
No. 25-13253-J
(*consolidated with* No. 25-13254-J)

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

CARA MCCLURE, ET AL,

Plaintiffs-Appellees,

v.

JEFFERSON COUNTY COMMISSION

Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Alabama, No. 2:23-cv-00443 (Haikala, J.)

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July 14, 2026

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**CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1, the undersigned counsel certifies that the following persons and parties may have an interest in the outcome of this appeal:

1. Addoh-Kondi, Alexia, *Addoh-Kondi Plaintiff-Appellee*
2. Alabama State Conference of the NAACP, *McClure Plaintiff-Appellee*
3. Becker, David, *Amicus curiae*
4. Bernstein, C’Zar, *Former counsel for Defendant-Appellant*
5. Blacksher, James, *Counsel for Addoh-Kondi Plaintiffs-Appellees*
6. Bonner, Cynthia, *Addoh-Kondi Plaintiff-Appellee*
7. Brown, Ja’Nelle, *Addoh-Kondi Plaintiff-Appellee*
8. Carbajal, Lauren, *Counsel for McClure Plaintiffs-Appellees*
9. Carter, Brittany, *Counsel for McClure Plaintiffs-Appellees*
10. Carroll, Donald, *Counsel for Defendant-Appellant*
11. Clemon, U.W., *Counsel for Addoh-Kondi Plaintiffs-Appellees*
12. Davis, Samuel, *Former counsel for McClure Plaintiffs-Appellees*
13. Fernandes, Julie, *Amicus curiae*
14. Friel, Gregory, *Amicus curiae*
15. Gaber, Mark, *counsel for Amici Curiae*
16. Geiger, Soren, *Counsel for Defendant-Appellant*
17. Greater Birmingham Ministries, *McClure Plaintiff-Appellee*

18. Greenwood, Ruth, *Counsel for McClure Plaintiffs-Appellees*
19. Grisafi, Lily, *Former counsel for McClure Plaintiffs-Appellees*
20. Gross, Mark, *Amicus curiae*
21. Haikala, Madeline, *United States District Judge (N.D. Ala.)*
22. Hall, Eric, *Addob-Kondi Plaintiff-Appellee*
23. Hansen, Michael, *Addob-Kondi Plaintiff-Appellee*
24. Harless, Annabelle, *Counsel for amici curiae*
25. Heffernan, Brian, *Amicus curiae*
26. Hessel, Daniel, *Counsel for McClure Plaintiffs-Appellees*
27. Juarez, Julia, *Addob-Kondi Plaintiff-Appellee*
28. Lane, Kathleen, *Former counsel for Defendant-Appellant*
29. Lawsen, Nicki, *Counsel for McClure Plaintiffs-Appellees*
30. Lawson, II, Theodore, *Counsel for Defendant-Appellant*
31. Levitt, Justin, *Amicus curiae*
32. Long, Charles, *Addob-Kondi Plaintiff-Appellee*
33. McClure, Cara, *McClure Plaintiff-Appellee*
34. McCrary, Peyton, *Amicus curiae*
35. Meehan, Taylor, *Counsel for Defendant-Appellant*
36. Metro-Birmingham Branch of the NAACP, *McClure Plaintiff-Appellee*
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40. Muhammad, William, *Addob-Kondi Plaintiff-Appellee*

41. Pershing, Stephen B., *Amicus curiae*
42. Powers, John, *Amicus curiae*
43. Randall, Fred, *Addob-Kondi Plaintiff-Appellee*
44. Remlinger, Brian, *Amicus curiae*
45. Rice, Richard, *Counsel for Addob-Kondi Plaintiffs-Appellees*
46. Rich, Joseph, *Amicus curiae*
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48. Ross, Deuel, *Counsel for McClure Plaintiffs-Appellees*
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50. Rush, Bob, *Amicus curiae*
51. Sadasivan, Kathryn, *Counsel for McClure Plaintiffs-Appellees*
52. Sayer, Marie, *Counsel for Defendant-Appellant*
53. Sells, Bryan, *Amicus curiae*
54. Sheikh, Uruij, *Former counsel for McClure Plaintiffs-Appellees*
55. Smith, Tammie, *Addob-Kondi Plaintiff-Appellee*
56. Strawbridge, Patrick, *Counsel for Defendant-Appellant*
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60. Walker, Robert, *Addob-Kondi Plaintiff-Appellee*
61. Wright, Brenda, *Counsel for McClure Plaintiffs-Appellees*
62. Wyrick, Rachael, *Counsel for Defendant-Appellant*

Plaintiffs-Appellees further state that no publicly traded company or

corporation has an interest in the outcome of the case or appeal.

