

IN THE CIRCUIT COURT OF COLE COUNTY

STATE OF MISSOURI

MERRIE SUZANNE LUTHER, et. al.,)

Plaintiffs,)

v.)

DENNY HOSKINS,)

Defendant,)

and,)

MISSOURI STATE REPUBLICAN)
COMMITTEE,)

Intervenor.)

Case No. 25AC-CC06964

JUDGMENT

This matter came before the court for trial on November 12, 2025. At trial, all parties submitted stipulated facts and Exhibits A and B which were received by the court into evidence. No other evidence was submitted. Having considered the evidence and arguments at trial, as well as the substantive pleadings in this case, the court makes the following findings of fact and conclusions of law, and renders its judgment.

FACTUAL BACKGROUND

In 2020, a new 10-year United States Census was conducted which was certified to the Missouri governor in 2021. Generally, every ten years, this new census data is used to determine the relevant population for federal congressional apportionment within each state. In 2022, pursuant to Article III Section 45 of the Missouri Constitution, the Missouri

legislature used that census data and created a new redistricting map. In September, 2025, the legislature held an extraordinary session called by Governor Kehoe in order to conduct a second redistricting using the same 2020 census data. During that session, House Bill 1 (2025) was passed and titled “To repeal sections 128.345, 128.346, and 128.348, RSMo [which established the 2022 redistricting map] and to enact in lieu thereof twelve new sections relating to the composition of congressional districts.”

INTRODUCTION

Plaintiffs bring this cause of action challenging the constitutionality of the 2025 redistricting map under House Bill 1 because there was already a redistricting bill passed by the legislature in 2022 using the data from the 2020 census. They seek relief against the Missouri Secretary of State, Denny Hoskins (“Secretary”), asking this court to declare House Bill 1 unconstitutional pursuant to Article III Section 45, and to enjoin the Secretary and anyone acting in concert with him from utilizing the congressional districts from HB1 for any purpose.

DISCUSSION

In their one count petition, plaintiffs do not challenge the substance of the new congressional map under House Bill 1 (e.g. whether the 2025 map was gerrymandered, etc.), but rather the procedure in which House Bill 1 was passed. They claim that Article III Section 45 of the Missouri Constitution prohibits the legislature from passing a second redistricting bill and that this constitutional provision does not provide authority for the

legislature to do so. Of note, this provision is the sole provision within the Missouri Constitution that directly pertains to congressional redistricting.

The question is whether Article III Section 45 allows the legislature to create another redistricting map under House Bill 1. This court first looks to the language itself. In its entirety, Article III Section 45 provides,

When the number of representatives to which the state is entitled in the House of the Congress of the United States under the census of 1950 and each census thereafter is certified to the governor, 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.

Mo. Const. art. III, § 45.

On its face, this provision does not specifically *allow* the Missouri legislature to create a second congressional map using the same census. On the other hand, this provision does not specifically *prohibit* the Missouri legislature from creating a second congressional map using the same census. Moreover, this appears to be a unique issue that has never been definitively ruled on by Missouri courts. The following analysis applies under these circumstances.

“Words used in constitutional provisions are interpreted to give effect to their plain, ordinary, and natural meaning.” *Faatz v. Ashcroft*, 685 S.W.3d 388, 400 (Mo. banc 2024) (citation omitted). “The Constitution is not a grant but a restriction upon the powers of the legislature.” *Liberty Oil Co. v Director of Revenue*, 813 S.W.2d 296, 297 (Mo. banc 1991). “Consequently, the General Assembly has the power to do whatever is necessary to

perform its functions except as expressly restrained by the Constitution.” *Id.* (quotations omitted) (emphasis in original); see also *Bohrer v. Toberman*, 227 S.W.2d 719, 723 (Mo. banc. 1950) (General Assembly has “all the powers and privileges which are necessary to enable it to exercise in all respects . . . its appropriate functions, except so far as it may be restrained by the express provisions of the Constitution”). Thus, “where the constitution is silent, the legislature may properly address the issue.” *State ex rel. Mathewson v. Bd. of Elec. Comm’rs of St. Louis Cnty.*, 841 S.W.2d 633, 636 (Mo. banc 1992).

