

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

ROBERT FOSTER; KATIE LIGON; KIRBY
CARTER; and JOHN T. WILLIAMS,

Plaintiffs,

vs.

THE STATE OF MISSISSIPPI; THE STATE
BOARD OF ELECTION COMMISSIONERS;
TATE REEVES, *in his official capacities as
Governor of the State of Mississippi and a
Member of the State Board of Election
Commissioners*; LYNN FITCH, *in her official
capacities as the Mississippi Attorney General
and a Member of the State Board of Election
Commissioners*; and MICHAEL WATSON, *in
his official capacities as the Mississippi Secretary
of State and a Member of the State Board of
Election Commissioners,*

Defendants,

DESOTO COUNTY NAACP; and DELTA SIGMA
THETA SORORITY, INC.,

Intervenor-Defendants, and

MALENDIA HARRIS MEACHAM,

Intervenor-Defendant.

**CIVIL ACTION NO.
3:26-CV-00181-SA-JMV**

**INTERVENOR-DEFENDANTS DESOTO COUNTY NAACP AND DELTA SIGMA
THETA SORORITY INC.'S POST-HEARING BRIEF**

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INTRODUCTION

Plaintiffs’ motion for a preliminary injunction was brought far too late, and their evidence to support a likelihood of success on the merits is far too thin. Seeking to challenge two election statutes enacted in April 2025, Plaintiffs waited fourteen months, until August of an election year, to request relief. That delay is inexcusable—Plaintiffs have long known about impact of the laws at issue, and their suit is premised on legal theories that have existed since at least the 1990s. Plaintiffs nonetheless seek an injunction that would reset the ongoing election process, disrupting campaigns that are already two-thirds complete and confusing voters who have already made plans to vote. The Supreme Court expanded the reach of *Purcell* in 2022, and since then, no district court, to the NAACP Intervenor’s knowledge, has ever successfully enjoined a redistricting law with less than three months to go before the next election. Tellingly, Plaintiffs submitted to the Court a list of over 20 cases related to the *Purcell* doctrine, and not a single one of them does that.

To overcome *Purcell*, Plaintiffs must show that the merits are “entirely clearcut” in their favor, among other requirements, but Plaintiffs do not come close to showing any likelihood of success on any of their three claims. First, they mount a racial gerrymandering claim premised on lawmakers’ mere awareness of racial demographics, with no direct evidence of the map-drawing process, no expert testimony analyzing racial predominance, and no alternative map to disentangle racially predominate line-drawing from political and other legislative objectives that might explain the district lines. And while this Court need not (and should not) rule on the NAACP Intervenor’s Section 2 defense until after the parties have had an opportunity to fully develop the record on the question, undisputed testimony from the preliminary injunction hearing only confirms that a Section 2 defense will be viable in DeSoto County, casting further doubt on the Plaintiffs’ likelihood of success.

Second, Plaintiffs attempt to claim Section 2 vote dilution on behalf of White voters in DeSoto County, where over 67% of the electorate is White. Plaintiffs never even attempt to meet the threshold *Gingles* factors or the totality of the circumstances analysis. Nor can they explain how a White supermajority, in a county in which nearly every county official is and always has been White, has less opportunity to elect their preferred candidates when compared to Black voters, who are almost entirely excluded from county government both historically and in the present day.

Finally, Plaintiffs argue that voters within DeSoto County's majority-Black subdistrict are unfairly allowed to participate in two additional judicial elections compared to the rest of the county. But even if Plaintiffs are right on the merits of that issue, the racial composition of the subdistrict has no connection to the number of elections held in the subdistrict, and the Court need not invalidate the subdistrict and alter the Legislature's handiwork to completely remedy Plaintiffs' claimed injury. Accordingly, this Court, if it were to determine that judicial intervention is warranted despite *Purcell*, and if it were inclined grant such relief despite Plaintiffs repeatedly disclaiming it at the hearing, should at most order a tailored remedy that resolves the "extra-election" issue while preserving the lone Black-majority district in the county.

STATEMENT OF FACTS

A. Growth and Change in DeSoto County

DeSoto County has been the fastest-growing county in Mississippi in recent decades, Preliminary Injunction Hearing Tr. (Hearing Tr.) at 48 (Eubanks). According to 2020 population figures reported by the Mississippi House of Representatives, DeSoto County is 67.13% White and 24.14% Black in terms of voting-age population. Ex. P-3 at 3, 5, Dkt. No. 86-3. Population

growth has been driven in significant part by the increase in the County's Black population, which was 11.35% of total population in 2000 and is over 30% today.¹ Hearing Tr. at 465.

No Black candidate has ever been elected to circuit or chancery court in DeSoto County. *E.g.*, Hearing Tr. at 463-64 (Foster), 858 (Meacham). Prior to this year, which is the first year that the challenged subdistrict is being used to hold judicial elections, witnesses were unaware of Black candidates ever running for chancery or circuit court in DeSoto County. Hearing Tr. at 167 (Eubanks), 269-70 (Ferguson), 463-64 (Foster). Witnesses on both sides agreed that one reason that candidates do not run is because they do not believe they can win. Hearing Tr. at 168 (Eubanks), 502 (Foster), 859 (Meacham). Ms. Malenda Meacham, a current candidate for chancery court and a resident of DeSoto County for over 30 years, testified that DeSoto County has not been a favorable environment for Black candidates to get elected. Hearing Tr. at 859 (Meacham).

Currently, of all of the county officials elected countywide—sheriff, chancery clerk, circuit clerk, tax assessor, tax collector, district attorney, three circuit judges, and a chancery court judge—the sheriff is the lone Black official. Hearing Tr. at 166-67, 172 (Eubanks), 858 (Meacham). The county also elects twenty-five county-level officials using five county districts—members of the board of supervisors, constables, election commissioners, justice court judges, and school board members—none of whom is Black. Hearing Tr. at 168-69 (Eubanks), 466 (Foster). There are Black mayors and alderman in communities like Horn Lake that have larger Black populations. Hearing Tr. at 511-12 (Foster).

¹ Data from the Decennial Census for DeSoto County is available on the U.S. Census Bureau's website: https://data.census.gov/table/DECENNIALDP2020.DP1?g=040XX00US28_050XX00US28033&d=DEC+Demographic+Profile [<https://perma.cc/2SNH-TLC8>].

B. The Statewide Judicial Redistricting Process

Prior to 2025, DeSoto County did not have its own circuit court district; it was instead part of the Seventeenth Circuit Court District, alongside other counties. Miss. Code Ann. § 9-7-45 (2015). Similarly, the County did not have its own chancery court district prior to 2025; it was instead part of the Third Chancery Court District with Grenada, Montgomery, Panola, Tate, and Yalobusha Counties. Miss. Code Ann. § 9-5-11 (2015).

