

UNITED STATES DISTRICT COURT EASTERN DISTRICT
OF MISSOURI EASTERN DIVISION

PAUL BERRY III,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:22-CV-465-JAR
)	
JOHN R. ASHCROFT, in his official capacity)	
as Missouri Secretary of State, and STATE OF)	
MISSOURI,)	
)	
Defendants.)	

MOTION TO INTERVENE AS PLAINTIFFS

Pursuant to Rule 24 of the Federal Rules of Civil Procedure, Patricia Thomas, Derrick Good and Curtis Jared (collectively, the “Proposed Intervenors”) by and through their attorneys, move to intervene as Plaintiffs in this case. In accordance with Rule 24, Proposed Intervenors have appended their proposed complaint as Exhibit A. In support of this motion, they state and allege as follows:

1. Proposed Intervenors are registered Missouri voters who face the prospect of being forced to cast diluted votes in overpopulated congressional districts in the 2022 election in the event that the Missouri Legislature cannot enact a redistricting plan.

2. On March 31, 2022, Proposed Intervenors filed suit in Missouri state court in the Circuit Court of Cole County. *See* Exhibit B, Petition, *Thomas, et al., v.*

State of Missouri, et al., No. 22AC-CC00222. Proposed Intervenors' state court petition alleges that Missouri's congressional districts are malapportioned and asks the state court to direct the State to reapportion the districts. *Id.*

3. On April 22, 2022, Plaintiff Paul Berry III filed his complaint in this action. Plaintiff Berry's federal complaint similarly alleges that Missouri's congressional districts are malapportioned.

4. As explained further in their memorandum submitted in support of this motion, Proposed Intervenors have timely filed for intervention and satisfy the three elements of intervention of right under Rule 24(a). First, they have substantial interests in this litigation—both as voters and as litigants in a previously-filed parallel suit—and they possess standing to vindicate those interests. Second, those interests will undoubtedly be affected by whether and how this Court develops a remedial plan. Third, they are not adequately represented by Plaintiff Berry or the state Defendants.

5. Alternatively, Proposed Intervenors satisfy the criteria for permissive intervention under Rule 24(b). Proposed Intervenors' claims involve the same legal issues—whether the current districts are malapportioned and whether this Court must act to protect voters—and there is no risk of prejudice at this early stage of the litigation.

For the reasons set forth above and in the accompanying memorandum of law, Proposed Intervenors Patricia Thomas, Derrick Good and Curtis Jared respectfully request that this Court grant their Motion to Intervene and enter an order joining the Proposed Intervenors as Plaintiffs in this action.

Dated: May 10, 2022

Respectfully submitted,

HUSCH BLACKWELL LLP

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ATTORNEYS FOR PLAINTIFFS
PATRICIA THOMAS, DERRICK GOOD
and CURTIS JARED

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by the Court's CM/ECF filing system on the 10th day of May, 2022, which will notify all parties of record.

/s/ Michael Martinich-Sauter

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UNITED STATES DISTRICT COURT EASTERN DISTRICT
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PAUL BERRY III,)	
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Plaintiff,)	
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vs.)	Case No. 4:22-CV-465-JAR
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JOHN R. ASHCROFT, in his official capacity)	
as Missouri Secretary of State, and STATE OF)	
MISSOURI,)	
)	
Defendants.)	

**COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTIVE RELIEF**

COME NOW Plaintiffs Patricia Thomas, Derrick Good and Curtis Jared, by and through counsel, and for their Complaint for Declaratory Judgment and Injunctive Relief state as follows:

Missouri’s current congressional districts were enacted over a decade ago, in 2011 (herein referred to as the “2011 congressional plan and map”). As revealed by the 2020 Census, the intervening population shifts have rendered those districts unconstitutionally malapportioned. Absent a revised congressional plan and map, Plaintiffs, who live in overpopulated districts, will be forced to cast unequal votes relative to voters in underpopulated districts. The 2011 congressional plan and map therefore cannot be used in any upcoming elections, including the 2022 elections.

PARTIES

1. Plaintiff Patricia Thomas is a citizen and registered voter of the State of Missouri and the United States and resides in 2011 Congressional District Number 3. Plaintiff Thomas is also the treasurer of the Missouri Republican Party.

2. Plaintiff Derrick Good is a citizen and registered voter of the State of Missouri and the United States and resides in 2011 Congressional District Number 3. Plaintiff Good is also the secretary of the Missouri Republican Party.

