

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

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DISABILITY RIGHTS LOUISIANA,	:	
	:	CASE NO.: 3:24-cv-00544-JWD-SDJ
Plaintiff,	:	
	:	Judge: John W. DeGravelles
vs.	:	
	:	Magistrate: Scott D. Johnson
NANCY LANDRY, in her official capacity :	:	
as Secretary of State of the State of :	:	
Louisiana; and ELIZABETH MURRILL, in :	:	
her official capacity as Attorney General of :	:	
the State of Louisiana :	:	
	:	
Defendants.	:	
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**PLAINTIFF’S SUPPLEMENTAL MEMORANDUM REGARDING REQUESTED  
INJUNCTIVE RELIEF**

NOW INTO COURT comes Plaintiff, Disability Rights Louisiana, through undersigned counsel, who files this Memorandum on the question of whether *Purcell* bars Plaintiff’s requested injunctive relief before the October election, in accordance with this Court’s Order. (R. Doc. 15).

**INTRODUCTION**

Plaintiff Disability Rights Louisiana (hereinafter “Plaintiff”) seeks to preliminarily enjoin Louisiana Acts 317 and 380, (“Statutes at Issue”) which go into effect on August 1, 2024. (R. Doc. 12). These statutes violate the text of the Voting Rights Act by prohibiting a person with a disability from choosing the individual who will assist them with voting. (R. Doc. 1, ¶¶ 42-47). Under the *Merrill v. Milligan* framework applied by this Court in *Singleton v. East Baton Rouge Parish School Board*, Plaintiff prevails in overcoming the *Purcell* principle. *Singleton*, 621 F. Supp. 3d 618, 628 (M.D. La. 2022) (citing *Merrill*, 142 S. Ct. 879, 880-81 (2022)). The underlying merits in this case are in favor of Plaintiff, as the Statutes at Issue facially violate the Voting Rights Act. *Id.* Plaintiff will suffer irreparable harm without an injunction because some of Plaintiff’s

constituents, individuals with disabilities, will be disenfranchised, and their caretakers and assistants will risk prosecution under the Statutes at Issue. *Id.* Plaintiff timely brought this case, less than a month and a half after the Statutes at Issue were signed into law by the governor. *Id.* Plaintiff's motion for preliminary injunction seeks to prevent enforcement of new, plainly preempted state election laws as to voting by mail, which will in fact decrease cost and hardship for Defendants as they will not have to make any changes to the status quo. *Id.* The requested relief will also decrease confusion for voters who may not know about or understand these new laws. *Id.*

“*Purcell* is a consideration, not a prohibition[.]” *Kim v. Hanlon*, 99 F.4th 140, 160 (3d Cir. 2024). Here, Plaintiff overcomes the *Purcell* principle as granting Plaintiff's preliminary injunction will decrease confusion about state election laws and decrease administrative burden and cost for Defendants. *Purcell v. Gonzalez*, 549 U.S. 1, 5, 127 S. Ct. 5, 7, 166 L. Ed. 2d 1 (2006). Plaintiff commenced this action less than four months before the start of early voting and Election Day because the Statutes at Issue were signed into law on May 28, 2024, mere months before the upcoming election. In any event, proximity to the election is less of a concern here because Plaintiff seeks to keep the status quo, there will be no added cost or hardship to Defendants, and the injunction will reduce confusion for Louisiana voters. (R. Doc. 12-1, p. 33). Recent Fifth Circuit and Supreme Court decisions invoking *Purcell* involve the redrawing of district maps, a process which creates significant cost, confusion, and hardship in advance of an election. Plaintiff's requested relief is not comparable, as it will decrease cost, confusion and hardship before the November election.

**I. Plaintiff Overcomes Purcell Under The Four-Part Framework In Merrill.**

In *Singleton*, the Court denied the plaintiffs' preliminary injunction in part based on the *Purcell* principle that a district court should refrain from enjoining state election laws close to the

date of the election when doing so would cause confusion, cost and hardship. 621 F. Supp. at 627. *Singleton* relied on the four-part framework outlined in Justice Kavanaugh’s concurrence in *Merrill*. *Id.* at 628 (citing *Merrill*, 142 S. Ct. 879, 880-81 (2022)). The *Purcell* principle might be overcome to allow for an injunction issued close to an election if a plaintiff establishes:

“(i) the underlying merits are entirely clearcut in favor of the plaintiff; (ii) the plaintiff would suffer irreparable harm absent the injunction; (iii) the plaintiff has not unduly delayed bringing the complaint to court; and (iv) the changes in question are at least feasible before the election without significant cost, confusion or hardship.”

*Merrill*, 142 S. Ct. at 881.