In 2025, the Legislature redrew judicial districts across the state to comply with the state constitution's requirement to redistrict within five years of the decennial census, passing H.B. 1544 and S.B. 2768 on April 23, 2025. Hearing Tr. at 123 (Eubanks), 705-06 (Courtney). The process was complex, and the Legislature specified several statutory criteria that it incorporated in drawing the judicial districts: "Population of a district; number of cases filed in the district; the case load of each judge in the district; the geographic area of the district; an analysis of the needs of the district by the court personnel of the district," and other appropriate criteria. *See* P-5 at 33-35, 105-106, Dkt. No. 86-4; *see also* Miss. Code Ann. § 9-7-3 (3) (2025); Miss. Code Ann. § 9-5-3 (2025).

As part of its reorganization of judicial districts across the state, the Legislature drew or redrew numerous subdistricts. Ex. P-3 at 2, 4, Dkt. No. 86-3 (showing 19 circuit subdistricts for 2027-31 and 13 for the map that will take effect in 2031); *id.* at 6, 8 (showing 14 chancery subdistricts for 2027-31 and 10 for the map that will take effect in 2031). The subdistricts vary in racial composition, including at least one majority-Black district in a majority-White county and at least one majority-White district in a majority-Black county under the version in effect from 2027. *See, e.g., id.* at 3 (indicating that Circuit District 7-6 in majority-Black Hinds County is majority-White; Circuit District 21-1 in majority-White DeSoto County is majority-Black); Hearing Tr. at 160-61 (Eubanks). White Republican legislators—including all seven of the

Representatives from DeSoto County—ultimately voted in favor of the map, while Black Democratic legislators overwhelmingly voted against it. *See* Ex. D-23, Dkt. No. 88-17 (H.B. 1544 roll call); Ex. D-25, Dkt. No. 88-18 (S.B. 2768 roll call).

With respect to DeSoto County, H.B. 1544 designated DeSoto County as its own circuit court district, the 21st Circuit Court District. Ex. P-1 §§ 38-39, Dkt. No. 86-1. Until January 1, 2027, the County has three circuit judges, all of whom are to be elected countywide. *Id.* After January 1, 2027, DeSoto County will get a fourth circuit judge (place 4), elected from a subdistrict denominated 21-1. *Id.* The precincts which make up the subdistrict are set forth in the legislative text, *id.* (precinct names like “Horn Lake Central, Horn Lake East, . . . Northwest Community College”), make clear that the subdistrict is located in Horn Lake and adjacent parts of Southaven. Hearing Tr. at 448-49 (Foster).

As for chancery court, until January 1, 2027, DeSoto County is still assigned to the Third Chancery Court District alongside five other counties, as it has been since the prior round of chancery court redistricting. Ex. P-2 § 4, Dkt. No. 86-2. Within the Third Chancery Court, DeSoto County is designated its own subdistrict, 3-1, and is able to elect one chancery court judge; the remaining five counties are in subdistrict 3-2 and collectively elect two chancellors. *Id.* Thus, two of the current chancellors with jurisdiction over DeSoto County are not elected by the voters of the county. Hearing Tr. at 232 (Ligon). Starting from January 1, 2027, DeSoto County will have its own chancery court district, the Seventeenth Chancery Court, with three chancellors, one of whom (place 3) would be elected from a subdistrict denominated 17-1. Ex. P-2 § 23. The area encompassed by the chancery court subdistrict is the same as that of the circuit court subdistrict. *See id.*

The Conference Report accompanying the passage of H.B. 1544 contained maps of circuit court districts, which depicted the subdistrict within DeSoto County, and demographic statistics for every circuit court district and subdistrict. Ex. P-3 at 2, 4. For Circuit Court District 21-1, the new subdistrict in DeSoto County, the Report indicated that it has a Black Voting Age Population (BVAP) of 50.52% and a White Voting Age Population (WVAP) of 40.83%. *Id.* at 3. During floor debate on H.B. 1544, in response to questions from Black legislators about opportunities for Black representation, the sponsor of the bill, Representative Kevin Horan, indicated that he was aware of Black-majority districts being created, including the subdistrict being created in DeSoto County, which he repeatedly noted was being added in response to “population shifts” in the area. Ex. P-5 at 15-16 (noting “population explosion” in DeSoto), 19 (noting “judges were needed” in DeSoto), 55 (noting demographics of subdistrict in DeSoto County), 70-71 (noting “judges in DeSoto County asked for help”), 85-86 (noting the “population shifts” and “increasing majority-minority population” in DeSoto County), Dkt. 86-4. Plaintiffs did not introduce any legislative history regarding S.B. 2768 and there accordingly is none in the record.

None of the parties or witnesses who testified at the preliminary injunction hearing described having firsthand knowledge of the map-drawing process or of why the DeSoto County subdistrict was created. For instance, Representative Dan Eubanks testified that he was not present for the drawing of the DeSoto County subdistrict, “had zero input,” and did not speak with the person who drew the map about their methodology. Hearing Tr. at 164-65. Ms. Judith Wammack, a DeSoto County employee who reproduced maps of the DeSoto County’s judicial districts, testified that she had no knowledge of the Legislature’s redistricting criteria or political considerations. *Id.* at 325. The same was true of Ms. Laura Henderson-Courtney, the representative for the Secretary of State. *Id.* at 706. Plaintiff Foster, who was not serving in the Legislature when

the challenged bills were passed, nonetheless testified to his belief or understanding that the Legislature had a political objective in drawing the DeSoto County subdistrict. Specifically, Mr. Foster testified that he had received information indicating that the Legislature drew the subdistrict to enable the election of two “liberal judges” in DeSoto County and thereby “appease” liberal groups. *See id.* at 476, 490.

C. Plaintiffs’ Delay in Bringing This Lawsuit

H.B. 1544 and S.B. 2768 were signed into law in April of 2025. *See* Hearing Tr. at 123 (Eubanks), 705-06 (Courtney). As noted, the text of H.B. 1544 and S.B. 2768 specified nine precincts in the Horn Lake and Southaven area making up the subdistrict, while the Conference Report contained a map of the subdistrict, confirming its general location. Hearing Tr. at 342-43 (Foster); Ex. P-3 at 2. The House debate and Conference Report also publicized the demographics of the subdistrict. At least one Plaintiff became aware of the subdistrict almost immediately, and no later than summer 2025. Hearing Tr. at 341 (Foster). Plaintiffs took no legal action at that time. *Id.* at 401.

In 2026, the subdistrict is slated to be used in elections for the first time, to elect judges who will take office in 2027. Parties seeking to obtain the precise boundaries of the subdistrict were able to do so, and did so, as early as January 2026. Hearing Tr. 292-93, 316-17 (Wammack testifying that she received the data for the precinct and was able to create the map for Ms. Meacham on January 6, 2026); *id.* at 397, 413-14 (Foster testifying that DeSoto County had published subdistrict map since January 2026); *id.* at 753 (Johnson obtained map in “early January” 2026). Ms. Wammack, a DeSoto County employee, was able to prepare that map within 24 hours, after requesting the data from Ben Collins, a legislative staffer involved in map-drawing, *id.* at 322-23 (Wammack); *see also id.* at 107 (Eubanks). Plaintiffs took no legal action following the county’s publication of the subdistrict map.