3. Plaintiff Curtis Jared is a citizen and registered voter of the State of Missouri and the United States and resides in 2011 Congressional District Number 7. Plaintiff Jared is also on the State Committee of the Missouri Republican Party.

4. Defendant Missouri Secretary of State John R. (“Jay”) Ashcroft is named as a Defendant solely in his official capacity.

5. The Secretary of State is the State’s chief election official and is responsible for implementing laws related to elections and voting across the State, including the State’s congressional districts and congressional candidate filing for the 2022 primary and general elections.

JURISDICTION AND VENUE

6. Plaintiff-Intervenors bring this action under 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the United States Constitution. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1343 because the matters in controversy arise under the Constitution and laws of the United States and involve the assertion of a deprivation

under color of state law, or a right under the Constitution of the United States. This Court has the authority to enter a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202, and authority to enter injunctive relief under Federal Rule of Civil Procedure 65.

7. This Court has personal jurisdiction over Defendants, who are sued in their official capacities and reside within this State.

8. Venue is proper in this Court and this Division under 28 U.S.C. §§ 105(a)(1) and 1391(b) because a substantial part of the events that give rise to Plaintiff-Intervenors' claims occurred in this judicial district.

9. A three-judge district court has jurisdiction to adjudicate this dispute because Plaintiff-Intervenors "challeng[e] the constitutionality of the apportionment of [Missouri's] congressional districts." 28 U.S.C. § 2284(a).

FACTS RELEVANT TO ALL COUNTS

10. On May 4, 2011, the 2011 congressional district plan and map was adopted for the State of Missouri.

11. At that time, using the 2010 Census, Missouri had a population of 5,988,927 and the 2011 congressional plan and map had a maximum deviation of one person, to wit: seven districts had a population of 748,616, and one district had a population of 748,615.

12. Missouri has not redrawn its congressional districts since May 4, 2011.

13. On April 26, 2021, the U.S. Secretary of Commerce delivered the apportionment results of the 2020 Decennial Census to the President showing that Missouri's resident population is 6,154,913.

14. Dividing the 2020 population by the eight congressional districts allotted to Missouri results in the population for seven of Missouri's eight congressional districts is 769,364 and the population of the other one of Missouri's eight congressional districts is 769,365.

15. On August 12, 2021, the U.S. Census Bureau delivered to Missouri its redistricting data file in legacy format, allowing the State to tabulate the new population of each political subdivision. This data is commonly referred to as "P.L. 94-171 data," a reference to the legislation enacting this process. See Pub. L. No. 94-171, 89 Stat. 1023 (1975).

16. This data reflects that significant population shifts have occurred in Missouri since 2010, and the effect is that the 2011 congressional districts are no longer of equal population.

17. The table below, generated from the P.L. 94-171 data, shows for each district, the "2020 Population" (which reflects the district's 2020 population) and the "Difference from Equal 2020 Population" (which reflects the population difference of the 2020 population of each existing district from the equal 2020 congressional district population).

Existing Congressional District	2020 Population	Difference from Equal 2020 Population
1	714,731	-54,633
2	777,688	8,324
3	804,505	35,141
4	777,217	7,853
5	788,310	18,946
6	781,000	11,636
7	792,419	23,055
8	719,043	-50,321

18. Six of the eight existing congressional districts are “overpopulated” in that their 2020 population exceeds the equal 2020 population (Districts 2, 3, 4, 5, 6, & 7) and two are “underpopulated” (Districts 1 and 8). The Intervenor-Plaintiffs reside in Districts 3 and 7)

19. As a result of the 2020 population, Missouri’s existing congressional district configurations do not comply with the Missouri Constitution.

20. If used in any future election, the 2011 congressional plan and map would unconstitutionally dilute the strength of Plaintiffs’ votes in congressional elections because Plaintiffs live in districts with populations that are significantly larger than those in which other voters live.

21. A new congressional plan and map in Missouri must be passed by both houses of the General Assembly and signed by the Governor (Mo. Const. art. III, §§45, 31) or passed by a two- thirds majority of both houses overriding a Governor’s veto (Mo. Const. art. §32). The General Assembly has failed to enact new districts ahead of the

period in which candidates can file written declarations of candidacy, which opened on February 22, 2022, and closed on March 29, 2022. *§115.349(2), RSMo.*

22. The Missouri General Assembly has not adopted a congressional plan and map.

23. If the Missouri General Assembly were to adopt a congressional plan and map that would create new congressional districts, it could not become effective before 90 days from adjournment absent an emergency clause. *Mo. Const., art. III, §29.*

24. Ninety (90) days from adjournment is August 28, 2022. *Mo. Const., art III, §§20(a) and 29.*

25. An emergency clause requires a vote of two-thirds in both houses of the Missouri General Assembly. *Mo. Const., art. III, §29.*

26. Even if a congressional plan and map were passed by the General Assembly and signed by the Governor with or without an emergency clause, the candidate filing deadline of March 29, 2022, has passed.

