UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA

CLEVE DUNN, JR., ET AL. Plaintiffs, v. EAST BATON ROUGE PARISH, ET AL., Defendants	CIVIL ACTION NO 3:24-cv-00521 HONORABLE SHELLY D. DICK DISTRICT JUDGE HONORABLE ERIN WILDER- DOOMES, MAGISTRATE JUDGE

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PLAINTIFFS' OPPOSITION TO THE PARISH'S MOTION TO DISMISS

This case is about the post-Census redistricting map for the Baton Rouge Metropolitan Council. Plaintiffs contend that the map dilutes Black voting strength in violation of the Voting Rights Act of 1965 ("VRA") and the United States Constitution.

Plaintiffs' complaint (Rec. Doc. 1) provides a range of factual allegations supporting the idea that the Parish has "packed" large numbers of Black voters into a few majority-Black council districts and "cracked" the remaining Black voters among the majority-white districts. The situation in Baton Rouge is particularly stark because although white voters are no longer the majority group in the Parish, the new map would *increase* the entrenchment of white control of the Metro Council by turning a plurality-white district into a new majority-white council district.

The Parish has moved to dismiss the suit. Rec. Doc. 18. The Parish's core argument is that the case should be dismissed because the Plaintiffs have not yet "established" each of the *Gingles* factors. Rec. Doc. 18-1 at 8-21.

But that is not the legal standard. The Parish cites a range of post-trial and post-permanent-injunction cases for the idea that plaintiffs "must establish" certain elements in a voting rights case.

None of those cases in any way suggest that plaintiffs must "establish" all of the *Gingles* factors at the pleading stage. At the motion to dismiss phase, courts look at whether plaintiffs have provided factual allegations sufficient to state a claim that is plausible on its face – not whether plaintiffs have "proved" or "established" each element of their claim with evidence. Here, Plaintiffs have provided detailed factual allegations supporting each of the *Gingles* factors – more than enough to make the factors plausible.

Because the Parish's motion is premised on a legal standard inapplicable at the pleading phase, it should be denied.

I. Standards of Review

12(b)(1) Standard**:** "Federal courts are courts of limited jurisdiction, and their authority to adjudicate claims must be conferred by statute or the Constitution." *Williams v. U.S. Federal Aviation Admin.*, 2011 WL 2175785, at *1 (*citing Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994)). Further, "[t]he party invoking federal jurisdiction bears the burden of pleading and proving the court's subject matter jurisdiction." *Id.* (*citing Ramming v. U.S.*, 281 F.3d 158, at 161 (5th Cir. 2001)). Dismissal of a party's claims is appropriate under Rule 12(b)(1) of the Federal Rules of Civil Procedure if a party fails to carry this burden. *Id.* "When a Rule 12(b)(1) motion to dismiss is filed in conjunction with other Rule 12 motions, the court should consider the Rule 12(b)(1) jurisdictional attack before addressing any attack on the merits. This requirement prevents a court without jurisdiction from prematurely dismissing a case with prejudice." *Ramming*, 281 F.3d at 161 (internal citations omitted).

"A motion to dismiss under Rule 12(b)(1) is analyzed under the same standard as a motion to dismiss under Rule 12(b)(6).'' *Hall v. Louisiana, et al.*, 2013 WL 5434643, *2 (M.D. La. 9/30/2013). Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, a complaint is

subject to dismissal if a plaintiff fails "to state a claim upon which relief can be granted." "To survive a Rule 12(b)(6) motion to dismiss, the plaintiff must plead 'enough facts to state a claim to relief that is plausible on its face.'" *Id.* However, when ruling on a Rule 12(b)(1) motion, "the court is permitted to look at evidence in the record beyond simply those facts alleged in the complaint and its proper attachments." *Ambraco, Inc. v. Bossclip B. V.*, 570 F.3d 233, at 238 (5th Cir. 2009). "Ultimately, a motion to dismiss for lack of subject matter jurisdiction should be granted only if it appears certain that the plaintiff cannot prove any set of facts in support of her claim which would entitle her to relief." *Ramming*, 281 F.3d at 161.

12(b)(6) Standard**:** A Rule 12(b)(6) motion to dismiss tests the sufficiency of the complaint against the legal standard set forth in Rule 8, which requires "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)).

"Determining whether a complaint states a plausible claim for relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *Id.* at 679. "[F]acial plausibility" exists "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* at 678 (citing *Twombly*, 550 U.S. at 556). When conducting its inquiry, a court must "accept[] all well-pleaded facts as true and view[] those facts in the light most favorable to the plaintiff." *Bustos v. Martini Club Inc.*, 599 F.3d 458, 461 (5th Cir. 2010) (internal citations omitted).

