

NINETEENTH JUDICIAL DISTRICT

PARISH OF EAST BATON ROUGE, STATE OF LOUISIANA

NUMBER C-716690

SECTION 24

JAMES BULLMAN, KIRK GREEN, STEPHEN HANDWERK, DARRYL MALEK-
WILEY, AMBER ROBINSON, and POOJA PRAZID

VERSUS

R. KYLE ARDOIN, IN HIS OFFICIAL CAPACITY AS
LOUISIANA SECRETARY OF STATE

*****CONSOLIDATED WITH*****

NUMBER C-716837

SECTION 25

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
("NAACP") LOUISIANA STATE CONFERENCE, POWER COALITION FOR EQUITY
AND JUSTICE, DOROTHY NAIRNE, EDWIN RENÉ SOULÉ, ALICE WASHINGTON,
AND CLEE EARNEST LOWE

VERSUS

R. KYLE ARDOIN, IN HIS OFFICIAL CAPACITY AS
LOUISIANA SECRETARY OF STATE

**MEMORANDUM IN SUPPORT OF MOTION FOR STAY OF PROCEEDINGS,
TO BE TAKEN UP AFTER EXCEPTION HEARING,
IF EXCEPTIONS ARE DENIED BY THE DISTRICT COURT**

The Secretary of State for the State of Louisiana, R. Kyle Ardoin, submits this memorandum in support of the motion for stay of proceedings.

I. FACTS AND BACKGROUND

The petitions in *Bullman et al. v. Ardoin*, Docket No. C-716690 and *NAACP Louisiana State Conference et al. v. Ardoin*, Docket No. C-716837 were filed on March 10, 2022 and March 15, 2022, respectively. The Plaintiffs' suits contest redistricting even though the Legislature is still in the process of congressional reapportionment and redistricting. The Plaintiffs speculate that partisan differences in the Legislature and the Governor's office are such that redistricting might not occur, and this Court needs to intercede and direct the redistricting process through declaratory judgment to these Plaintiffs.

Plaintiffs are requesting that this Court establish a scheduling order in this matter. However, a scheduling order is not appropriate, as this is not a matter in which this District Court has jurisdiction. Defendant has filed declinatory, dilatory, and peremptory exceptions, which are pending before this Court. In the unlikely event that the exceptions are dismissed, Defendant will seek appellate review.

On February 18, 2022, the Legislature passed HB 1 and SB 5, redistricting congressional districts, during the First Extraordinary Session. Those bills were delivered to the Governor for signature. On March 9, 2022, the Governor vetoed the bills.

Plaintiffs subsequently filed these lawsuits before the time for a veto session had run. *See* La. Const. art. III, § 18. Aside from a veto session, the Legislature reconvened for its Regular Session on March 14, 2022. There are multiple bills pending on the issue of congressional redistricting. *See* SB 306, HB 712, HB 823, and HB 608 of the 2022 Regular Session. Thus, there exists many opportunities for the Legislature to redistrict congressional seats.

II. LAW AND ARGUMENT

Defendant maintains that a stay is warranted in this case to allow the Legislature to continue with the process of congressional reapportionment and redistricting. The time has not run for a veto override session in connection with the 2022 First Extraordinary Session. Additionally, the Legislature recently convened in its 2022 Regular Session, and there are multiple bills pending on the issue of reapportionment of Louisiana's congressional districts. *See* SB 306, HB 712, HB 823, and HB 608 of the 2022 Regular Session. There is no indication that the Legislature is abandoning the congressional redistricting process.

It is well established that, “[t]he court has the power to require that the proceedings shall be conducted with dignity and in an orderly and expeditious manner, and to control the proceedings at the trial, so that justice is done.” La. C.C.P. art. 1631. A trial judge has the inherent power to take reasonable actions to control his docket. *Sparacello v. Andrews*, 501 So.2d 269, 274 (La. Ct. App.1986), *writ denied*, 502 So.2d 103 (La.1987).