By February 2, 2026, the close of the candidate qualifying period, four candidates had qualified to run in the subdistrict—two for circuit judge and two for chancery court—and Plaintiffs still took no legal action. Hearing Tr. at 639, 664 (Courtney). Since then, those candidates have been actively campaigning and spending money. *See, e.g., id.* at 806-09, 822-32 (Meacham). In addition, the SEMS system (*i.e.*, the state’s electronic voter database) and state and local governmental websites have already been updated to reflect the subdistrict. *See, e.g.*, Hearing Tr. at 732-34 (Johnson).

In late April, 2026, the U.S. Supreme Court decided *Louisiana v. Callais*, a case involving White voters’ challenge to a legislature’s creation of a Black-majority district. Because the case had been pending in the Supreme Court and extensively covered in news media and social media, Foster understood that those who wanted to take advantage of a favorable result for the White voters in *Callais* to press for additional action on redistricting would need to be prepared. *See* Hearing Tr. at 349, 493-95 (Foster). After the decision was issued, Plaintiff Foster immediately began posting on social media about the need for redistricting in Mississippi, including with respect to the subdistrict. *See id.* at 430-31, 486, 491-93, 497-98. But Plaintiffs, including Foster, still took no legal action.

On July 2, 2026, more than a year after the enactment of H.B. 1544 and S.B. 2768 and with four months until the general election, Plaintiffs initiated this action challenging the use of the judicial subdistrict in DeSoto County. *See* Dkt. Nos. 1, 3. They filed, with their Complaint, an urgent and necessitous motion seeking emergency relief in the form of an order invalidating the subdistrict drawn by the Legislature, converting the subdistrict elections to countywide contests, and reopening candidate qualifying for the two positions in the middle of the election cycle. Mot. for Preliminary Injunction, Dkt. No. 3.

Beginning on July 31, the Court held a four-day hearing, in which Plaintiffs called no expert witnesses in support of their claims.

ARGUMENT

The standard for obtaining a preliminary injunction is well established. Plaintiffs must “show four things: (1) a likelihood of success on the merits; (2) a likelihood of suffering irreparable harm if an injunction is not granted; (3) that the balance of equities tips in their favor; and (4) that an injunction would serve the public interest.” *Jackson v. Tarrant Cnty.*, 158 F.4th 571, 580-81 (5th Cir. 2025). In addition, and relevant to the balance of harms and the public interest, the *Purcell* principle bars federal courts from changing election-related rules in the period close to an election except when four conditions are satisfied. *See La Union del Pueblo Entero v. Abbott*, 119 F.4th 404, 409 (5th Cir. 2024) (*Purcell* 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 bringing the complaint to court; and (iv) the changes in question are at least feasible before the election without significant cost, confusion, or hardship.’” (citing *Merrill v. Milligan*, 142 S. Ct. 879, 881 (2022) (Kavanaugh, J., concurring))); *see generally Purcell v. Gonzalez*, 549 U.S. 1 (2006). Plaintiffs cannot carry the demanding burden they face on the record before the Court.

At closing, Plaintiffs purported to seek relief on two claims: one based on the Equal Protection Clause (but premised on two different classifications—race and residency) and one based on Section 2 of the Voting Rights Act.² Hearing Tr. at 889-90. Because Plaintiffs’ theories

² At the hearing, Plaintiffs appear to have abandoned their state law claim as a basis for preliminary relief, failing to refer to it in any way. To the extent that they have not abandoned it, the state law claim is likely to fail for the reasons stated in the NAACP Intervenor’s opposition to the preliminary injunction motion, including because it is barred by the *Pennhurst* doctrine. NAACP PI Opp. at 15-16, Dkt. No. 63.

implicate three different legal standards, the NAACP Intervenor address each one as a separate claim below.³ Plaintiffs motion for a preliminary injunction should be denied, because Plaintiffs have not established a sufficient likelihood of success on any of their legal theories for invalidating the judicial subdistrict at issue, and in any event, Plaintiffs’ requested relief is barred by *Purcell* at this stage in the election calendar.

I. PLAINTIFFS HAVE NOT SHOWN A LIKELIHOOD OF SUCCESS ON THEIR RACIAL GERRYMANDERING CLAIM.

Plaintiffs have the burden of showing that “race was the ‘predominant factor motivating the legislature’s decision to place a significant number of voters within or without a particular district.’” *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 7 (2024).⁴ The redistricting legislation at issue in this case is “a facially neutral law” that defines the subdistrict by reference to specific precincts, which contain both Black and White voters. *Easley v. Cromartie*, 532 U.S. 234, 241-42 (2001). To prevail on their racial gerrymandering claim, Plaintiffs must show that the subdistrict “is unexplainable on grounds other than race.” *Id.*

³ The NAACP Intervenor reserve the right to argue, including via a motion for judgment on the pleadings, that Plaintiffs have not properly pleaded their claims.

⁴ There are two types of Equal Protection claims potentially relevant to racial discrimination in redistricting: racial gerrymandering and intentional vote dilution. Plaintiffs appear to have pleaded a racial gerrymandering claim, by alleging that “race predominated over traditional districting principles” and the existence of “a racially-gerrymandered, majority-minority subdistrict.” *See* Compl. ¶¶ 4, 64, Dkt. No. 1.

To prove an intentional vote dilution claim, Plaintiffs would need to “show that the State ‘enacted a particular voting scheme as a purposeful device to minimize or cancel out the voting potential of racial or ethnic minorities.’” *Alexander*, 602 U.S. at 38 (“In other words, the plaintiff must show that the State’s districting plan ‘has the purpose *and* effect’ of diluting the minority vote.”) (emphasis in original). This type of claim is “seldom pursued” and more difficult to prove than a vote dilution claim brought under Section 2 of the Voting Rights Act. *See Jackson*, 158 F.4th at 585-86. Plaintiffs have no likelihood of success on their Section 2 claim on behalf of White DeSoto Countians, who constitute a supermajority in the county, *see* Part II, and are also unlikely to succeed in showing intentional vote dilution, to whatever extent they intended to plead such a claim. *See id.*

Proving such a claim typically requires direct, explicit statements of racial intent by the legislature or extensive expert evidence (including alternative maps that satisfy all of the state’s race-neutral objectives). *See Alexander*, 602 U.S. at 19-33 (detailing why statistical and mapping evidence, including testimony from four expert witnesses, was insufficient to rule out other possible explanations for alleged racial gerrymander). Plaintiffs have provided neither. And even if Plaintiffs could somehow meet their burden of showing racial predominance, they would face a Section 2 defense to race-based districting under *Louisiana v. Callais*, which recognized compliance with the Voting Rights Act as a compelling interest. 146 S. Ct. 1131, 1143 (2026).

A. On This Record, Plaintiffs Are Unlikely to Succeed for Failure to Establish Racial Predominance in the Creation or Design of the Subdistrict.