/s/ Kathryn C. Sadasivan

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Plaintiff-Appellees Cara McClure, Greater Birmingham Ministries, the Metro-Birmingham Branch of the NAACP and the Alabama State Conference of the NAACP submit the following supplemental brief in response to the Court’s order to address: (1) “whether and how *Callais* and *Milligan* impact the appropriate legal analysis in this case”; and (2) “whether it would be appropriate to remand to the district court for consideration of this case in light of *Callais* and *Milligan*.” Doc. 65.¹

I. Neither *Allen v. Milligan* nor *Louisiana v. Callais* Altered the Governing Legal Framework in this Racial Gerrymandering Case.

Both *Louisiana v. Callais*, 146 S. Ct. 1131 (2026) and the stay order in *Allen v. Milligan*, 146 S. Ct. 1377 (2026) rested on the Supreme Court’s updated legal framework for establishing a violation of Section 2 of the Voting Rights Act (“VRA”). *Callais*, 146 S. Ct. at 1159; *Allen*, 146 S. Ct. at 1380. The Supreme Court in *Callais* and *Milligan* did not purport to alter the longstanding legal framework for deciding racial gerrymandering cases, which the court below appropriately applied. Indeed, in *Callais*, the Court struck down a racially gerrymandered district. 146 S. Ct. at 1143. In doing so, the Court reaffirmed that when race is the predominant motive for line-drawing in a particular district, the district is unconstitutional unless a legislative body can demonstrate that the district is narrowly tailored to comply with the VRA. *Id.* This is

¹ Citations to the docket in this brief refer to Eleventh Circuit docket entries in *McClure et al. v. Jefferson County Commission*, No. 25-13253. “Op.” cites refer to the decision of the Northern District of Alabama on appeal. ECF 191, No. 2:23-00443.

the standard applied by the court below. Op. at 87 (citing *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 7 (2024)).

Rather than altering the legal standard for establishing racial gerrymandering, *Callais* confirmed that compliance with Section 2 can serve as a “compelling state interest” for using race in redistricting when certain conditions are met. 146 S. Ct. at 1152-53. The Court in *Callais* then changed the standard for proving vote-dilution under Section 2’s “results test,” highlighting the state’s “extraordinarily onerous” burden of proving its use of race was reasonably necessary to comply with the VRA. 146 S. Ct. at 1161. The district court here recognized this same limitation. *See* Op. at 89 (“A legislative body that engages in racial gerrymandering purportedly to cure a Section 2 violation ‘must establish that it had “good reasons” to think that it would transgress the Act if it did not draw race-based district lines.’”) (internal citations omitted). In *Callais*, the Court affirmed a determination that race predominated in a district and found that “Section 2 does not provide a compelling interest because the State did not need to create a new majority-minority district to comply with the Act.” 146 S. Ct. at 1161.

Likewise, the Supreme Court’s stay decision in *Allen v. Milligan*, where a district court found the State of Alabama violated Section 2 of the VRA and the Fourteenth Amendment’s ban on intentional racial discrimination, did not alter the well settled framework for proving racial gerrymandering. 146 S. Ct. 1377 (2026). Instead, after *Callais*, the Court treated the district court’s finding of intentional vote dilution as derivative of its finding of a Section 2 violation. *Id.* at 1381. The Court determined that

because plaintiffs' Section 2 claim likely did not satisfy the *Callais* standard for proving a Section 2 violation, that doomed the lower court's finding of intentional vote dilution too. *Id.* The Court in *Milligan* did not consider a racial gerrymandering claim.

Racial gerrymandering claims are analytically distinct from claims of intentional discrimination and statutory vote dilution. In *Alexander*, the Court found legal error when a district court relied on the same facts in analyzing both an intentional vote-dilution claim and a racial gerrymandering claim, noting the claims are "analytically distinct" and "follow[] a different analysis." 602 U.S. at 38 (citation omitted). While the Court reversed the racial gerrymandering claim, it remanded the intentional discrimination claim because the trial court had applied the wrong standard. *Id.* at 38-39.

Here, the district court carefully applied the framework set out most recently in *Alexander* to determine whether race predominated in the drawing of the Jefferson County Commission's 2021 redistricting plan. But like *Callais*, the district court determined that the Commission's predominant use of race was not narrowly tailored to comply with the VRA. Op. at 138 (noting "[t]he Commission has not attempted to make" a showing that its "2021 plan 'can overcome the daunting requirements of strict scrutiny'"). Thus, the legal standard faithfully applied by the lower court remains unaltered by the *Callais* and *Milligan* decisions updating and applying the new standard for proving a Section 2 violation or satisfying strict scrutiny to justify race-based districting.

II. *Callais* Makes Clear that the Commission’s Use of Race in 2021 Was Unjustified.

In 2021, the Commission engaged in racial gerrymandering in large part because it drew district lines that moved Black voters in the Birmingham suburbs into two super-majority Black districts for the predominately race-based motive of maintaining racial thresholds. *See Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 265-67 (2015) (“*ALBC*”) (finding that statements by key legislators and cartographer that, to comply with Section 5 of the VRA, they sought to equalize population “without significantly lowering the percentage of the [Black] population in each district,” was evidence that race predominated); *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178, 182 (2017) (citation modified) (explaining that a racial target is not narrowly tailored unless a “legislature had good reasons to believe that a . . . racial target was necessary” to comply with the VRA). While compliance with the VRA is a compelling state interest, *Callais*, 146 S. Ct. at 1143, the Commission has never claimed that it drew its districts to comply with the VRA.

