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TARRANT COUNTY
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THOMAS A. WILDER
DISTRICT CLERK

Cause No. 348-367889-25

League of United Latin American Citizens of Fort Worth, Council 4568, and League of Women Voters of Tarrant County, Plaintiffs, v. Tarrant County, Tarrant County Commissioners Court, and County Judge Tim O'Hare, in his official capacity, Defendants.	IN THE DISTRICT COURT 348th JUDICIAL DISTRICT TARRANT COUNTY, TEXAS

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Response to Motion for Temporary Injunction

Plaintiffs seek a temporary injunction prohibiting Tarrant County from using a duly enacted precinct map in the upcoming election. For the reasons below, the Court should deny Plaintiffs' motion.

Facts

The Tarrant County Commissioners Court governs Tarrant County. Orig. Pet at ¶ 38. It consists of four commissioners, each elected to a single-member precinct, and the county judge, who is elected at large. *Id*. The commissioners serve staggered terms. *Id*.

In 2021, after the decennial census, the Commissioners Court considered whether to redistrict its commissioners precincts. *Id.* at ¶ 64. Those precincts had a population deviation of 1.97 percent, which is within legal tolerance. *Id.* at ¶ 68. That court, on advice of its counsel, sought to preserve racial coalition districts—specifically Precincts 1 and 2. *Id.* at ¶ 67. The court decided not to redistrict that year. *Id.* at ¶ 72.

None of the members of the current court were on the court that decided not to redistrict. In April 2025, the Defendants engaged the Public Legal Interest Foundation (PILF) to help them redistrict the

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County's commissioners precincts. Orig. Pet. at ¶ 4. Over the course of two months, PILF prepared several draft maps and the Defendants conducted four public forums (one in each precinct) to obtain constituent feedback. Each of the proposed maps had two sets of accompanying data: the population of each precinct and the effect on partisan balance.[1] *See* Orig. Pet. at ¶¶ 87-89, 92, 99.

In late May, PILF prepared two additional maps. Orig. Pet. at ¶¶100-101. Like the previous maps, these had accompanying population and partisan balance data.[2]

On June 3, the Commissioners Court considered whether to redistrict. The meeting last several hours and included several hours of constituent feedback (including members of both Plaintiffs). See Decl. of Alberto Govea and Decl. of Janet Mattern. All five members of the court spoke about whether to redistrict; that discussion lasted about an hour and a half. All three Republican members spoke about why they wanted to redistrict. Those reasons were to equalize the population among the precincts and to gain a seat for Republicans on the court.

The two Democrat members moved to retain the old map, which failed. They then moved to postpone the vote, which also failed. The Republican members then voted to approve one of the maps—Map 7. More than two months later, Plaintiffs filed this suit to invalidate Map 7 for the upcoming 2026 election. The filing period for that election begins on November 8, 2025. Motion for T.I. at 3, Exh. 1.

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Argument

Plaintiffs advance several claims to invalidate Map 7. But the evidence they present is consistent with the Defendants' stated purposes in redistricting: population equalization and partisan advantage for Republicans. Plaintiffs offer no evidence that the Defendants violated the law. Further, the equities weigh against Plaintiffs. So, the Court should deny their request for a temporary injunction.

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[1]The maps and data are available at the County's website: https://www.tarrantcountytx.gov/en/commissioners-court/redistricting-2025.html. Defendants ask the Court to take judicial notice of these maps and accompanying data.
[2] *See id.*

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1. Temporary injunction standards

A temporary injunction is an extraordinary remedy and does not issue as a matter of right. *Tarrant Cnty. Bail Bond Bd. v. Khozindar ex rel. United Fire Ins. Co.*, 654 S.W.3d 52, 54 (Tex. App.—Fort Worth 2022, no pet.). The purpose of a temporary injunction is to preserve the status quo; that is, the last, actual, peaceable, non-contested status preceding the controversy. *Id.* The applicant need not show she will win at trial; rather, she need only show that she is entitled to preservation of the status quo until the trial on the merits. *Draper v. City of Arlington*, 629 S.W.3d 777, 784 (Tex. App.—Fort Worth 2021, pet. denied).

To obtain a common law temporary injunction, the movant must plead and prove 1) a cause of action against the defendant, 2) a probable right to the relief sought, and 3) a probable, imminent, and irreparable injury in the interim. *Id.* She shows a probable right of recovery by presenting evidence that tends to sustain the cause of action. *Id.* She establishes irreparable injury when she can show that she has no adequate remedy at law, such as when damages could not compensate the injured party. *Id.* at 784-85.

But when a statute provides for injunctive relief, the statutory framework replaces the first two common law injunction elements and dispenses with the third. *Grossman v. City of El Paso*, 642 S.W.3d 85, 108 (Tex. App.—El Paso 2021, pet. dism'd). In those circumstances, a court determines if the applicant has properly alleged a violation of the statute. *Id.* at 109. If so, then the court considers whether the applicant established a probable right to the relief sought. *Id.*

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The Defendants will discuss the claims in the same order and groupings as Plaintiff do in their motion.