Here, Plaintiff meets all four factors. First, the underlying merits of this case favor success for Plaintiff, as the Statutes at Issue clearly and directly conflict with Section 208 of the Voting Rights Act. Second, individuals with disabilities will be disenfranchised because those assisting individuals with disabilities in casting their votes risk prosecution and imprisonment, which will cause irreparable harm. Third, Plaintiff has not delayed bringing the complaint to Court, by filing suit less than a month and a half after the Statutes at Issue were signed by the governor. Finally, and perhaps most importantly, the change in question decreases cost, confusion, and hardship for all parties, as it seeks to keep in place the existing laws regarding absentee voting and will not require Defendants to make any changes to absentee ballots.

Unlike *Singleton*, Plaintiff here asks that the election proceed in accordance with prior law, with no changes to any part of the election process as the law currently dictates. Plaintiff requests that this Court enjoin new state laws which will have the effect of disenfranchising individuals with disabilities and criminalizing the caretakers who assist with their voting via absentee ballot.

## **II. Plaintiff Should Prevail Under *Singleton*’s Reasoning.**

Plaintiff’s request for preliminary injunctive relief is consistent with the Court’s ruling in *Singleton* and should not be barred because Plaintiff seeks to maintain the status quo rather than

change. Plaintiff's requested relief would decrease confusion, costs, and hardship by maintaining current law.

*Singleton* was decided under a very different set of facts. The plaintiffs in *Singleton* prayed for an order enjoining the Secretary of State and the East Baton Rouge Parish Clerk of Court from proceeding with an election based on a contested apportionment plan. 621 F. Supp. 3d at 620. The Court denied the plaintiffs' preliminary injunction relying in part on the *Purcell* principle, which prevents federal courts from enjoining state election laws close to an election, when doing so would cause significant confusion, cost and hardship. *Id.* at 627. The Court held that the *Singleton* plaintiffs' challenge to the election law was brought too close to the election and thus could not be granted under *Purcell*. *Id.* at 628. The Court relied on *Merrill v. Milligan*, where the Supreme Court stayed a preliminary injunction when the first day of absentee primary voting was more than two months after the district court order, and the primary date was around four months from the Supreme Court's ruling. *Id.* (citing *Merrill v. Milligan*, 142 S. Ct. 879, 888 (2022)). The Court weighed the timing of the plaintiffs' requested relief relative to the scope of the cost, confusion, and hardship associated with the requested changes. *Id.* at 629. As the Court noted, proximity to the election becomes problematic where there is a high cost, likelihood for voter confusion and increased hardship "involved in changing the election this close to the deadlines." *Id.*

The facts here do not resemble the facts of *Singleton*. In *Singleton*, the confusion that an injunction would cause voters was manifold. *Id.* at 630. The injunction would have invalidated the existing list of candidates and mandated a new election based on reapportioned districts. *Id.* This would have shifted candidates between districts, changing the number of candidates for each district. *Id.* This shift might have led voters to think there was a problem with their ballot, which could have deterred them from voting at all. *Id.* The confusion associated with moving the election

from November to December to make the requested changes to ballots would create a second level of confusion about why the school board election was not included on the November ballot when other elections were being held and voters believed that the school board elections would be held. *Id.* This was likely to deter voter turnout in the December election as some voters might have thought that they had already voted in all local elections in the November election. *Id.* By contrast, here Plaintiff seeks to maintain the status quo in order to prevent changes to voting procedures that violate the Voting Rights Act, and it is the Defendants who seek to implement changes.

This Court recently addressed *Singleton* and *Purcell* in *Voice of the Experienced v. Ardoin*, where the plaintiffs there filed a Motion for Preliminary Injunction to prohibit the defendant from requiring suspended voter registrants to provide documentation of eligibility before registering to vote. No. CV 23-331-JWD-SDJ, 2024 WL 2142991, at \*6 (M.D. La. May 13, 2024). The preliminary injunction was ultimately denied because it was based on plaintiffs' claims pursuant to the National Voter Registration Act which were dismissed due to insufficient notice. *Id.* at \*9. Prior to denial of the preliminary injunction the Court considered the application of *Purcell*, with a specific focus on *Singleton*. *Id.* at \*7. The Court reiterated that a party can overcome the issue of timing if they can show that the relief will not result in significant cost, confusion, or hardship. *Id.* The question of whether the injunction will result in significant cost, confusion, or hardship is based on evidence particularly from Defendants. *Id.* Plaintiff asserts that the requested relief will likely decrease cost, confusion, and hardship here.

Here, Plaintiff is not requesting to delay an election, move candidates between districts, or modify any ballots. All Plaintiff seeks is to maintain the status quo—for individuals voting by mail to receive assistance from whomever they want, as they are entitled pursuant to the Voting Rights Act. Granting injunctive relief to Plaintiff will not cause confusion; it will alleviate the confusion

that will occur if the Statutes at Issue go into effect. Granting injunctive relief to Plaintiff will not cause Defendants to incur expenses reprinting ballots or re-training poll workers. Because Plaintiff is not seeking to modify any ballots, no training of poll workers is necessary. Defendants will not need to make any changes to absentee ballots.