27. The “General Assembly’s failure to provide a means for congressional representation would, if unremedied, result in an unconstitutional deprivation” of Plaintiffs’ right to select representatives, as the 2011 congressional districts are “patently and obviously unconstitutional.” *Shayer v. Kirkpatrick*, 541 F. Supp. 922, 925 (W.D. Mo. 1982).

28. Because the State of Missouri has failed to enact a new congressional plan and map and the filing period has closed before a plan was adopted, this Court should enter a mandatory injunction compelling the State to adopt a constitutional redistricting

plan and map immediately and extend or create a new filing period for such districts so as to ensure candidates can file in the proper congressional districts in advance of the August 2, 2022, primary election.

29. If the State cannot or will not enact a new congressional plan and map, then this Court should adopt its own congressional plan and map and extend or create a new filing period for such districts so as to ensure candidates can file in the proper congressional districts in advance of the August 2, 2022, primary election.

30. Plaintiffs therefore ask this Court to declare Missouri's 2011 congressional district plan unconstitutional; enjoin Defendant Ashcroft from using the 2011 congressional district plan in any future elections; adopt a constitutionally-compliant apportionment plan and map; and extend or create a new filing period for a period of two weeks after the passage and approval of such new congressional district plan and map.

31. 42 U.S.C. § 1983 reads as follows:

“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.”

32. On March 11, 2022, a different group of Plaintiffs filed a lawsuit in the Circuit Court of Cole County alleging that Missouri’s congressional districts are malapportioned and that a court-drawn remedial plan is required. *See Pereles v. Ashcroft*, Case No. 22AC-CC00114.

33. On March 31, 2022, this group of Plaintiff-Intervenors filed similar claims in the Circuit Court of Cole County. *See Thomas v. Missouri*, Case No. 22AC-CC00222.

34. On April 18, 2022, the Secretary of State filed a motion to dismiss in the *Pereles* litigation. A similar motion to dismiss was filed in the *Thomas* litigation on May 4, 2022.

COUNT I

35. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Petition and the paragraphs in the count below as though fully set forth herein.

36. Article III, Section 45 of the Missouri Constitution requires that after each decennial census, “the general assembly shall by law divide the state into districts corresponding with the number of representatives to which it is entitled, which districts shall be composed of contiguous territory as compact and as *nearly equal in population as may be*” (emphasis added). The Missouri Supreme Court has affirmed that “numerical equality [is] mandatory.” *Pearson v. Koster*, 359 S.W.3d 35, 39 (Mo. banc 2012). Section 45 is “triggered when the results of the...United States Census [are] revealed.” *Id.* at 37.

37. Article I, Section 4 of the United States Constitution states as follows:

“The Times, Places and Manner of holding Elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof;”

38. In order to comply with these requirements, the deviation in population among Missouri’s congressional districts should be no more than one person.

39. Missouri’s 2011 congressional districts are now unconstitutionally malapportioned.

40. Any future use of Missouri’s 2011 congressional district plan would violate Plaintiffs’ constitutional right to cast an equal, undiluted vote.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

a. Declaring that the 2011 configuration of Missouri’s congressional districts violates Article III, Section 45 of the Missouri Constitution and Article I, Section 4 of the United States Constitution;

b. Enjoining Defendant Ashcroft, his respective agents, officers, employees, and successors, and all persons acting in concert with him, from implementing, enforcing, or giving any effect to Missouri’s 2011 congressional district plan;

c. Adopting a constitutionally-compliant reapportionment plan and map;

- d. Ordering Defendant Ashcroft to open the candidate filing period for congressional districts for two weeks after the passage and approval of a new congressional district plan and map;
- e. Awarding Plaintiffs their costs and reasonable attorneys' fees under 42 U.S.C. § 1988 and any other applicable statute; and
- f. Granting such other and further relief as the Court deems just and proper.

COUNT II

41. Plaintiff-Intervenors reallege and incorporate by reference all prior paragraphs of this Complaint and the paragraphs in the Count below as though fully set forth herein.