II. Discussion

A. The motion should be denied because the Parish wrongly suggests that Plaintiff needs to "establish" each *Gingles* factor at the pleading stage. That is a post-trial standard, not a motion to dismiss standard.

The Parish argues that the case should be dismissed because Plaintiffs "fail to establish" one or more of the *Gingles* factors. Rec. Doc. 18-1 at 13 et seq.[1] The Parish cites *Growe v. Emison*, 507 U.S. 25, 40-41 (1993), for the proposition that unless the *Gingles* factors "are established, there neither has been a wrong nor can be a remedy."

But the Parish misunderstands or misstates the standard applicable at the pleading stage. *Growe* involved an appeal from "an order adopting [] legislative and congressional districting plans and permanently enjoining interference with state implementation of those plans." *Id.* at 31. That is to say, *Growe* addressed the standard for the very end of a case, after a trial has occurred and a permanent injunction has been issued.

Similarly, Defendants cite *Cooper v. Harris*, 581 U.S. 285, 302 (2017) and *Bartlett v. Strickland*, 556 U.S. 1, 19–20 (2009) for what Plaintiffs must "establish." But *Cooper* dealt with an appeal "after a bench trial" and *Bartlett* dealt with an appeal from summary judgment. None of the cases cited by the Parish in any way suggest that plaintiffs must "establish" all of the *Gingles* factors at the pleading stage.

[1] The Parish uses this "fail to establish" standard throughout their motion. See Rec. Doc. 18-1 at 9 ("plaintiffs must establish all three *Gingles* conditions to prove the existence of a redressable injury"); 10 ("Plaintiffs have failed to establish the existence of a particularized injury-in-fact"); 12 ("Plaintiffs have failed to establish the existence of an actual, concrete injury-in-fact."); 12 ("Plaintiffs have not established the existence of a compact, politically cohesive minority group"); 13 ("Plaintiffs Have Not Established the Existence of a Sufficiently Numerous and Compact Minority Group."); 13 ("Plaintiffs Fail to Establish Sufficient Numerosity."); 14 ("Plaintiffs Fail to Establish Compactness"); 16 "Plaintiffs have failed to establish the existence of a sufficiently large minority group"); 17 ("Plaintiffs Have Failed to Establish the Existence of a Politically Cohesive Black Voting-Age Population"); 21 ("the facts asserted by Plaintiffs fail to establish"); 21 ("the Plaintiffs' failed to establish in the Complaint that a sixth Black-majority District could be drawn"); 21 ("Plaintiffs have not established any of the Gingles factors.")

Rather, a motion to dismiss under Rule 12(b)(1) is analyzed under the same standard as a motion to dismiss under Rule 12(b)(6). *Hall v. Louisiana, et al.*, 2013 WL 5434643, *2 (M.D.La. 9/30/2013). The question whether Plaintiff has alleged "enough facts to state a claim to relief that is plausible on its face." Thus, a motion to dismiss for lack of subject matter jurisdiction should be granted "only if it appears certain that the plaintiff cannot prove any set of facts in support of her claim which would entitle her to relief." *Ramming*, 281 F.3d at 161.

Thus, Defendants' whole motion is based on a false premise: that Plaintiff must "establish" each factor with evidence at the pleading stage, rather than alleging facts making their claim plausible. Given the motion's incorrect premise, the motion should be denied.

B. The motion should be denied because Plaintiffs have plausibly alleged — through detailed factual allegations — each of the *Gingles* factors.

Most of the rest of the Parish's motion to dismiss consists of either un-evidenced factual disagreements with the allegations of Plaintiff's complaint, or the Parish simply ignoring the allegations that are in the complaint. These modes of argumentation are not consistent with the standard for a motion to dismiss, which requires accepting "all well-pleaded facts as true and viewing those facts in the light most favorable to the plaintiff." *Bustos v. Martini Club Inc.*, 599 F.3d 458, 461 (5th Cir. 2010) (internal citations omitted).

1. Numerosity.

Regarding numerosity, the Parish argues that Plaintiffs have not alleged facts showing that the minority population in the districts of a potential alternative map would be greater than 50%. Rec. Doc. 18-1. The Parish's contention, however, is undermined by the Parish's admission that the Parish itself generated three proposed maps "which contain a sixth Black-majority district—Plans 7, 7A, and 5B." *Id.* at 15.