Nor would an injunction cause administrative burden. Administrative burden will only occur if the law goes into effect and the Attorney General begins enforcing the law by investigating and prosecuting individuals who have assisted more than one other person with voting by mail. Far from causing an administrative burden, Plaintiff's requested preliminary injunction would reduce potential administrative burden and free up resources for Defendants to enforce other laws.<sup>1</sup>

**III. Jurisprudence from the Fifth Circuit and Other Circuit Courts Supports a Finding that Plaintiff's Preliminary Injunction Overcomes the *Purcell* Principle Because It Seeks the Status Quo.**

The *Purcell* principle seeks to address concerns about interference and confusion when a federal court issues a preliminary injunction impacting state election law close to the date of an election. *Purcell*, 549 U.S. at 5-6. Plaintiff's requested relief here does not require modifying any ballots, adding or removing candidates, or redrawing district lines. In fact, Plaintiff's preliminary injunction would decrease the administrative burden on Defendants and keep in place the absentee voting system and laws that currently exist in Louisiana.

In *Purcell*, the Supreme Court explained that the possibility that qualified voters would not be able to vote required the district court to give "careful consideration" to the plaintiffs' challenge. 549 U.S. at 4 (2006) ("Although the likely effects of Proposition 200 are much debated, the possibility that qualified voters might be turned away from the polls would caution any district

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<sup>1</sup> Plaintiff does not speculate here about how Defendant Secretary of State intends to track who assists voters and decide which votes to invalidate if the same individual has assisted more than one voter. However this is accomplished, it will surely require allocation of additional or diverted resources.

judge to give careful consideration to the plaintiffs' challenges.”). This language suggests that, far from creating a presumption against a plaintiff’s ability to obtain injunctive relief, *Purcell* merely sets forth a framework for consideration of said claims. Indeed, as the Third Circuit has noted, a district court’s Order can reduce confusion before an upcoming election. *See Kim v. Hanlon*, 99 F.4th 140, 160 (3d Cir. 2024) (“the District Court's order would reduce, if not eliminate voter confusion”).

The Fifth Circuit has also explained that *Purcell* sought to prevent voter confusion by “preserving the status quo on the eve of an election.” *Veasey v. Perry*, 769 F.3d 890, 892 (5th Cir. 2014). The status quo here is the existing law surrounding mail-in voting, before the Statutes at Issue go into effect fewer than three months before early voting is set to begin on October 18, 2024. Plaintiff’s requested relief is a “prohibitory injunction seeking to maintain the status quo.” *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 236 (4<sup>th</sup> Cir. 2014). The prohibitory injunction Plaintiff requests here is differentiable from a mandatory injunction, which seeks to alter the status quo and is always disfavored. *Id.* at 235-6.

Plaintiff commenced this action less than a month and a half after Acts 317 and 380 were signed by the governor and several weeks before the August 1, 2024 effective date. (R. Doc. 1). This Complaint was filed with over three months until the October 18, 2024 beginning of early voting for the November 5, 2024 election. *Id.* If there is an issue with the proximity of this action and requested relief to the upcoming election, that issue lies with the timing of the passage, signing, and effective date of the Statutes at Issue, rather than with Plaintiff’s timing in bringing this action. This weighs toward granting of the requested injunction, as the effective date of the Statutes at Issue are the change in status quo on the eve of an election, not the relief sought. *See Veasey*, 769

F.3d at 895 (staying an injunction pursuant to *Purcell* because thousands of polling workers around the state would have to be re-trained in light of new requirements).

**IV. Application Of *Purcell* Since *Singleton* Has Focused On Re-Drawing District Maps.**

Recent Fifth Circuit and Supreme Court rulings invoking *Purcell* involve the redrawing of district maps. See e.g. *Petteway v. Galveston County, Texas*, 87 F.4th 721, 724 (5th Cir. 2023) (staying a preliminary injunction ordering a new district map less than two months before an election, “[f]ar too late for a federal court to tinker with the machinery of a state election and to displace the Original Map”); *Robinson v. Callais*, 144 S. Ct. 1171 (2024) (staying a preliminary injunction ordering a new district map while pending appeal). In *Merrill*, Justice Kavanaugh underscored the increased confusion and burden on state and local governments when a district court grants a preliminary injunction ordering fast-paced changes to district maps. 142 S. Ct. at 880 (“The District Court’s order would require heroic efforts by those state and local authorities in the next few weeks—and even heroic efforts likely would not be enough to avoid chaos and confusion”). The relief requested here goes not rise close to the level of disruption, undoubtedly involving cost, confusion, and hardship, of ordering the drawing of a new district map. The impact on Defendants here is de minimis, as it asks them to refrain from changing existing laws, while this Court considers whether the new absentee voting laws violate the voting rights of individuals with disabilities.

**CONCLUSION**

For the reasons stated herein, the Court should grant Plaintiff’s Motion for Preliminary Injunction.

Respectfully Submitted,

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By: /s/ Garret S. DeReus  
**GARRET S. DEREUS**

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing pleading has been delivered to the Defendants on this July 22, 2024, by ECF filing.

By: /s/ Garret S. DeReus  
**GARRET S. DEREUS**

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