wouldn't be called until "later this year," Plaintiffs faced the approaching general election and no indication that the State would address the at-issue subdistrict absent litigation. So Plaintiffs filed this lawsuit on July 2. Doc. No. 1. Any delay in doing so is excusable given pre-*Callais* uncertainty and the State's public, post-*Callais* indecision. *Cf. Chancey v. Ill. State Bd. of Elections*, 635 F. Supp. 3d 627, 645 (N.D. Ill. 2022) ("And to the extent the State claims any prejudice, the problem is in large measure self-inflicted[.]").

With respect to this litigation, Plaintiffs sent a courtesy copy of the complaint to the State Defendants on July 1, filed and served the complaint on July 2, and expeditiously moved for a preliminary injunction. Doc. Nos. 1 & 3. Despite the expedited proceedings, recusal issues slowed

¹² Taylor Vance, MISSISSIPPI TODAY, *Gov. Reeves calls special Mississippi legislative session for judicial redistricting, dependent on US Supreme Court decision* (April 24, 2026), available at: <https://mississippitoday.org/2026/04/24/judicial-redistricting-special-session-callais/>.

¹³ *See* Frank Corder, MAGNOLIA TRIBUNE, *Governor likely to call special session to redistrict legislative seats later this year* (June 25, 2026), available at: <https://magnoliatribune.com/2026/06/25/governor-likely-to-call-special-session-to-redistrict-legislative-seats-later-this-year/>.

things down. *See* Doc. No. 8; *see also* Doc. Nos. 14, 23, 24. Judge Mills initially set a hearing on July 22 but recused four days later. Doc. Nos. 7 & 8. This Court was assigned to the case on July 6 and held a conference call four days later to disclose a potential conflict, giving the State Defendants and putative intervenors three and a half days to request recusal. Once all parties waived any potential conflict, this Court entered an order stating as much on July 14, as well as an order setting a briefing schedule, and scheduled a conference call on July 15 to discuss scheduling a preliminary injunction hearing. The Court set that hearing for July 31 after the State Defendants raised objections to holding the hearing on July 23–24 due to two of their six attorneys’ scheduled attendance at a conference. While Plaintiffs understand that the Court must do its due diligence, none of those delays can be used to say that Plaintiffs have delayed prosecuting their claims.

Finally, the relief sought is more than feasible. While candidate qualifying in the normal course has concluded, *see* Miss. Code Ann. § 23-15-977, the election is not “underway” as State Defendants allege. Doc. No. 43, at 6, 13, 19. Indeed, while *applications* for absentee ballots must be available on September 4, Doc. No. 15-1 at 11 (citing Miss. Code Ann. § 23-15-625(1)), such applications do not require finalized candidates or approved ballots. And the Legislature has built flexibility into the electoral system as far as ballots go. While the statute calls for a sample of the official ballot to be furnished by the Secretary of State to county election commissioners via SEMS on September 9, *id.* (citing Miss. Code Ann. § 23-15-367(3)); *contra* Doc. No. 43 at 14; Doc. No. 42-1 at 5, the Legislature also gave the Secretary of State flexibility to furnish such information *later* if certification or qualifications of candidates took longer. *See* Miss. Code Ann. § 23-15-367(3) (allowing publication of sample ballot “*as soon as practicable*” after the deadline if certification and qualification cause delays). So the sample ballot deadline is not set in stone.