To show that race predominated in a district’s design, “a plaintiff must prove that the State ‘subordinated’ race-neutral districting criteria such as compactness, contiguity, and core preservation to ‘racial considerations.’” *Alexander*, 602 U.S. at 7, 17. Plaintiffs must also prove that what may appear to be racially predominate line-drawing is not, in fact, the result of other considerations. *Id.* at 9. The burden of proof is a “demanding one”: “Race must not simply have been ‘a motivation for the drawing of a majority-minority district,’ but ‘the *predominant* factor motivating the legislature’s districting decision.’” *Easley v. Cromartie*, 532 U.S. 234, 241 (2001) (citation omitted) (emphases in original); *see also Jackson*, 158 F.4th at 585 (“The essence of the . . . claim . . . is that the State has used race as a basis for separating voters into districts.”).

“As a practical matter, challengers will often need to show that the State’s chosen map conflicts with traditional redistricting criteria,” such as by offering expert testimony regarding the challenged district’s lack of compactness, failure to respect communities of interest, non-contiguity, or other unusual features. *See Alexander*, 602 U.S. at 8 (quoting *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178, 190 (2017)) (cleaned up); *see also Easley*, 532 U.S. at

241 (“The Court has specified that those who claim that a legislature has improperly used race as a criterion, in order, for example, to create a majority-minority district, must show at a minimum that the ‘legislature subordinated traditional race-neutral districting principles . . . to racial considerations.’”) (citation omitted). Here, Plaintiffs have not offered a single witness or expert to analyze the judicial subdistrict’s compliance with traditional redistricting principles. And all available evidence indicates that the subdistrict *does* comply with such principles. The subdistrict is a geographically small and contiguous district, consisting mostly of whole precincts, that sits in a recognized community of interest in the Horn Lake and Southaven area. *E.g.*, Hearing Tr. at 777-78 (Johnson acknowledging that subdistrict is contiguous); *Miss. NAACP v. SBEC*, 739 F. Supp. 3d 383, 423 (S.D. Miss. 2024) (discussing community of interest in this area). It lacks the type of glaring, unusually elongated features of maps that the Supreme Court has previously found to be racial gerrymanders, such as the districts in *Callais* and *Shaw v. Reno*, 509 U.S. 630 (1993).

Furthermore, “a party challenging a map’s constitutionality must disentangle race and politics if it wishes to prove that the legislature was motivated by race as opposed to partisanship.” *Alexander*, 602 U.S. at 6. And “when confronted with evidence that could plausibly support multiple conclusions,” the “presumption of legislative good faith” requires district courts to infer that the legislature did not impermissibly rely on racial data. *Id.* at 10.

Under *Alexander*, disentangling race from political and race-neutral objectives typically requires plaintiffs to provide an alternative map. 602 U.S. at 10 (“Without an alternative map, it is difficult for plaintiffs to defeat our starting presumption that the legislature acted in good faith.”). An alternative map helps reveal whether a legislature’s professed, race-neutral objectives are sincere: If the legislature’s stated objectives can be achieved with a significantly different racial makeup in the challenged district, then the racial composition of the district might not be explained

by adherence to race-neutral goals. *Id.* at 34. According to the Supreme Court, the lower court in *Alexander* “critically erred by failing to draw an adverse inference” against the plaintiffs for not providing an alternative map that accounts for all possible race-neutral explanations for that district. *Id.* Last year, the Supreme Court described this adverse inference on the question of racial predominance as being “dispositive or near-dispositive” of racial gerrymandering claims. *Abbott v. League of United Latin Am. Citizens (LULAC)*, 146 S. Ct. 418, 419 (2025).

Plaintiffs here failed to provide an alternative map that satisfies the State’s stated redistricting objectives. According to P-5, the transcript of the House debate, the Legislature was balancing multiple statutory criteria: “Population of a district; number of cases filed in the district; the case load of each judge in the district; the geographic area of the district; an analysis of the needs of the district by the court personnel of the district,” plus other appropriate criteria. P-5 at 33, 105-06. In light of these legislative criteria, to rule out the possibility that population or caseloads drove the placement of the subdistrict, Plaintiffs have to, at minimum, draw an alternative subdistrict in the high growth or high caseload areas that achieves a significantly different racial makeup. They did not even attempt to do that.

Mr. Foster also repeatedly testified that he believes that the Legislature designed the DeSoto County subdistrict to elect liberal judges in order to appease liberal interests, and that the subdistrict is more likely to elect liberals. Hearing Tr. at 462, 490. If true, that would be a race-neutral, partisan or ideological-balancing rationale that Plaintiffs would also have to disprove as a possible explanation for the composition of the district. Of course, judicial elections in Mississippi are non-partisan, but to the extent that the Legislature was trying to create some ideological balance or diversity on the bench in DeSoto County, as Mr. Foster suggests, Defendants have failed to provide an alternative method of achieving that objective. They have

not argued—and have no basis to argue—that another county-wide judgeship would achieve that goal, *see* Hearing Tr. at 491 (Foster characterizing DeSoto County as a “Republican conservative district”), nor that it could be achieved in a differently configured subdistrict with a significantly different racial makeup.

The remaining evidence in the record is not indicative of racially predominate line-drawing either and cannot overcome the adverse inference. Plaintiffs rely on three ambiguous and inconclusive pieces of evidence to attempt to show racial predominance. First, they rely on the House Conference Report on H.B. 1544, which provides BVAP and other demographic figures for every circuit court district in the state. *See* Ex. P-3 at 3; Hearing Tr. 891-92 (Plaintiffs’ closing argument). That conference report merely shows that legislators voting on HB 1544 may have been *aware* that the map, at the end of the drawing process, included a Black-majority district in DeSoto County, alongside numerous other districts that are White-majority or Black-majority. But as the Supreme Court held in *Alexander*, “[r]edistricting legislatures will . . . almost always be aware of racial demographics” during the districting process, so “there is nothing nefarious” about their mere knowledge of race. 602 U.S. at 22, 37.

Similarly, Plaintiffs cite statements from a House debate, indicating again that, after the map-drawing process was complete, the legislators were simply aware that some districts in the map were majority-Black. *See* Hearing Tr. 889-90 (Plaintiffs’ closing argument). But awareness of district demographics after the fact does not mean that the map-drawing process *itself* involved the use of racial data or had racial goals as opposed to other goals that had the effect of creating a Black-majority district. *e.g.*, Ex. P-5 at 15-16, 19, 33, 54-55, 71, 85 (Rep. Kevin Horan noting, at various times, the applicable legislative criteria, the addition of the subdistrict in DeSoto County because of its growing population and caseload concerns, and the racial demographics of the

subdistrict). Indeed, *Alexander* specifically held that it was permissible for the state’s map-drawer to have “considered the relevant racial data only *after* he had drawn the Enacted Map and that he generated that data solely for a lawful purpose, namely, to check that the maps he produced complied with our Voting Rights Act precedent.” 602 U.S. at 22. Nor do these statements suggest that the creation of the DeSoto County subdistrict or its racial demographic attributes were the overriding criterion that predominated over every other consideration. *Alexander*, 602 U.S. at 7, 17; *see also Easley v. Cromartie*, 532 U.S. 234, 241 (2001) (“Race must not simply have been ‘a motivation for the drawing of a majority-minority district,’ but ‘the *predominant* factor motivating the legislature’s districting decision.’”) (citation omitted). These legislative remarks are a far cry from those in the record in *Callais*. In *Callais*, the sponsor of the redistricting legislation specifically admitted that the goal of creating an additional Black-majority district was “the reason why” the challenged lines were drawn the way they were. *Callais v. Landry*, 732 F. Supp. 3d 574, 605 (W.D. La. 2024). That direct, explicit causal nexus is missing here. *See Alexander*, 602 U.S. at 8 (“Direct evidence often comes in the form of a relevant state actor’s express acknowledgment that race played a role in the drawing of district lines.”).