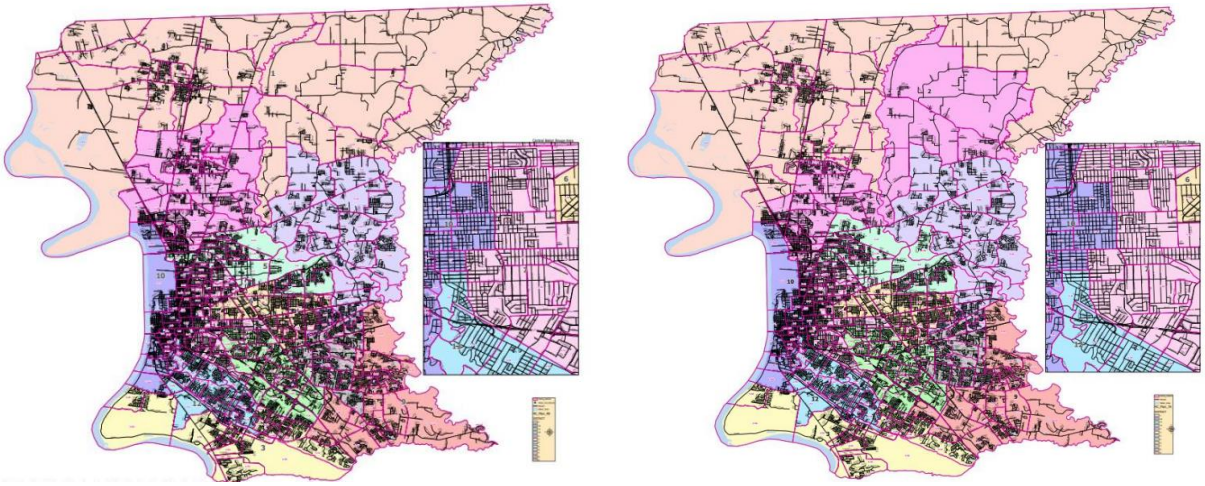
The Parish also ignores the actual content of Plaintiffs' complaint, which provides "detailed district break-downs" by demographic and population for an alternative map that Plaintiffs suggest would comply with the Voting Rights Act:

E. Baton Rouge Metro Council Plan 7A Demographics																				
District	Ideal Value	Population	Deviation	% Deviation	White	% White	NH_DOJ_Blk	% NH_DOJ_Blk	18+_Pop	18+_Wht	% 18+_Wht	18+DOJ_Blk	% 18+DOJ_Blk	RVTOTAL	RVWHITE	% RVWHITE	RVBLACK	% RVBLACK	RVOTHER	% RVOTHER
1	38065	39895	1830	4.8%	15961	40.0%	21573	54.1%	29302	12272	41.9%	15392	52.5%	26084	11386	43.7%	13861	53.1%	837	3.2%
2	38065	36225	-1840	-4.8%	8468	23.4%	26582	73.4%	27554	6904	25.1%	19889	72.2%	24105	6197	25.7%	17315	71.8%	593	2.5%
3	38065	39470	1405	3.7%	22208	56.3%	9802	24.8%	30531	18134	59.4%	7137	23.4%	24180	16340	67.6%	5568	23.0%	2272	9.4%
4	38065	36546	-1519	-4.0%	22369	61.2%	9211	25.2%	27276	17710	64.9%	6151	22.6%	22524	16591	73.7%	4714	20.9%	1219	5.4%
5	38065	37427	-638	-1.7%	2484	6.6%	32962	88.1%	27607	2127	7.7%	24282	88.0%	25271	1897	7.5%	22544	89.2%	830	3.3%
6	38065	39827	1762	4.6%	9869	24.8%	23869	59.9%	29936	8594	28.7%	17022	56.9%	19535	6389	32.7%	11563	59.2%	1583	8.1%
7	38065	38053	-12	0.0%	9664	25.4%	26174	68.8%	29486	8213	27.9%	19747	67.0%	26030	7660	29.4%	17362	66.7%	1008	3.9%
8	38065	36884	-1181	-3.1%	17443	47.3%	12886	34.9%	28483	14718	51.7%	9187	32.3%	20695	13082	63.2%	5866	28.3%	1747	8.4%
9	38065	39540	1475	3.9%	24706	62.5%	8745	22.1%	30171	19934	66.1%	6064	20.1%	25714	19075	74.2%	4748	18.5%	1891	7.4%
10	38065	37375	-690	-1.8%	13085	35.0%	21233	56.8%	32382	12587	38.9%	17252	53.3%	18012	4364	24.2%	12618	70.1%	1030	5.7%
11	38065	37256	-809	-2.1%	24086	64.7%	8372	22.5%	30431	20493	67.3%	6337	20.8%	23103	17637	76.3%	3984	17.2%	1482	6.4%
12	38065	38283	218	0.6%	25726	67.2%	7463	19.5%	32453	22195	68.4%	6124	18.9%	22770	16949	74.4%	4154	18.2%	1667	7.3%
Totals		456781			196069	42.9%	208872	45.7%	355612	163881	46.1%	154584	43.5%	278023	137567	49.5%	124297	44.7%	16159	5.8%