2. The TOMA claim

Plaintiffs' first cause of action is for an alleged TOMA violation. Specifically, they claim that the Republican commissioners engaged in a walking quorum by deliberating on Map 7 outside a public meeting. Orig. Pet. at ¶ 155. Because TOMA prohibits such conduct, Plaintiffs have alleged a cause of action. But they failed to show a probable right to relief.

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2.1 No evidence of a violation

To start, Plaintiffs do not cite any evidence that Judge O'Hare or the Republican commissioners engaged in illegal deliberations. Rather, they rely upon "information and belief," Orig. Pet. at ¶ 155, specifically the fact that Maps 6 and 7 were released the week before the June 3 meeting. Motion for T.I. at ¶ 41. But, they do not offer any evidence that illegal discussions occurred. *See* Mattern Decl. at ¶ 14; Jones Report at 23-24. Mattern recounts the meeting and Jones assumes that a violation must have occurred. *Id*. But mere surmise or suspicion is not evidence. *Foreman v. Whitty*, 392 S.W.3d 265, 274 (Tex. App.—San Antonio 2012, no pet.).

The testimony here is no different than that in *Foreman*. In that case, Foreman alleged that several individuals violated TOMA by conducting a walking quorum. *Id*. at 268-69. Foreman testified that it was her impression that one board member made it a regular practice to engage in a walking quorum. *Id*. at 274. The court of appeals held that this testimony was "mere suspicion and speculation" and, accordingly, no evidence. *Id*. Similarly, Jones infers that there must have been a walking quorum because a) Maps 6 and 7 were released the previous week, b) Commissioner Krause moved to adopt Map 7 at the June 3 meeting, and c) the court did not discuss the merits of all eight (including the baseline) maps. Jones Report at 23-24. In short, Jones is giving his impression, but that is not evidence. *Id*. Because Plaintiffs have offered no evidence of a TOMA violation, they are unlikely to prevail.

Further, the overall redistricting process easily explains how Maps 6 and 7 came to be. As Plaintiffs allege, PILF met with the individual commissioners and then prepared five proposed maps. Orig. Pet. at ¶ 88. The County posted these maps, along with the population and partisan balances for each, on its website. *Id*. at ¶¶ 88, 92. At the next commissioners court meeting, the court heard a presentation on all five maps.[3] The members of the court then discussed those maps, the legal implications (including those of partisan gerrymandering).

[3] The Defendants ask the Court to take judicial notice of the May 6, 2025 commissioners court meeting, a video of which is accessible through the County's website. *See* https://www.youtube.com/watch?v=sgjjwkZWvE4 beginning at 1:21:07 for the presentation and subsequent discussion.

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Following that meeting, Defendants conducted four community meetings—one in each precinct—to receive constituent feedback about redistricting. After those meetings, PILF prepared Maps 6 and 7. Like the previous five maps, Maps 6 and 7 deliver a partisan advantage to Republicans while equalizing the population of all four precincts. The reason for the new maps is simple—those maps respond to the feedback of the commissioners court and the community.

2.2 Defendants did not violate TOMA

Even if the Court determines that the Plaintiffs have presented some evidence that the Republicans engaged in a walking quorum, the Plaintiffs still are unlikely to prevail. TOMA prohibits walking quorums and makes actions taken in violation of the statute voidable. Tex. Gov't Code Ann. § 551.143 (walking quorum), § 551.141 (remedy). When a governmental body violates TOMA, whether by a walking quorum or an improper executive session, but takes official action in a public meeting, the plaintiff must show that official action itself violated TOMA. *Tex. State Bd. of Pub. Acct. v. Bass*, 366 S.W.3d 751, 761-62 (Tex. App.—Austin 2012, no pet.).

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Here, the Plaintiffs make a threadbare allegation that the Republican commissioners violated TOMA by deliberating on the various maps outside of a public meeting. *See* Orig. Pet. at ¶ 155. A deliberation is a verbal exchange concerning an issue within the government's jurisdiction. Tex. Gov't Code Ann. § 551.001(a)(2); *Foreman*, 392 S.W.3d at 276. No such deliberations occurred, but even if they did, the commissioners court voted to adopt Map 7 in a public meeting after the alleged violation. Plaintiffs do not allege that the June 3 meeting violated TOMA. *See* Orig. Pet. While they assert that there was no public deliberation over whether to adopt Map 7, that is incorrect.