42. Article I, Section 2 of the U.S. Constitution requires “that when qualified voters elect members of Congress each vote be given as much weight as any other vote.” *Wesberry v. Sanders*, 376 U.S. 1, 8 (1964). This means that state congressional districts must “achieve population equality ‘as nearly as is practicable.’” *Karcher v. Daggett*, 462 U.S. 725, 730 (1983) (quoting *Wesberry*, 376 U.S. at 7-8).

43. Article I, Section 2 requires an even higher standard of exact population equality among congressional districts than what the Fourteenth Amendment requires of state legislative districts. It “permits only the limited population variances which are unavoidable despite a good-faith effort to achieve absolute equality, or for which justification is shown.” *Karcher*, 462 U.S. at 730 (quoting *Kirkpatrick v. Preisler*, 394

U.S. 526, 531 (1969)). Any variation from “absolute population equality” must be narrowly justified. *Id.* at 732-33.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

- a. Declaring that the 2011 configuration of Missouri’s congressional districts violates Article III, Section 45 of the Missouri Constitution and Article I, Section 4 of the United States Constitution;
- b. Enjoining Defendant Ashcroft, his respective agents, officers, employees, and successors, and all persons acting in concert with him, from implementing, enforcing, or giving any effect to Missouri’s 2011 congressional district plan;
- c. Adopting a constitutionally-compliant reapportionment plan and map;
- d. Ordering Defendant Ashcroft to open the candidate filing period for congressional districts for two weeks after the passage and approval of a new congressional district plan and map;
- e. Awarding Plaintiffs their costs and reasonable attorneys’ fees under 42 U.S.C. § 1988 and any other applicable statute; and
- f. Granting such other and further relief as the Court deems just and proper.

COUNT III

44. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Petition and the paragraphs in the count below as though fully set forth herein.

45. Section 2 of the Voting Rights Act of 1965 mandates that no “standard, practice or procedure shall be imposed or applied by any state or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.” 52 U.S.C. § 10301.

46. Section 2 of the Voting Rights Act of 1965 prevents vote dilution of minority citizens.

47. Majority-minority districts should be created where the minority group is sufficiently large and geographically compact to constitute a majority in a single-member district, the minority group is sufficiently cohesive, and the non-minority population votes in a manner to usually enable it to block the minority candidate or candidates. *Thornburg v. Gingles*, 478 U.S. 30 (1986).

48. Missouri’s population distribution in the 2020 decennial census is such that it is only possible to draw one compact, majority-minority district.

49. That sole compact, majority-minority district would consist of the City of St. Louis and part of St. Louis County.

50. A majority-minority district consisting of St. Louis City and part of St. Louis County would need the test established in the *Gingles* case.

51. Minority representation is a critical element of any congressional district plan and map.

52. Any congressional district plan and map which does not draw a compact, majority-minority district would have the effect of disenfranchising Missouri's minority voters, as prevented by Section 2 of the Voting Rights Act.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

- a. Declaring that any congressional district reapportionment plan and map must contain a compact, majority-minority district consisting of the City of St. Louis and a portion of St. Louis County;
- b. Declaring that no other congressional district in the State of Missouri is capable of being a compact, majority-minority district;
- c. Adopting a reapportionment plan and map that includes a majority-minority district;
- d. Ordering Defendant Ashcroft to open the candidate filing period for congressional districts for two weeks after the passage and approval of a new congressional district plan and map;
- e. Awarding Plaintiffs their costs and reasonable attorneys' fees under 42 U.S.C. § 1988 and any other applicable statute; and
- f. Granting such other and further relief as the Court deems just and proper.

Dated: May 10, 2022

Respectfully submitted,

HUSCH BLACKWELL LLP

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and

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ATTORNEYS FOR PLAINTIFFS
PATRICIA THOMAS, DERRICK GOOD
and CURTIS JARED

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by the Court's CM/ECF filing system on the 10th day of May, 2022, which will notify all parties of record.

/s/ Michael Martinich-Sauter

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IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

PATRICIA THOMAS,)
DERRICK GOOD, and)
CURTIS JARED,)

Plaintiffs,)

vs.)

Case No:

STATE OF MISSOURI,)
Serve: Attorney General Eric Schmitt)
200 West High Street)
Jefferson City, MO 65109)

and)

SECRETARY OF STATE)
JOHN R. ("JAY") ASHCROFT,)
Serve: 600 West Main Street)
Jefferson City, MO 65109)

Defendants.)