Further, while statute calls for absentee ballots to be available 45 days before the general

election—in this case, Saturday, September 19—for a person that requests it in person, the statute also grants leniency if the absentee ballots have not been printed, allowing such absentee ballots to be mailed to electors “*as soon as the ballot has been printed.*” Miss. Code Ann. § 23-15-715(a); *see also* Miss. Code Ann. § 23-15-715(b) (allowing people who can’t appear in person to request absentee ballot 45 days before election, with the registrar required to mail to the voter an absentee ballot within 24 hours “*or as soon thereafter as the ballots are available.*”); Miss. Code § 23-15-691 (requiring absentee ballots to be sent to UOCAVA voters “*as soon as possible after the printing*” of the absentee ballots). Since September 19, is a Saturday, the first available day for in-person requesting and voting via an absentee ballot at the Circuit Clerk’s office would be September 21, 2026—52 days from the preliminary injunction hearing, *id.* (citing Miss. Code Ann. § 23-15-715(b)); *see also* Doc. No. 42-1 at 5; Doc. No. 15-1 at 12. And the actual voter registration deadline isn’t until October 5, 2026. *Id.*; *see also* Doc. No. 42-1, at 5.

Putting aside the target date for the first absentee ballot to be available, let alone the time before the ballot is even finalized by the State, the State Defendants turn *Purcell* on its head. The *Purcell* principle exists to minimize confusion and adverse impact to voters by a federal court’s late-breaking intervention. *Robinson*, 86 F.4th at 599. But the opposite is true here. The laws at issue cause more confusion than clarity, as non-subdistrict voters might be totally unaware that a fourth circuit judge and third chancellor, both of whom will exercise jurisdiction over the entire county, are being elected. Doc. No. 42-6 (“Th[ese] race[s] appear[] only on ballots in select precincts.”). And it won’t adversely impact voters by simply adding an additional candidate to non-subdistrict ballots, while the subdistrict’s ballot will remain largely untouched, and there won’t be any pile-on effects as there might be in traditional redistricting cases.

Indeed, this isn’t a case where voters will be left unaware of requirements for casting their

ballot, *Veasey*, 769 F.3d 890 (applying *Purcell* to stay injunction against voter-ID law), where this court is asked to pull a last-minute switcheroo by moving voters to new districts with entirely different candidates, *Petteway*, 87 F.4th at 723 (Oldham, J., concurring) (invoking *Purcell* after court imposed newly redistricted maps after primaries), where voters and election officials will be unaware of appropriate conduct at the polls, *LUPE*, 119 F.4th 404 (applying *Purcell* to stay injunction of Texas law prohibiting solicitation of votes at the ballot box), or where election officials will have to fundamentally substitute the type of ballot to be used, *Hughs*, 976 F.3d at 568 (staying injunction 18 days before early voting where injunction required fundamental change to the type of ballot to be used). All those scenarios are consistent with the purpose of *Purcell*—to stay injunctions “entered days or weeks before an election” that “threaten to confuse voters, unduly burden election administrators, or otherwise sow chaos or distrust in the electoral process,” pending appeal. *Robinson*, 37 F.4th, at 228.

This one isn’t. Here, Plaintiffs seek to vote for the judges at issue according to the same rules as every other judge in their county, not according to a newly enacted, never-before-used law. Put simply, H.B. 1544 and S.B. 2768 themselves are disrupting the status quo—the norm that all registered voters are entitled to vote for their government officials, Miss. Code Ann. §§ 23-15-11, 23-15-985—and risks confusing voters. And the laws deprive that equal say by hiding it from voters at the polls. Doc. No. 42-6. Plaintiffs’ proffered relief remedies such confusion by bringing the elections at issue in line with the norm for Mississippi judicial elections; it doesn’t amplify confusion or create a new scheme, as the State Defendants suggest. Rather, Plaintiffs’ request clarifies confusion. Thus, even if *Purcell* were applicable, the State Defendants can’t use *Purcell* to avoid injunctive relief here, where the case isn’t a close one.