And finally, Plaintiffs might rely on a BVAP-shaded precinct map of DeSoto County and the subdistrict, Exhibit P-14, to suggest that the State deliberately assigned precincts to the subdistrict based on BVAP. But, as discussed above, those lines may be explained by other considerations correlated with race, such as population shifts or the pursuit of ideological balance. *Alexander*, 602 U.S. at 9. Indeed, Ms. Wammack testified that she did not know the legislature’s intent nor their objectives, despite having created and analyzed the maps on which Plaintiffs rely, underscoring the map’s lack of probative value. Hearing Tr. at 325 (Wammack).

B. The Strong Potential for a Section 2 Defense Further Undermines Plaintiffs' Likelihood of Success

Plaintiffs have failed to show racial predominance at this stage and thus fail to establish a likelihood of success on their racial gerrymandering claim. Accordingly, the Court, at this juncture, need not and should not decide whether a Section 2 defense to that claim would succeed before the NAACP Intervenor has had an opportunity to develop the relevant factual record. However, the presence of a viable Section 2 defense further diminishes Plaintiffs' likelihood of success on the merits and moves it that much further away from "entirely clearcut" status. And the undisputed facts from the hearing demonstrate that a strong Section 2 defense would be available in DeSoto County.

Under *Callais*, compliance with Section 2 of the VRA is a compelling interest that justifies the use of racial data and even predominately "race-based districting," and it serves as a complete defense to a claimed Equal Protection Clause violation. *Louisiana v. Callais*, 146 S. Ct. at 1143, 1161. Because Plaintiffs seem to deny that Section 2 continues to exist post-*Callais*, they have never actually disputed that compliance with Section 2 may require the creation of a majority-Black judicial district in DeSoto County.

To be sure, NAACP Intervenor has not yet had the opportunity to develop the factual record for this defense. But for the reasons discussed in their opposition brief, there is at least a significant risk of a Section 2 violation if the subdistrict were to be dismantled. NAACP Intervenor's Opp. to Mot. for Preliminary Injunction (NAACP PI Opp.) at 14-15, Dkt. No. 63. And the evidence at the hearing only emphasizes that possibility.

As to the first *Gingles* factor, that condition is satisfied if a reasonably configured, majority-minority district can be created without "us[ing] race as a districting criterion," *Callais*, 146 S. Ct. at 1159, and while accounting for the legislature's "legitimate districting objectives,"

including “specified political goals,” *id.* Here, there is no serious question that the subdistrict is compact and reasonably configured, bearing little resemblance to the unusually shaped district at issue in *Callais*. See Ex. P-12.

As to the second and third *Gingles* factors, *Callais* instructs that “plaintiffs must provide an analysis [of racially polarized voting] that controls for party affiliation,” by showing that racial bloc voting “cannot be explained” by just “partisan affiliation,” 146 S. Ct. at 1159. The record here confirms the reality of racially polarized voting in DeSoto County, including here in the context of non-partisan, judicial elections. Hearing Tr. 838, 856 (Meacham testifying about nonpartisan election). Both Mr. Foster and Ms. Meacham have testified that the majority-Black subdistrict will elect Black judicial candidates, while the county as a whole, which is majority-White, is “not a favorable place” for Black candidates and will not elect Black judges. Hearing Tr. 859 (Meacham), 454-55 (Foster testifying that district is designed to elect “Black judges”), 171 (Eubanks testifying that subdistrict will be winnable for Black voters). And notably, both this Court and the three-judge panel in *Mississippi NAACP* have previously found that voting in Mississippi is racially polarized and that this division cannot be explained by partisan affiliation. See *White v. SBEC*, 795 F. Supp. 3d 794, 823-25, 844 (N.D. Miss. 2025); see also *Miss. NAACP*, 739 F. Supp. 3d at 435-36, 441.⁵ Indeed, in *Mississippi NAACP*, the evidence before this Court included racially polarized voting analysis that focused on DeSoto County in particular. 739 F. Supp. 3d at 423, 435-38, 450-54.

Finally, as to the totality of the circumstances, the analysis of Section 2 liability post-*Callais* should give greater weight to “‘current data’ and ‘current political conditions’ that

⁵ The operative liability decisions in the two active Mississippi Section 2 cases that were on appeal when *Callais* came down, *Mississippi NAACP* and *White v. SBEC*, have been vacated and remanded for further proceedings in light of *Callais*. See *SBEC v. Miss. NAACP*, 224 L. Ed. 2d 827 (U.S. May 18, 2026); *White v. SBEC*, 2026 WL 1340213 (5th Cir. May 11, 2026).

shed light on current intentional discrimination,” 146 S. Ct. at 1160 (quoting *Shelby Cnty. v. Holder*, 570 U.S. 529, 552-53 (2013)). As the Court explained, the requisite inference of discrimination is established, for example, when the facts are similar to the circumstances of *White v. Regester*, which is the origin of Section 2’s requirement that political processes be “equally open” to racial minorities. 146 S. Ct. at 1145-46 (citing *White v. Regester*, 412 U. S. 755, 765-66 (1973)).

Even prior to *Callais*’s guidance on this point, the three-judge panel in *Mississippi NAACP* had already compared Black voters’ electoral opportunity in Mississippi today to the facts of *White v. Regester*—and the panel unanimously concluded that “[o]ur facts and record are similar,” citing continued “evidence of lack of minority political success since Reconstruction, a history of discrimination, voting requirements that depressed minority votes, racial campaign tactics, and a lack of responsiveness from elected officials in minority communities.” *Miss. NAACP*, 739 F. Supp. 3d at 452. And even in this preliminary posture, the record here confirms those parallels in DeSoto County. For instance, it is undeniable that there is an extreme under-representation of Black DeSoto County residents in judicial and county office seats. Based on the testimony of multiple witnesses who have lived in the county for decades, no Black jurist has *ever* served in circuit or chancery court in DeSoto County. Hearing Tr. at 858 (Meacham), 464 (Foster), 269 (Ferguson). There is one Black official (Sheriff Tuggle) out of the other thirty-one county positions. Hearing Tr. at 859 (Meacham), 462-66 (Foster), 167-69, 172 (Eubanks). Moreover, Mr. Foster and Rep. Eubanks both testified that Black candidates have not even run for circuit or chancery court in DeSoto County until this year, and they acknowledged that one reason that people do not run is because they do not think they can win. Hearing Tr. at 168 (Eubanks), 462 (Foster). Ms. Meacham said the same, testifying, as a candidate who has lived in the county for

over thirty years, that the environment is not hospitable to Black candidates. Hearing Tr. at 939 (Meacham). That is consistent with the findings of the *Mississippi NAACP* panel regarding the experience of a Black candidate running for office in DeSoto County. 739 F. Supp. 3d at 461.