PETITION FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

COME NOW Plaintiffs Patricia Thomas, Derrick Good and Curtis Jared, by and through counsel, and for their Petition for Declaratory Judgment and Injunctive Relief state as follows:

Missouri's current congressional districts were enacted over a decade ago, in 2011 (herein referred to as the "2011 congressional plan and map"). As revealed by the 2020 Census, the intervening population shifts have rendered those districts unconstitutionally malapportioned. Absent a revised congressional plan and map, Plaintiffs, who live in overpopulated districts, will be forced to cast unequal votes relative to voters in underpopulated

districts. The 2011 congressional plan and map therefore cannot be used in any upcoming elections, including the 2022 elections.

PARTIES

1. Plaintiff Patricia Thomas is a citizen and registered voter of the State of Missouri and the United States and resides in 2011 Congressional District Number 3. Plaintiff Thomas is also the treasurer of the Missouri Republican Party.

2. Plaintiff Derrick Good is a citizen and registered voter of the State of Missouri and the United States and resides in 2011 Congressional District Number 3. Plaintiff Good is also the secretary of the Missouri Republican Party.

3. Plaintiff Curtis Jared is a citizen and registered voter of the State of Missouri and the United States and resides in 2011 Congressional District Number 7. Plaintiff Jared is also on the State Committee of the Missouri Republican Party.

4. Defendant Missouri Secretary of State John R. (“Jay”) Ashcroft is named as a Defendant solely in his official capacity.

5. The Secretary of State is the State’s chief election official and is responsible for implementing laws related to elections and voting across the State, including the State’s congressional districts and congressional candidate filing for the 2022 primary and general elections.

VENUE AND JURISDICTION

6. Venue is proper in this Court as seat of government of the State of Missouri is in Jefferson City, Cole County, Missouri and the Secretary of State’s office is also so located.

7. This Court has jurisdiction over claims relating to the actions of the State of Missouri and the Secretary of State as they relate to the conduct

of elections and the enforcement of Article III, Section 45 of the Missouri Constitution. See, Chapters 115 and 536, RSMo, and Rule 87.

FACTS RELEVANT TO ALL COUNTS

8. On May 4, 2011, the 2011 congressional district plan and map was adopted for the State of Missouri.

9. At that time, using the 2010 Census, Missouri had a population of 5,988,927 and the 2011 congressional plan and map had a maximum deviation of one person, to wit: seven districts had a population of 748,616, and one district had a population of 748,615.

10. Missouri has not redrawn its congressional districts since May 4, 2011.

11. On April 26, 2021, the U.S. Secretary of Commerce delivered the apportionment results of the 2020 Decennial Census to the President showing that Missouri's resident population is 6,154,913.

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15. The table below, generated from the P.L. 94-171 data, shows for

each district, the “2020 Population” (which reflects the district’s 2020 population) and the “Difference from Equal 2020 Population” (which reflects the population difference of the 2020 population of each existing district from the equal 2020 congressional district population).

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16. Six of the eight existing congressional districts are “overpopulated” in that their 2020 population exceeds the equal 2020 population (Districts 2, 3, 4, 5, 6, & 7) and two are “underpopulated” (Districts 1 and 8).

17. As a result of the 2020 population, Missouri’s existing congressional district configurations do not comply with the Missouri Constitution.

18. If used in any future election, the 2011 congressional plan and map would unconstitutionally dilute the strength of Plaintiffs’ votes in congressional elections because Plaintiffs live in districts with populations that are significantly larger than those in which other voters live.

19. A new congressional plan and map in Missouri must be passed by both houses of the General Assembly and signed by the Governor (Mo. Const. art. III, §§45, 31) or passed by a two-thirds majority of both houses overriding a Governor’s veto (Mo. Const. art. §32).

20. The General Assembly has failed to enact new districts ahead of the period in which candidates can file written declarations of candidacy, which opened on February 22, 2022, and closed on March 29, 2022.

§115.349(2), RSMo.

21. The Missouri General Assembly has not adopted a congressional plan and map.

22. If the Missouri General Assembly were to adopt a congressional plan and map that would create new congressional districts, it could not become effective before 90 days from adjournment absent an emergency clause. Mo. Const., art. III, §29.

23. Ninety (90) days from adjournment is August 28, 2022. Mo. Const., art III, §§20(a) and 29.

24. An emergency clause requires a vote of two-thirds in both houses of the Missouri General Assembly. Mo. Const., art. III, §29.

