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June 8, 2023

Honorable Scott S. Harris  
Clerk of the Court  
Supreme Court of the United States  
1 First Street, NE  
Washington, D.C. 20543

Re: No. 21A814, *Ardoin, et al. v. Robinson, et al.*

Dear Mr. Harris:

Petitioners the State of Louisiana, by and through its Attorney General Jeff Landry, and Louisiana Secretary of State Kyle Ardoin, request that this Court set *Ardoin, et al. v. Robinson, et al.*, No. 21A814 (U.S.) for oral argument and briefing on the merits in the normal course.

On June 28, 2022, this Court granted Petitioners' application for stay, holding this case in abeyance pending "this Court's decision in *Merrill, AL Sec. of State et al. v. Milligan, Evan, et al.* (No. 21-1086 and No. 21-1087) or further order of the Court" with the stay terminating "upon the sending down of judgment of this Court." *Ardoin v. Robinson*, No. 21A814 (U.S.) (June 28, 2022). In granting the stay, the Court also treated the application for stay as a petition for writ of certiorari and granted that petition as well. *Id.*

On June, 8 2023, this Court issued its opinion in the consolidated *Milligan* and *Castor* litigation.<sup>1</sup> In *Milligan*, the Court addressed "Alabama's attempt to remake [the Court's] §2 jurisprudence anew," *Allen v. Milligan*, 599 U.S. \_\_\_ (2023) (slip op., at 15). While the "heart" of *Milligan* was "not about the law as it exists," *see id.*, the heart of *Ardoin* is about the district court's misapplication of the law as it exists both before *Milligan* and after.

Today's decision in *Milligan* does not address the district court's significant errors of law that should rightly result in reversal. The issues raised in the motion for stay, and to be more fully briefed on appeal, that were not addressed in *Milligan* include, but are certainly not limited to: (1) the proper analysis of "legally significant racially polarized voting," *Thornburg v. Gingles*, 478 U.S. 30, 55 (1986), under the third *Gingles* precondition; (2) the power of the district court to order a racial gerrymander as a remedy; (3) the proper analysis of the compactness of the minority community—as opposed to the district itself—under *Gingles* 1; and (4) the standard to apply to mandatory, as compared to prohibitory, preliminary injunctions. *See* Petitioners' Emergency Application for Administrative Stay, Stay Pending Appeal, and Petition for Writ of Certiorari Before Judgment, *Ardoin v. Robinson*, No. 21A814 at 12-30 (June 17, 2022); *see also* Petitioners'

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<sup>1</sup> *Allen v. Milligan*, No. 21-1086 and *Allen v. Caster*, No. 21-1087.

Reply in Support of Application for Stay, *Ardoin, v. Robinson*, No. 21A814 at 6-14 (June 24, 2022).

*Milligan* also once again makes clear that the “application of the *Gingles* factors is ‘peculiarly dependent upon the facts of each case.’” *Allen v. Milligan*, 599 U.S. \_\_\_ (2023) (slip op., at 11). The most peculiar facts, among many here, are that Louisiana maps with two majority-minority congressional districts (out of seven districts) have been twice declared unconstitutional as racial gerrymanders by federal courts. *See Hays v. Louisiana*, 839 F. Supp. 1188, 1191 (W.D. La. 1993); *Hays v. Louisiana*, 936 F. Supp. 360, 368 (W.D. La. 1996). The U.S. Department of Justice also subsequently twice precleared Louisiana’s congressional maps with one majority-minority congressional district. *See Hays v. Louisiana*, 862 F. Supp. 119, 124 n.4 (W.D. La. 1994). Finally, while Louisiana’s demographics remain largely the same today as they were then, Louisiana has lost one of its congressional districts due to apportionment, which makes it even more improbable that a map with two majority-minority districts could be constitutionally drawn. These facts alone also suitably distinguish the Court’s *Milligan* decision.

Therefore, *Ardoin* Petitioners respectfully request that the Court set this matter for briefing on the merits and oral argument in the normal course.

I would appreciate it if you would circulate this letter to the Members of the Court.

Respectfully submitted,

/s/ Elizabeth B. Murrill

*Counsel for Appellant State of Louisiana*

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