Additionally, the hearing revealed recent instances of racial appeals by a sitting county official, similar to the kind that this Court identified in *White v. SBEC*, 795 F. Supp. 3d at 852-53 (N.D. Miss. 2025). Here, Mr. Foster, an elected county supervisor in DeSoto County, posted a tweet with the official slogan of the Confederacy and, when confronted with that fact, claimed that an artificial intelligence program had suggested the phrase, and did not seem surprised or regretful about having done so. Hearing Tr. at 504-05. Evocative of the types of racial appeals that Black judges and judicial candidates have historically faced in Mississippi, Mr. Foster also told his online followers that judges elected from the majority-Black subdistrict “could put hardened criminals back on the streets.” Hearing Tr. at 490.

Again, this Court need not and should not reach the question of a Section 2 defense at this stage because Plaintiffs have not demonstrated a likelihood of success in meeting the “demanding” racial predominance standard. *Easley*, 532 U.S. at 241. The strong potential for a Section 2 defense here only underscores that the merits are nowhere near “entirely clearcut” in Plaintiffs’ favor, as they must be for them to be entitled to relief this close to the election. *See infra* Part IV.

II. PLAINTIFFS HAVE NOT SHOWN A LIKELIHOOD OF SUCCESS ON THEIR SECTION 2 VOTE DILUTION CLAIM.

Plaintiffs have shown no likelihood of success on their affirmative Section 2 claim either, for several reasons.

For one, Plaintiffs appear to suggest that they can establish a likelihood of success on a Section 2 claim by showing “a strong inference of intentional discrimination,” Hearing Tr. at 892 (Plaintiffs’ closing argument, quoting *Callais*, 146 S. Ct. at 1163). This indicates a

misunderstanding of *Callais* and the elements of Section 2. As discussed above, *Callais* maintained all of the pre-existing *Gingles* requirements while adding additional ones, none of which Plaintiffs have even tried to prove. To satisfy the *Gingles* preconditions on behalf of White voters residing in DeSoto County, Plaintiffs would have needed to provide a *Gingles* 1 illustrative map containing a White-majority subdistrict that is reasonably configured and satisfies the State’s race-neutral and legitimate policy objectives; to satisfy *Gingles* 2 and 3 they would have needed to offer quantitative evidence of racially polarized voting and a showing that candidates preferred by White voters are usually defeated by candidates preferred by Black voters in the relevant jurisdiction (*i.e.*, DeSoto County). *Callais*, 146 S. Ct. at 1159. Plaintiffs have done none of those things—and indeed, counsel for Plaintiffs have *denied* the existence of racially polarized voting, which, if true, would be independently fatal to their vote dilution claim. Hearing Tr. at 894 (Mr. Hurst: “[T]here is no racially polarized voting in DeSoto County.”).

Moreover, Plaintiffs are White voters residing in a county that, according to statistics they submitted, is over 67% White. P-3 at 3 (showing Circuit District 21 has 67.13% WVAP). Plaintiffs have not shown how, as a supermajority that has elected exclusively White candidates to circuit and chancery court and virtually an all-White slate to county and state government, White voters have been denied an equal opportunity to participate and elect candidates of choice to judicial or any other office in DeSoto County on account of their race. *See* 52 U.S.C. § 10301; *see also Callais*, 146 S. Ct. at 1145. To be sure, there may be circumstances where it is possible for a group that is a numerical majority in a jurisdiction to experience vote dilution, if there are barriers to voting that reduce voter participation and functionally turn the majority group into a minority voting bloc. For example, in Mississippi, there are lower voter registration and participation rates and higher rates of felony disenfranchisement for Black voters, which can lead to vote dilution

even in areas where Black voters form a plurality or a majority of the voting age population. *See, e.g., White*, 795 F. Supp. 3d at 814; *Miss. NAACP*, 739 F. Supp. 3d at 457-60; *see also Miss. NAACP v. SBEC*, 782 F. Supp. 3d 349, 353 (S.D. Miss. 2025) (“Despite having a BVAP over 50 percent, past election results indicated the district did not remedy the Section 2 violation.”). But there is no evidence that this is the case for White voters in DeSoto County, who are in the majority by a wide margin and who control and have always controlled politics in DeSoto County.⁶ Plaintiffs have no Section 2 claim here.

III. ELIMINATING THE SUBDISTRICT IS NOT A TAILORED REMEDY TO ENSURE THAT SUBDISTRICT VOTERS DO NOT PARTICIPATE IN MORE ELECTIONS THAN THE REST OF THE COUNTY.

Plaintiffs have argued that the structure of judicial elections in DeSoto County violates the Equal Protection Clause because residents of the subdistrict participate in one additional circuit court election and one additional chancery court election. *E.g.*, Hearing Tr. 889-92 (Plaintiffs’ closing argument). For the reasons stated in the NAACP Intervenor’s opposition brief, an injunction eliminating the judicial subdistrict is an overly broad and intrusive remedy that improperly overrides the Legislature’s design and risks ordering the State Defendants to violate Section 2 of the Voting Rights Act. NAACP PI Opp. at 14-15; *see also Califano v. Yamasaki*, 442 U.S. 682, 702 (1979) (“[T]he scope of injunctive relief is dictated by the extent of the violation established.”); *Ayotte v. Planned Parenthood of N. New Eng.*, 546 U.S. 320, 329 (2006) (courts should “try not to nullify more of a legislature’s work than is necessary”). Accordingly, the most

⁶ In addition, Section 2 does not entitle voters to proportional representation on the basis of race. *See Callais*, 146 S. Ct. at 1144-45 (noting Section 2’s “robust disclaimer against proportionality” (quoting *Allen v. Milligan*, 599 U.S. 1, 13 (2023))); *see also* 52 U.S.C. § 10301(b). But here, Plaintiffs seek relief that would allow White candidates supported by White voters to continue to hold 100% of the judicial seats in DeSoto County. Indeed, even assuming that the subdistrict exclusively elects Black candidates, White voters in DeSoto County would still have proportional representation in both circuit (three out of four seats) and chancery court (two out of three seats).

relief Plaintiffs could obtain on this claim would be an order providing that residents of the subdistrict would elect the Circuit Court Place 4 and Chancery Court Place 3 positions and the rest of the county would elect the other positions. Notably, this remedy would not require any changes to the qualification process or the SEMS system and would not squander the resources already spent by the candidates, making it less intrusive for election administrators, candidates, and voters as well.