25. Even if a congressional plan and map were passed by the General Assembly and signed by the Governor with or without an emergency clause, the candidate filing deadline of March 29, 2022, has passed.

26. The “General Assembly’s failure to provide a means for congressional representation would, if unremedied, result in an unconstitutional deprivation” of Plaintiffs’ right to select representatives, as the 2011 congressional districts are “patently and obviously unconstitutional.” *Shayer v. Kirkpatrick*, 541 F. Supp. 922, 925 (W.D. Mo. 1982)

27. Because the State of Missouri has failed to enact a new congressional plan and map and the filing period has closed before a plan was adopted, this Court should enter a mandatory injunction compelling the State to adopt a constitutional redistricting plan and map immediately and extend or

create a new filing period for such districts so as to ensure candidates can file in the proper congressional districts in advance of the August 2, 2022, primary election.

28. If the State cannot or will not enact a new congressional plan and map, then this Court should adopt its own congressional plan and map and extend or create a new filing period for such districts so as to ensure candidates can file in the proper congressional districts in advance of the August 2, 2022, primary election.

29. Plaintiffs therefore ask this Court to declare Missouri's 2011 congressional district plan unconstitutional; enjoin Defendant Ashcroft from using the 2011 congressional district plan in any future elections; and order the State of Missouri to establish a new congressional district plan and map that adheres to the constitutional requirement of one-person, one-vote and extend or create a new filing period for a period of two (2) weeks after the passage and approval of such new congressional district plan and map.

COUNT I

30. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Petition and the paragraphs in the count below as though fully set forth herein.

31. Article III, Section 45 of the Missouri Constitution requires that after each decennial census, "the general assembly shall by law divide the state into districts corresponding with the number of representatives to which it is entitled, which districts *shall* be composed of contiguous territory as compact and as *nearly equal in population as may be*" (emphasis added). The Missouri Supreme Court has affirmed that "numerical equality [is] mandatory." *Pearson v. Koster*, 359 S.W.3d 35, 39 (Mo. banc 2012). Section 45 is "triggered when the results of the...United States Census [are] revealed." *Id.* at 37.

32. In order to comply with this requirement, the deviation in population among Missouri's congressional districts should be no more than one person.

33. Missouri's 2011 congressional districts are now unconstitutionally malapportioned.

34. Any future use of Missouri's 2011 congressional district plan would violate Plaintiffs' constitutional right to cast an equal, undiluted vote.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

a. Declaring that the 2011 configuration of Missouri's congressional districts violates Article III, Section 45 of the Missouri Constitution;

b. Enjoining Defendant Ashcroft, his respective agents, officers, employees, and successors, and all persons acting in concert with him, from implementing, enforcing, or giving any effect to Missouri's 2011 congressional district plan;

c. Entering a mandatory injunction compelling the State of Missouri to adopt and implement a congressional district plan that complies with Article III, Section 45 of the Missouri Constitution in time for the 2022 elections;

d. Ordering Defendant Ashcroft to open the candidate filing period for congressional districts for two weeks after the passage and approval of a new congressional district plan and map;

e. Awarding Plaintiffs their costs and reasonable attorneys' fees; and

f. Granting such other and further relief as the Court deems just and proper.

COUNT II

35. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Petition and the paragraphs in the count below as though fully set forth herein.

36. Missouri's population distribution in the 2020 decennial census is such that it is only possible to draw one compact, majority-minority district.

37. That sole compact, majority-minority district would consist of the City of St. Louis and part of St. Louis County.

38. Minority representation is a critical element of any congressional district plan and map.

39. Any congressional district plan and map which does not draw a compact, majority-minority district would have the effect of disenfranchising Missouri's minority voters.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

- a. Declaring that the any congressional district plan and map must contain a compact, majority-minority district consisting of the City of St. Louis and a portion of St. Louis County;
- b. Declaring that no other congressional district in the State of Missouri is capable of being a compact, majority-minority district;
- c. Entering a mandatory injunction compelling the State of Missouri to adopt and implement a congressional district plan that contains a compact, majority-minority district consisting of the City of St. Louis and a portion of St. Louis County;
- d. Ordering Defendant Aschroft to open the candidate filing period for congressional districts for two weeks after the passage and approval of a new congressional district plan and map;

- e. Awarding Plaintiffs their costs and reasonable attorneys' fees; and
- f. Granting such other and further relief as the Court deems just and proper.

Respectfully submitted,

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