Rec. Doc. 1 at ¶ 59. Contrary to the Parish's suggestion, the complaint's detailed break-down shows six districts with Black voting-age populations (BVAP) of over 50%. See Rec. Doc. 1 at ¶ 59 ("18+DOJ_Blk" column). Plaintiffs have more than sufficiently alleged numerosity.

2. Compactness

Regarding compactness, the Parish addresses the two maps shown in the complaint: the map passed by the Metro Council, and a proposed alternative map proffered by Plaintiffs. Those two maps are below. *Cf.* Rec. Doc. 1 at ¶¶ 58, 61.



The Parish contends that according to a "plain viewing," one of these maps is perfectly fine and the other "obviously violates traditional districting principles by separating communities of interest." Rec. Doc. 18-1 at 14. The Parish offers only the assertions of counsel and no evidence for this contention (nor could it offer evidence at the motion to dismiss stage). Instead, the Parish asks the Court to simply take the argument of counsel about what is "obvious" as sufficient to dismiss the case.

But the Parish does not provide any authority suggesting that a lawyer or the Court can eyeball one map at the motion to dismiss stage and conclude that compactness would be impossible for *any* map that complies with the Voting Rights Act. Every single one of the cases the Parish cites about compactness are post-trial or post-preliminary injunction cases.[2]

Similarly, the Parish asserts without citation to any sworn evidence that the Plaintiffs' proposed map "divides these communities solely to achieve the goal of creating a sixth majority-Black district." Rec. Doc. 18-1 at 15. Courts, however, have rejected arguments that division of communities is dispositive,[3] and the Parish does not cite any case law suggesting this issue can be resolved at the motion to dismiss stage.

The Parish is welcome to make these arguments in this case. But it does not give the Court any basis for the idea that those issues can be resolved at the motion to dismiss stage.

[2] *Gonzalez v. Harris Cnty*., 601 Fed. App'x. 255 (5th Cir. 2015) (per curiam) ("In a four-day bench trial in November 2012, the court considered testimony from fact and expert witnesses and, among other exhibits, hypothetical, illustrative redistricting maps plaintiffs presented to demonstrate, inter alia, the compactness of the Latino voting-age citizenry."); *Fairley v. Hattiesburg*, 584 F.3d 660, 670 (5th Cir. 2009) (referencing the "trial"); *Nairne v. Ardoin*, 2024 WL 492688 at *1 (M.D. La. 2024) ("This matter came before the Court for a seven-day non-jury trial on the merits beginning November 27, 2023 and ending December 5, 2023."); *Bush v. Vera*, 517 U.S. 952 (1996) (referring repeatedly to "testimony" and "expert testimony"); *Robinson v. Ardoin*, 86 F. 4th 574, 583 (5th Cir. 2023) ("We are reviewing the grant of a preliminary injunction and not a final judgment in this case.")

[3] *See, e.g., LULAC v. Abbott*, 2022 U.S. Dist. LEXIS 177000, at *12 (W.D. Tex. Sep. 29, 2022) ("Plaintiffs have pleaded sufficient facts tending to show that the proposed districts are 'reasonably compact.' . . . While each district runs through multiple neighborhoods, the proposed Harris County districts are limited to stretches of the Houston area and the proposed DFW districts are contained within the DFW metroplex.")

3. Racially Polarized Voting

The Parish argues that Plaintiffs have not provided factual allegations supporting the existence of "significant racial bloc voting (or racially polarized voting)." Rec. Doc. 18-1 at 17.