But during the hearing, Plaintiffs and their counsel repeatedly disavowed the NAACP Intervenor’s proposed remedy, which would directly address the alleged disparity in the number of circuit and chancery elections in which county residents participate without unnecessarily destroying the subdistrict enacted by the Legislature. Hearing Tr. at 675 (Plaintiffs’ counsel disclaiming NAACP Intervenor’s proposed relief), 508 (Foster). Plaintiffs’ disclaiming of the narrower relief to which they might be entitled—if this Court were to reach the merits despite *Purcell* and agree with Plaintiffs on the issue of extra elections—does not thereby create an entitlement to overbroad relief. This Court’s remedial authority is equitable in nature, and it would be inequitable to allow litigants to unilaterally veto tailored relief and thereby obtain relief that is far broader than necessary to redress their claimed injury. *See, e.g., Trump v. CASA, Inc.*, 606 U.S. 831, 861 (2025) (injunctions must not be “broader than necessary to provide complete relief to each plaintiff” to comply with “principles of equity”). That is especially so where the improperly broad relief sought would risk a violation of Section 2 of the Voting Rights Act, harming Black DeSoto Countians and disserving the public interest.

Thus, in the event that this Court believes that relief is warranted to address this issue notwithstanding *Purcell* and other arguments advanced by Defendants and Intervenor, this Court should enter a limited injunction providing that the voters residing in the subdistrict shall be

permitted to vote only for the circuit and chancery court races held exclusively in that subdistrict (*i.e.*, the Circuit Court Place 4 and Chancery Court Place 3 positions), and not in the countywide judicial races, in the upcoming elections for the 21st Circuit Court and the 17th Chancery Court. Such an injunction would align with the way elections are held in the other subdistricts in Mississippi and would be consistent with the State’s policy goals.

IV. THE *PURCELL* DOCTRINE BARS PLAINTIFFS’ PROPOSED RELIEF.

The NAACP Intervenor has already briefed the *Purcell* issue in their opposition, NAACP PI Opp. at 5-11, and provided a chart of *Purcell* authorities requested by the Court, *see* Ex. A, Chart of *Purcell* cases submitted on Aug. 5, 2026. The hearing evidence has further cemented that Plaintiffs’ requested relief is foreclosed by *Purcell* and the application of the four-part test adopted by the Fifth Circuit. *See La Union del Pueblo Entero*, 119 F.4th at 409 (citing *Milligan*, 142 S. Ct. at 881 (Kavanaugh, J., concurring)). Failure to satisfy any one of the four conditions is sufficient to deny Plaintiffs’ motion. Here, for example, the fact that Plaintiffs’ likelihood of success is “far from ‘entirely clearcut’” is alone sufficient grounds to deny injunctive relief at this point in the election calendar. *Id.*; *see supra* Argument § I, II.

Regarding the undue delay factor, Plaintiffs try to excuse their lack of urgency in seeking judicial relief by pointing to the *Callais* decision, but that argument fails for several reasons. For one, racial gerrymandering claims have been brought—successfully—by White voters opposing the creation of majority-minority districts since the 1990s. *E.g.*, *Bush v. Vera*, 517 U.S. 952, 979 (1996) (plurality); *Miller v. Johnson*, 515 U.S. 900, 911 (1995); *Shaw*, 509 U.S. at 638. That long-established legal theory is why the *Callais* plaintiffs—who were also White voters challenging the constitutionality of a Black-majority district—had no issue bringing their challenge in January 2024, within nine days of the creation of the challenged district. *See Callais v. Landry*, 732 F. Supp. 3d 574, 588 (W.D. La. 2024). There is no legal or doctrinal reason why Plaintiffs could not

have brought this action pre-*Callais*.⁷ Moreover, *Callais* is not even cited in Plaintiffs' Complaint, see Dkt. No. 1, and it is hardly discussed in their motion papers.

In any event, even assuming *Callais* was a cogent reason for Plaintiffs' year-long delay in bringing this case, *Callais* came out on April 29, 2026. Plaintiff Foster testified that he was aware of that decision almost immediately, and it still took him two months to file this case, even though he knew the *Callais* decision was coming and that it might change the law in a way that favored him. Hearing Tr. at 431-32. Notably, in *Abbott*, the plaintiffs filed their suit before the challenged law was even passed—prompting the district court to conclude that the plaintiffs “could not possibly have acted faster or more diligently”—but the Supreme Court nevertheless stayed relief under *Purcell* because the injunction came within four months of the next election. 146 S. Ct. at 419 (granting stay of November injunction in advance of March primary election); *LULAC v. Abbott*, 809 F. Supp. 3d 502, 601-02 (W.D. Tex. 2025), *rev'd sub nom. Abbott v. LULAC*, 224 L. Ed. 2d 525 (Apr. 27, 2026). Plaintiffs here have acted far less diligently, have provided far less evidence of racial gerrymandering, and are closer to the election. *Purcell* is insurmountable here.

Petteway v. Galveston County is also particularly instructive on the *Purcell* question given direct parallels to the facts of this case. See 87 F.4th 721, 723 (5th Cir. 2023) (per curiam) (en banc). Like this case, *Petteway* also involved a challenge to local judicial districts; the en banc Fifth Circuit voted 11 to 6 to stay an injunction that the district court issued three months before

⁷ Plaintiffs also attempt to rely on the fact that redistricting challenges are difficult and costly to bring, Hearing Tr. 131, 493-95, 500, 507, 509, but that is also true of every redistricting case in which the Supreme Court has stayed an injunction under *Purcell*. Plaintiffs, however, have not cited a single case in which the Supreme Court declined to apply *Purcell*, particularly with less than three months before Election Day, simply because of ordinary logistical hurdles that a plaintiff encounters when filing suit. See, e.g., *Disability Rts. La. v. Landry*, No. 24-CV-554, 2024 WL 3566698, at *3 (M.D. La. July 29, 2024) (“While the Court is sympathetic to Plaintiff’s efforts to get the best counsel possible, Plaintiff could have still proceeded sooner with less-able counsel and fewer resources, particularly with the election fast-approaching.”).

the start of the primary election. *Id.* at 724 (Oldham, J., concurring); *see also id.* at 727-29 (Richman, J., concurring).

To overcome *Purcell*, Plaintiffs must also show that their requested relief would not cause “significant cost, confusion, or hardship.” *La Union del Pueblo Entero*, 119 F.4th at 409 (quoting *Milligan*, 142 S. Ct. at 881 (Kavanaugh, J., concurring)). “Late judicial tinkering with election laws can lead to disruption and to unanticipated and unfair consequences for candidates, political parties, and voters, among others.” *Milligan*, 142 S. Ct. at 881 (Kavanaugh, J., concurring). To avoid duplicative briefing with parties representing the interests of election administrators and candidates, NAACP Intervenor will focus on the impact of Plaintiffs’ requested injunction on voters.