Again, Article III Section 45 appears to be silent on the specific issue at hand, that is whether its language allows the legislature to conduct a second redistricting using the same census. In these situations, Missouri courts have consistently held that the legislature has the power to act unless expressly prohibited. *Id.* Given the fact that Section 45 contains no restrictive language, this court concludes that the legislature had the power to enact House Bill 1.¹

If more were somehow needed, the Framers of the 1945 Constitution knew how to impose “express[] prohibit[ions]” on the General Assembly’s exercise of legislative power. *State v. Clay*, 481 S.W.3d 531 at 532. The Constitution is replete with such prohibitions framed in declarations that the General Assembly “shall have no power to” or “shall not” have certain powers. See, e.g., Mo. Const. art. III, §§ 37 (“shall have no power.”); 38(a)

¹ Missouri adopted Section 45 after decades of the General Assembly failing to redraw its congressional map. See Erik J. Engstrom, *Stacking the States, Stacking the House: The Partisan Consequences of Congressional Redistricting in the 19th Century*, 100 AM. POL. SCI. REV. 419, 421 (Aug. 2006); Lloyd M. Short, *Congressional Redistricting in Missouri*, 25 AM. POL. SCI. REV. 634, 639 (1931).

“shall have no power”); 39 (“shall not have power [to] ...”); 40 (“shall not pass ...”). Indeed, the terms “shall have no power” and “shall not” are “words of prohibition.” *Brooks v. State*, 128 S.W.3d 844, 847 (Mo. banc 2004). That the Framers did not include those terms in Section 45 only further underscores that the Constitution permits, rather than prohibits, mid-decade congressional redistricting by the General Assembly.

Plaintiffs rely heavily on *Pearson v. Koster* for the proposition that this exact issue has already been decided to the contrary. Plaintiffs argue that *Pearson* directs that congressional redistricting can only occur immediately following the certification of the census and cannot occur again until a subsequent census is certified. *Pearson v. Koster*, 359 S.W.3d 35, 37 (Mo. Banc 2012). Specifically, *Pearson* states, “[i]t is the responsibility of the Missouri General Assembly to renew congressional election districts. The new districts will take effect...and remain in place for the next decade or until a Census shows that the districts should change.” *Id.* However, it is clear that this language is dicta and should not have precedential value on the precise issue presented here.

To explain, the *Pearson* decision focused solely on the substance of the 2012 newly redistricted map itself, and had nothing to do with the authority of the Missouri legislature to enact a law providing for a second redistricting within the same census. In particular, *Pearson* only dealt with challenges to the compactness of congressional districts and unconstitutional gerrymandering in violation of Article III Section 45. In context, this dicta was wholly irrelevant and unnecessary to a resolution of the real issues *Pearson* raised.

Therefore, this court does not see *Pearson* as instructive, much less binding, on this case's very nuanced issue.

Plaintiffs next call attention to Article III Section 14 which, like Article III Section 45, was adopted in 1945. Section 14 provides for redistricting for state senate and house seats, and includes language that those “districts may be altered from time to time as public convenience may require.” Mo. Const. art. III, § 14. Plaintiffs argue that the inclusion of this language with regard to state house and senate redistricting, and its absence with regard to congressional redistricting in Section 45, implies that an allowance for more than one redistricting was purposefully excluded from Section 45. Plaintiffs thus maintain that the intent of the 1945 constitutional framers was to only allow for one redistricting per a decennial census under Section 45. Again, however, there is no restrictive language in Section 45, and conceivably, the framers could have had a number of reasons to not specifically address multiple redistrictings in Section 45, or perhaps there was no reason at all. In any event, the implication raised by plaintiff is not enough to conclude that the inclusion of this language in Section 14 serves as a bar for the legislature to conduct a second redistricting pursuant to Section 45.

Ultimately, the legislature has the plenary authority to enact laws except as expressly prohibited. Therefore, in this case, in the absence of an express prohibition, the legislature had the plenary authority to enact House Bill 1, the second redistricting legislation.

The plaintiffs' claim and requested relief are hereby denied. All other pending motions and claims for relief are hereby denied.

SO ORDERED, ADJUDGED, AND DECREED.

12/09/2025
DATE

Ch. Limbaugh
Christopher K. Limbaugh
Circuit Judge, 19th Judicial Circuit
State of Missouri

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