The Parish is wrong, and in some places, confused. First, Plaintiffs' complaint alleges that "Black voters in Baton Rouge are politically cohesive. Black voters vote for different candidates than the candidates preferred and supported by white voters." Rec. Doc. 1 at ¶ 66. The complaint then supports that allegation with a range of factual support. It provides a detailed tracking of Metro Council seats over a decade and a half to show that from "2009 to the present, despite elections, deaths, and mayoral appointments, there have been seven consistently-white-held council districts, and five consistently-Black-held districts." *Id.* at ¶ 67. And the complaint notes that these districts line up "exactly with the demographics of the Parish: the five consistently Black-held districts are the ones that had a Black majority in 2020 census data." *Id.* at ¶ 68. That consistency across time makes it plausible that Baton Rouge has significant racial bloc voting. Similarly, the complaint provides a range of examples where white voters' preferred candidates defeated Black voters' preferred candidates by margins that mirror the district's racial composition, providing additional support for bloc voting. *Id.* at ¶ 72-81.

The complaint also provides charts that plot precinct-by-precinct data on two axes – the percent of registered voters in the precinct that are white or Black, and the percent of the precinct who voted for a particular candidate in 2020. *Id.* at ¶¶ 70-71. The straight-line-fit of those data points indicates that the demographics of a precinct is directly predictive of what candidate will win the precinct, which is directly suggestive of racial bloc voting.[4]

[4] The Parish suggests that these charts are "conflicting" because they refer to November 2024 data. That is simply a typo; the data is from November 2020, obtained from the Louisiana Secretary of State.

The Parish complains that these charts are analogous to concluding that "all women in East Baton Rouge Parish are brunettes" based on only two data points: that 50% of the parish is female and 50% of the parish are brunettes. Rec. Doc. 18-1 at 18. But that is not what is proffered in the complaint at all; the complaint plots a set of ninety-eight data points of precinct-by-precinct information along two axes. That dataset allows for a regression analysis, which is indicative of racial bloc voting. *See Citizens for a Better Gretna v. Gretna*, 834 F.2d 496, 500 (5th Cir. 1987) ("This correlation and regression analysis correlates by precinct the race of the voter with votes received by a particular candidate."); *Rollins v. Fort Bend Indep. Sch. Dist.*, 89 F.3d 1205, 1218 (5th Cir. 1996) ("statistics, such as extreme case analysis, and ecological regressions have been approved by the Supreme Court and the Fifth Circuit to prove racially polarized voting patterns").[5]

The Parish also complains that one chart refers to Kamala Harris, who the Parish says "was not even on the ballot for the 2020 election." Rec. Doc. 18-1 at 18. But the Parish appears to forget that Kamala Harris *was* on the 2020 election ballot – for Vice President of the United States.[6]

The Parish also argues, without explanation, that the "2020 U.S. Presidential Election is an inappropriate metric" to measure political cohesion relevant to the Metro Council redistricting. Rec. Doc. 18-1. But the case the Parish cites for that proposition, *Magnolia Bar Ass'n, Inc. v. Lee,* F.2d 1143, 1149 (5th Cir. 1993), does not say that other kinds of elections are irrelevant – it only says that elections of the same type are *more* relevant. That case also holds that "the most probative elections are generally those in which a minority candidate runs against a white candidate" (*id*. at

[5] This case is still at the pleading stage, and so the parties have not yet offered expert reports with regression analyses of the data. But the straight-line slope of the data provided in the complaint makes Plaintiffs' claims plausible at the pleadings stage. *See Jackson v. Edgefield Cty., S.C. Sch. Dist*., 650 F. Supp. 1176, 1195 (D.S.C. 1986) ("By plotting a straight line that 'best' fits the various points on the Cartesian coordinate graph, 'the slope of the regression line provides an estimate of the strength of the relationship between two variables; the greater the slope, the stronger the relationship.'"

[6] See Secretary of State Election Results, Nov. 3, 2024 (listing presidential electors for "Joseph R. Biden, Kamala Harris"), available online at https://voterportal.sos.la.gov/graphical.

1149) – like Kamala Harris' run for vice president in 2020. Thus, what Plaintiff proffers is among the "most probative" evidence – not the least.

In sum, Plaintiffs have provided abundant factual support for each of the *Gingles* factors in paragraphs 55 to 82 of their complaint. (Plaintiffs also provide factual support for each of the Senate Factors in paragraphs 84 to 173, but the Parish does not challenge those.) Defendants contend that Plaintiff has not "established" or "proved" each factor, but "this logic ignores the fact that [a plaintiff] is not required to prove the claims in his complaint to survive a motion to dismiss." *Whitaker v. Collier*, 862 F.3d 490, 507 (5th Cir. 2017) (Graves, J., dissenting); *see also Weber v. E. Lift Truck Supply, Inc.*, No. 6:21-CV-00317-JCB, 2021 U.S. Dist. LEXIS 242850, at *17 (E.D. Tex. Nov. 15, 2021) ("Plaintiff need not prove her case at the pleading stage"). The motion should be denied.