Plaintiffs’ proffered remedy. Plaintiffs primarily request that the Court order special

district-wide elections in 2026 for the two judicial posts, which might be done in three ways: *First*, the Court could award that relief by August 13, setting a new one-week qualifying period, ending August 20, which is the current, statutory special election qualifying deadline, with these special elections occurring on November 3, 2026, the same day of the general election. *See* Doc. No. 15-1 at 11 (citing Miss. Code Ann. 23-15-839); *see also* Doc. No. 43, at 9 (recognizing special election qualifying deadline). No one can legitimately say there would be any confusion or delay with this timeline, as this August 20th date is already written in statute and does not conflict with the State Defendants' predetermined, proffered schedule for the general election. *Second*, the Court could order special elections to occur on November 3, with a new one-week qualifying period for additional candidates from August 20 through August 27. This would enable the Secretary of State, on August 28, to vet qualifications of these one or two additional candidates before the SBEC's anticipated meeting on Monday, August 31. Again, this would not affect the State or local officials' ability to meet all other scheduled deadlines. *Third*, a final alternative special election process for the Court to order, considering the generous flexibility of the statutory deadlines noted above ("*as soon as practicable*"; "*as soon as available*"; "*as soon as printed*"), would be a qualifying period beginning August 27 and ending on September 3, allowing the Secretary of State to review qualifications of these few candidates on September 4, and update binders for the SBEC, which could then meet on Tuesday, September 8 to approve them. (Plaintiffs could find no statutory requirement for the SBEC to meet and approve candidate qualifications on August 31). This would still allow the Secretary of State to push out the sample ballot by September 9, as contemplated by statute, and still meet all the other statutory deadlines. These alternatives would address the unlawfulness of H.B. 1544 and S.B. 2768, while still allowing all DeSoto County voters to elect additional judges, and open up more judicial resources to the residents of DeSoto

County.

A second alternative form of relief would be for the Court to order special elections in 2027 for the two judicial posts, which would give the State time to rectify the constitutional error or, if they refuse to do so, time for candidates to campaign, time for election officials to prepare, and time for voters to get to know the candidates.¹⁴ Either special election remedy would reopen the candidate qualifying window, which State Defendants admit would need to happen, *see* Doc. No. 43, at 22, and this Court has the power to extend any deadlines “[i]f time presses too seriously.” *Robinson*, 37 F.4th at 230 (quoting *Sixty-Seventh Minn. State Senate v. Beens*, 406 U.S. 187, 201 n.11 (1972)); Doc. No. 43, at 22.

If the Court doesn’t enjoin these unconstitutional laws now, but instead allows this illegally racially-gerrymandered subdistrict to elect two new judges in DeSoto County in November 2026, these laws will eventually be ruled unlawful, requiring a special election in the future that will be even more disruptive than State Defendants allege Plaintiffs’ requested relief will be. Now’s the time to fix that constitutional error. This Court should issue a preliminary injunction.

Dated: July 24, 2026.

Respectfully submitted,

BY: /s/ Channing J. Curtis

D. Michael Hurst, Jr., MB #99990
Nicholas F. Morisani, MB #104970
Sonya C. Dickson, MB #106284
Channing J. Curtis, MB #106637
1905 Community Bank Way, Suite 200
Flowood, Mississippi 39232
(p) 601-352-2300; (f) 601-360-9777

¹⁴ Over and over, the State Defendants, Meacham, and the NAACP Intervenors mention the campaign efforts and expenditures of the already qualified candidates in these judicial races as if those are harms they will suffer should a new candidate enter the race or if the election is opened to all voters in DeSoto County. But those existing candidates have a head start in advance of the November election as they’ve already put their name before the voters and been able to fundraise. New candidates would start behind the eight ball. And the existing candidates have already covered campaigning within the subdistrict, and they’d merely compete with themselves (and maybe a less-funded and newly engaged candidate) for votes beyond the subdistrict. In other words, the existing candidates start from a point of advantage in any of Plaintiffs’ proposed remedies, not disadvantage.

mike.hurst@phelps.com
nick.morisani@phelps.com
sonya.dickson@phelps.com
channing.curtis@phelps.com

CERTIFICATE OF SERVICE

I hereby certify that on this date I electronically filed the foregoing *Reply* with the Clerk of the Court using the ECF system, which sent notification of such filing to all counsel of record/ECF participants.

This, the 24th day of July 2026.

/s/ Channing J. Curtis