A stay of proceedings is issued for the benefit of the court and is similarly designed to preserve the existing status of the litigants until the court has had sufficient time to review the record and make a determination of the issues presented. *M.P.G. Const., Inc. v. Dep't of Transp.*

& Dev., State of La., 2003-0164, p. 8 (La.App. 1 Cir. 4/2/04); 878 So.2d 624, 630, writ denied sub nom. *M.P.G. Const., Inc. v. Louisiana Dep't of Transp. & Dev.*, 2004-0975 (La. 6/4/04); 876 So.2d 85. A stay here would benefit the court by preserving the existing status of the litigants, and furthermore, because the Legislature is currently in the process of addressing this issue, it would be more expedient for the parties to wait for the Legislature to complete the congressional redistricting process, rather than begin a lengthy litigation process from scratch. As the Louisiana Supreme Court has held:

The power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.

Transamerica Ins. Co. v. Whitney Nat. Bank of New Orleans, 251 La. 800, 809; 206 So.2d 500, 503 (1968) (quoting *Landis v. North American Co.*, 299 U.S. 248, 57 S.Ct. 163, 81 L.Ed. 153 (1936)).

Unquestionably, the redistricting of congressional election districts belongs to the Legislature and the Governor as the political branches of state government—not to the district courts of the State. At this juncture of apportionment process, the judicial branch of state government is not permitted to infringe upon the express powers of the legislative and executive branches by Article II, § 2 of the Constitution. *Hoag v. State*, 2004-0857 (La. 12/1/04), 889 So. 2d 1019, 1022. The courts are not allowed to make decisions reserved to the Legislature and the Governor. The courts of the state have uniformly upheld the legislature's powers free from interference by the courts to adopt and amend laws.

Moreover, a stay of proceedings is warranted by considerations of judicial economy and the unnecessary expenditure of judicial resources and time in conducting exception hearings, motions practice, discovery and a trial when the redistricting process is ongoing, and the outcome of the redistricting process may materially affect the facts and legal principles relevant to this matter. Courts have recognized that litigation involving Section 2 of the Voting Rights Act is an

extremely complex area of the law.¹ Section 2 litigation is also labor-intensive and requires a large amount of resources to litigate, rendering them more expensive than ordinary civil litigation.² The facts pertaining to this matter are likely to change upon the Legislature's completion of the redistricting process. Given the fact-intensive nature of Section 2 claims, the risk of duplication of effort and expense mitigate in favor of a stay of these proceedings.

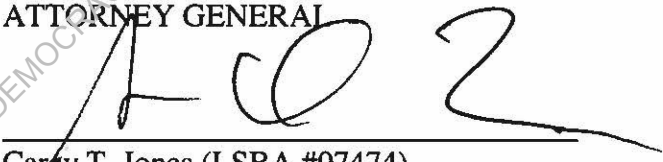
III. CONCLUSION

Because the congressional redistricting is ongoing by the Legislature, the Secretary of State respectfully requests that the *Motion to Stay* be GRANTED, and these proceedings are stayed until these exceptions are reviewed by the appellate court(s) and until the conclusion of the legislative process for adopting new congressional maps.

Respectfully submitted,

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ATTORNEY GENERAL

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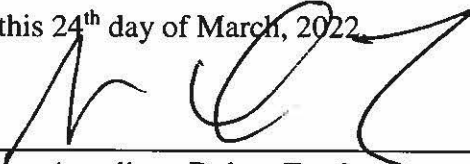
¹ *Johnson v. Hamrick*, 196 F.3d 1216, 1223 (11th Cir. 1999) (“the resolution of a voting dilution claim requires close analysis of unusually complex factual patterns”); *Project Vote v. Blackwell*, 1:06-CV- 1628, 2009 WL 917737, *10 (N.D. Ohio Mar. 31, 2009) (calling voting rights “an area of law that [is] anything but simple”).

² Christopher S. Elmendorf & Douglas M. Spencer, *Administering Section 2 of the Voting Rights Act After Shelby County*, 115 COLUM. L. REV. 2143 (2015).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has on this date been served upon all known counsel of record by electronic mail at the email address provided.

Baton Rouge, Louisiana, this 24th day of March, 2022



Angelique Duhon Freel

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