C. The motion should be denied because the Parish offers no legal authority for its idiosyncratic theory of Voting Rights Act standing.

The Parish also attacks the standing of most of the plaintiffs based on the districts they live in. But the Parish does *not* dispute that one plaintiff has alleged facts sufficient for standing in this regard. See Rec. Doc. 18-1 at 11-12 ("This leaves Plaintiff Montgomery as the only Plaintiff who would allegedly be part of 'an ineffective minority unable to participate equally in the electoral process' because of their residence in a White-majority District.") Accordingly, this Court need not reach this standing issue, as one plaintiff's standing is sufficient. *See Pool v. City of Houston*, 978 F.3d 307, 312 n.7 (5th Cir. 2020) ("Only one plaintiff is needed to establish standing for each form of requested relief."), *citing Town of Chester v. Laroe Estates, Inc.*, 137 S. Ct. 1645, 1651 (2017).

The Parish's reasoning is also wrong. The Parish argues that Plaintiffs have not alleged facts supporting standing because most of the Plaintiffs reside in majority-Black districts. Rec.

Doc. 18-1 at 11. The Parish's theory appears to be that in a VRA packing or cracking case, only voters in majority-white districts have standing to sue. *Id.*

The Parish does not, however, cite any authority for that proposition. In fact, the Parish cites authority for the exact opposite holding. That case is *Anne Harding v. County of Dallas, Texas*, 948 F. 3d 302, 307 (5th Cir. 2020), in which the Fifth Circuit explained that:

> In vote dilution cases, the 'harm arises from the particular composition of the voter's own district, which causes his vote—having been packed or cracked—to carry less weight than it would carry in another, hypothetical district.'

As this Court put it, whether individuals have been "allegedly been 'cracked' by being dispersed 'into districts in which they constitute an ineffective minority,' or 'packed' by being 'concentrat[ed] into districts where they constitute an excessive majority'. . . Either form of vote dilution is an injury sufficient to establish standing." *Nairne v. Ardoin*, No. 22-178-SDD-SDJ, 2023 U.S. Dist. LEXIS 203477, at *13-14 (M.D. La. Nov. 14, 2023), quoting *Harding*, 948 F.3d at 307 ("It is conceded that each voter resides in a district where their vote has been cracked or packed. That is enough.") "As the Fifth Circuit counsels, '[t]hat is enough.'" *Id.*

That is exactly the situation here. Plaintiffs allege that the challenged map packs "large numbers of Black voters into majority-Black council districts where they constitute an ineffective minority unable to participate equally in the electoral process." Rec. Doc. 1 at ¶ 2. Six of the plaintiffs reside in those majority-Black districts that have been subjected to packing. *Id*. at ¶ 11-16. The seventh plaintiff, Lael Montgomery, is in a majority-white district where he is subject to cracking – but the Parish does not challenge his standing on this ground. Rec. Doc. 18-1 at 11-12.

Because Plaintiff's residence in allegedly packed districts "is enough" for standing according to the Fifth Circuit, the motion should be denied.

D. The motion should be denied with regard to the constitutional claim because plaintiffs alleged discriminatory purpose in Paragraph 187 of their complaint.

The Parish's final argument is that Plaintiff's constitutional claim should be dismissed because the "Complaint does not contain any allegation that the Metro Council had any discriminatory intent when it enacted the Ordinance." Rec. Doc. 18-1 at 24.

The Parish is wrong. Paragraph 187 of the Complaint alleges that "Defendants approved this map so as to dilute the votes of Black voters and thereby treat voters unequally under its laws." That is a crystal-clear statement of discriminatory intent. *See Hooker v. Campbell*, 2018 U.S. Dist. LEXIS 64082, at *19 (W.D. La. Apr. 16, 2018) ("Discriminatory intent means 'that the decision maker singled out a particular group for disparate treatment and selected his course of action at least in part for the purpose of causing its adverse effect on an identifiable group.'"), *quoting Fennell v. Marion Independent School Dist*., 804 F.3d 398, 412 (5th Cir. 2005).

Because the complaint alleges discriminatory intent, the motion should be denied.

III. Conclusion

The Parish's motion to dismiss (Rec. Doc. 18) should be denied.

Respectfully submitted,

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