In *Callais*, the Supreme Court determined that “[t]he State’s intentional compliance” with a federal court order requiring the state to create an additional majority-Black congressional district “constituted an ‘express acknowledgment that race played a role in the drawing of district lines,’” and required the state to demonstrate that its use of race was narrowly tailored to serve a compelling state interest. 146 S. Ct. at 1161 (quoting *Alexander*, 602 U.S. at 8). And the Supreme Court held that race

predominated in the challenged district because Louisiana intentionally set out to create a second majority-Black congressional district, *id.*, despite statements by key legislators that the challenged map was drawn for the political reasons of disadvantaging an incumbent. *Callais v. Landry*, 732 F. Supp. 3d 574 (W.D. La. 2024). But, like this case, *Callais* did not bear upon the constitutionality of any district in the state previously adopted to comply with the Voting Rights Act.

The districts at issue in this appeal came about because of a federal court order resulting from Section 2 litigation requiring the Commission to adopt single member districts so that “Black residents of Jefferson County [will have] a greater opportunity to elect 2/5 or 40% of the County Commission positions.” Op. at 97-98; *see also Yeldell v. Cooper Green Hosp., Inc.*, 956 F.2d 1056, 1058 (11th Cir. 1992). The 1985 decree established five single-member districts with Black population majorities in Districts 1 (65.6% Black population) and 2 (66.8% Black population). Op. at 14. Although no racial target was required by that order, the Commission needlessly sought to maintain specific racial thresholds for many decades. For example, the Commission made explicit in its statements to the Justice Department that its plans were drawn to maintain “the ratio of [B]lack and white population within the districts” and ensure that two districts contained Black populations “in excess of 65%.” Op. at 20; *see also id.* at 27, 30, 31. But the court below held (and Plaintiff-Appellees agree) that past compliance with Section 5 did not render the districts at issue constitutionally suspect. Op. at 95. Plaintiffs-Appellees likewise agree with the district court that the mere fact that the Commission

sought and achieved racial thresholds in past redistricting cycles does not mean that race predominated in the Commission's 2021 districts. Op. at 97 ("Here, the Court considers the Commission's decisions in several previous redistricting cycles to determine whether prior line-drawing sheds light on the Commission's predominant purpose in 2021."). Instead, the Court correctly found that, in addition to the direct evidence, the Commission's race-based decision to redraw the boundaries of Districts 1 and 2 to place "many of the neighborhoods and suburbs into which Black voters had moved between 1990 and 2020" was relevant to the Commission's racially predominant purpose in 2021. Op. at 37. Unlike *Alexander*, the Commissioners here offered explicitly race-based reasons for moving specific precincts and parts of municipalities into their districts. Op. at 120-22. (specifying remarks made by Commissioners during the redistricting process that "underscore the predominant role of race during the 2021 redistricting cycle."). Thus, both direct and circumstantial evidence made clear that in 2021 the Commission followed the same pattern it has undertaken for decades of eschewing traditional criteria to split precincts and municipalities along racial lines to place Black populations into Districts 1 and 2. Op. at 57-58, 71, 104-107, 120-138.

Here, "although malapportionment was the 'why' of the redistricting plan, race was the 'how.' . . . The evidence is overwhelming that the County decided at the outset to maintain its two black voting districts and to assign as much of the black voting age population as possible to those districts." *Clark v. Putnam Cnty.*, 293 F.3d 1261, 1269-70 (11th Cir. 2002).

After *Callais*, this evidence clearly establishes that race predominated in the Commission's 2021 plan without sufficient justification.

III. Remand is Unnecessary

The court below correctly applied the governing legal standard to this racial gerrymandering case to find that race predominated in the Jefferson County Commission's 2021 redistricting plan and that the Commission never attempted to justify its predominant use of race. Nothing in *Milligan* or *Callais* affects the analysis or conclusions reached by the district court based on the facts of this case. Therefore, remand is unnecessary.

Dated: July 14, 2025

Respectfully submitted,

/s/ Kathryn C. Sadasivan

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CERTIFICATE OF COMPLIANCE

This brief complies with this Court's order, ECF No. 65, because it does not exceed 15 pages. This brief also complies with Rule 32(a)(5)-(6) because it is prepared in a proportionally spaced 14-point Garamond face using Microsoft® Word.

/s/ Kathryn Sadasivan
Kathryn Sadasivan

CERTIFICATE OF SERVICE

I hereby certify that on July 14, 2026, I electronically filed the foregoing with the Clerk of Court for the United States Court of Appeals for the Eleventh Circuit using the CM/ECF system thereby serving all counsel of record.

/s/ Kathryn Sadasivan
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