Plaintiffs have requested that qualifying deadlines be reset, so that new candidates can be added by August 20, 2026, Pls.’ Reply in Supp. of Prelim. Inj. at 12, Dkt. No. 50, weeks before absentee voting begins on September 19, 2026, Hearing Tr. at 593 (Courtney). Such a schedule severely truncates the typical period of nine months that voters have to learn about the judicial candidates seeking their vote. Hearing Tr. at 668-69 (Courtney). According to Ms. Meacham’s testimony, the timing is now sufficiently close to the start of voting that voters have already begun making plans for when and how to vote. *Id.* at 834-35. To add candidates at this point and require voters to research candidates anew would impose burdens on voters, particularly for down-ballot races such as these, where candidates have less name-recognition. Voters in the subdistrict also have been informed, by Ms. Meacham and other candidates, that they reside in the subdistrict and are therefore eligible to vote in the judicial elections—news concerning the elimination of that district could cause confused voters to believe that they can no longer vote for Ms. Meacham or the other existing subdistrict candidates. *See* Hearing Tr. at 823-29 (Meacham).

These informational burdens and the risk of confusion would fall on voters in the subdistrict, which, according to Ms. Meacham, is an area with a lower per capita income than other parts of the county. Hearing Tr. at 858. Notably, because three of the four subdistrict candidates are Black, voters in this area are on the precipice of electing a Black circuit and/or chancery judge in DeSoto County for the first time in the county’s history—that possibility would likely be eliminated alongside the subdistrict if Plaintiffs’ injunction were to be granted.

Plaintiffs’ list of *Purcell*-related authorities (as reflected in their August 5 letter to the Court) are not to the contrary—many are inapposite and some appear to be lower court injunctions that were subsequently stayed by the Supreme Court whose procedural history has been inadvertently omitted by Plaintiffs.

First, many of the cited examples pre-date the Supreme Court’s stay decision in *Milligan* in 2022, which ushered in a more expanded form of *Purcell* and led to the adoption of the four-part test. *See Petteway*, 87 F.4th at 723 (Oldham, J., concurring) (citing *Milligan*, 142 S. Ct. at 879). Those 2022 or earlier cases are therefore less probative of the scope of *Purcell* today. *See, e.g., Reynolds v. Sims*, 377 U.S. 533, 585 (1964).

Some of Plaintiffs’ *Purcell* cases involve injunctions against *federal* actors. Those injunctions do not implicate the federalism concerns at the heart of *Purcell*. *See, e.g., California v. Trump*, --- F.4th ----, 2026 WL 2144084, at *1 (1st Cir. July 25, 2026) (declining to stay injunction against President’s executive order); *LULAC v. Exec. Off. of the President*, 818 F. Supp. 3d 34, 82-83 (D.D.C. 2026) (“[N]one of the parties in these cases who may be subject to injunctions or other equitable remedies are State agencies or officials. Plaintiffs are not seeking to enlist this Court’s assistance to assert federal power over the conduct of a State election.”).

Plaintiffs also rely on a case that specifically distinguished itself from “the typical

situations in which *Purcell* feasibility concerns arise—redistricting injunctions that require states to draw new maps, or injunctions that change the contents of ballots.” *See, e.g., Democratic Cong. Campaign Comm. v. Kosinski*, 614 F. Supp. 3d 20, 60 (S.D.N.Y. 2022). The requested relief here expressly requires a different districting scheme and different ballots.

Plaintiffs also cite cases in which the state defendants waived their *Purcell* argument or provided a date certain to the court by which an injunction would *not* cause disruption. *See, e.g., N.H. Youth Movement v. Scanlan*, No. 24-CV-291, 2026 WL 1500857, at *45 (D.N.H. May 28, 2026) (“Secretary Scanlan testified that an order issued as late as early July would still leave sufficient time to implement the requested relief before the 2026 election.”); *Carey v. Wis. Elections Comm’n*, 624 F. Supp. 3d 1020, 1034 (W.D. Wis. 2022) (“Defendants aren’t relying on *Purcell*, which suggests that they have forfeited that issue.”); *Am. Council of Blind of Ind. v. Ind. Election Comm’n*, No. 1:20-CV-03118, 2022 WL 702257, at *10 (S.D. Ind. Mar. 9, 2022) (“Defendants do not advance any specific argument that [the requested relief] will result in harm to them.”). But of course, in this case, the State of Mississippi (and all Intervenor Defendants) are asserting that Plaintiffs’ requested relief will in fact be disruptive and burdensome.

Several of the injunctions that Plaintiffs cite have been subsequently stayed, which badly undermines Plaintiffs’ reliance on those cases. *See, e.g., Singleton v. Allen*, No. 2:21-CV-1291, 2026 WL 1469518, at *1 (N.D. Ala. May 26, 2026), *stayed sub. nom. Allen v. Milligan*, 146 S. Ct. 1377, 1382 (2026); *LULAC*, 809 F. Supp. 3d, *stayed Abbott*, 146 S. Ct. at 419; *Count US IN v. Morales*, 830 F. Supp. 3d 753 (S.D. Ind. 2026), *stayed* 172 F.4th 974 (7th Cir. 2026). Plaintiffs also cite *Robinson v. Ardoin*, which declined to stay the district court’s injunction because the election was “five months away,” 37 F.4th 208, 228 (5th Cir. 2022), but the Supreme Court soon granted a stay anyway. *See Ardoin v. Robinson*, 142 S. Ct. 2892 (2022) (mem.). Somewhat

puzzlingly, Plaintiffs also cite a case in which a district court stayed its own injunction on *Purcell* grounds. *La Union del Pueblo Entero v. Abbott*, 754 F. Supp. 3d 720, 733 (W.D. Tex. 2024).

Finally, Plaintiffs cite cases in which the Supreme Court *itself* decided to intervene close to an election. *See, e.g., Malliotakis v. Williams*, 146 S. Ct. 809 (2026); *Callais v. Louisiana*, 146 S. Ct. 1111 (2026). But the Supreme Court has articulated *Purcell* as a restriction on “lower federal courts” and not necessarily the high court. *Abbott*, 146 S. Ct. at 419 (“This Court has repeatedly emphasized that lower federal courts should ordinarily not alter the election rules on the eve of an election.” (quoting *Republican Nat’l Comm. v. Democratic Nat’l Comm.*, 589 U.S. 423, 424 (2020) (per curiam))). Having accounted for each of Plaintiffs’ *Purcell* cases, none provides any support for their request to enjoin a districting scheme and reopen candidate qualifying in August of an election year, with less than three months before Election Day.

Redistricting cases are difficult to bring, and Plaintiffs have not come close to showing that the merits in this case are entirely clearcut in their favor. They cannot show irreparable harm absent a showing of a violation of their rights, they cannot excuse their lengthy delay in bringing suit, and they cannot otherwise meet the high bar for overcoming the application of *Purcell* this close to the election. Plaintiffs have provided no legal authority to the contrary, and their motion should be denied.

CONCLUSION

For the foregoing reasons, the NAACP Intervenor asks that the motion for preliminary injunction be denied, or alternatively, in the event that this Court concludes that some relief is warranted notwithstanding *Purcell* and other arguments advanced by Intervenor and Defendants, the Court should grant only the narrowly tailored relief that the NAACP Intervenor has proposed.

Respectfully submitted,

This 8th day of August 2026

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CERTIFICATE OF SERVICE

I, Ming Cheung, hereby certify that on August 8, 2026, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to all parties on file with the Court.

/s/ Ming Cheung
Ming Cheung