At the June 3 meeting, the court heard several hours of constituent feedback—some opposing and some favoring redistricting.[4]

[4] The video of the entire meeting can be found at https://www.youtube.com/watch?v=FeE5l4zq5Bw, of which the Defendants ask the Court to take judicial notice. Public comments begin at 2:08:02 and end at 4:30:36

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All five members of the court spoke about it.[5] The Democrat commissioners gave lengthy speeches opposing redistricting. Commissioner Krause spoke extensively about his precinct's town hall, that his constituents wanted redistricting, and addressed concerns about violations of the Elections Code and the Voting Rights Act. Commissioner Ramirez addressed the redistricting process, how the Democrats offered no input on the proposed maps, that boundaries are inherently political, and that such policy is a legitimate reason for redistricting. Judge O'Hare also discussed why he believed redistricting was appropriate, that he campaigned on redrawing the districts to increase a Republican advantage, that political advantage was his motivation for the action, and that the redrawing was in the interest of all. The court then voted on Commissioner Miles's motion to keep the former map, which did not carry.

After Commissioner Miles's motion failed, Commissioner Simmons moved to postpone the vote on Map 7, which also failed. Commissioner Krause then moved to approve Map 7. Commissioners Miles and Simmons spoke against Map 7, but the vote was carried by a vote of three to two.

Before voting, the court heard over two hours of public comment and engaged in over an hour of debate. In short, regardless of whether a walking quorum occurred (of which there is no evidence), the court deliberated in public, which is all that TOMA requires. As such, the Plaintiffs are unlikely to prevail on the merits and the Court should deny their application for a temporary injunction.

Lacking any evidence of a walking quorum, Plaintiffs contend that under *Willman v. City of San Antonio* they can establish a violation by showing the Defendants "rubber stamped" Map 7. *Id*. at 154-55. That case is easily distinguishable.

In *Willman*, San Antonio's city council created a committee of its own members (the size of which was one less than a quorum) to evaluate applicants for city magistrate positions. *Willman v. City of San Antonio*, 123 S.W.3d 469, 471 (Tex. App.—San Antonio 2003, pet. denied). In 1997, the committee evaluated several applicants and then notified the

[5] The first commissioner to speak was Commissioner Miles, who begins at 4:32:29. Commissioners finished discussion and then voted at 5:50:36.

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city council of its recommendations. *Id*. The committee also notified certain individuals that they had not been selected. *Id*. Six days *later*, the city council held an open meeting in which it adopted the committee's recommendations. *Id*. at 471-72. The trial court found no TOMA violation, but the court of appeals held there was a fact question as to whether the city conducted an illegal deliberation, specifically noting 1) the committee undeniably met and made determinations, 2) it notified certain applicants of the decision before city council voted, 3) the city council did not hold a meaningful discussion of the applicants, and 4) there was evidence that the city council had never deviated from the committee's recommendations in over eight years. *Id*. at 480.

This case is nothing like *Willman*. For one, Plaintiffs (unlike the *Willman* plaintiffs) have no evidence that the Defendants met outside a public meeting. Further, the *Willman* plaintiffs had evidence that the committee made decisions, notified the rejected applicants of those decisions before the city council ever met, and that the city council always approved the committee's recommendations over eight years. Here, Plaintiffs have no similar evidence. Once again, all the Plaintiffs have is speculation, but that is insufficient to justify a temporary injunction. *Draper*, 629 S.W.3d at 784 (evidence required to obtain injunction); *Foreman*, 392 S.W.3d at 274.

Plaintiffs failed to show a probable right to relief under TOMA. Thus, the Court should deny their request for a temporary injunction.

3. Article V, Section 18 of the Texas Constitution

Plaintiffs' novel claim under Article V, Section 18 of the Texas Constitution fares no better. That provision requires a commissioners court to divide a county into four commissioners precincts for the convenience of the people. Tex. Const. Art. V, Sec. 18(b) (commissioners precincts); 18(a) (convenience of the people). This claim fails for two reasons.

3.1 The commissioners court did not act arbitrarily

Plaintiffs claim that Map 7 violates Article V, Section 18 because it does not account for the convenience of Tarrant County voters. They cite *Avery v. Midland County* as support for their position, but that case supports the Defendants, not the Plaintiffs. In *Avery*, Midland County

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redistricted the commissioners precincts such that 97 percent of the county's population was in one district, with three percent spread across the remaining three districts. *Avery v. Midland County*, 406 S.W.2d 422, 424 (Tex. 1966), *rev'd on other grounds*, 390 U.S. 474 (1968). The Texas Supreme Court believed that the "one person, one vote" principle did not apply to county commissioner precincts. *Id.* at 426.[6] So, for the first time in Texas history, the court discussed a commissioners court's duties under Article V, Section 18. *Id.*

The court determined that claims under Article V, Section 18 should be construed consistently with those under the Texas Constitution's equal rights clause, Article I, Section 3. *Id.* at 427. It recognized that a commissioners court has the discretion to determine the changing needs of the people, with the constitutional limitation that the court exercise that discretion in good faith without arbitrariness. *Id.* The court held that Midland County's precincts were arbitrary, because placing 97 percent of the population in one precinct was grossly disproportionate. *Id.* at 428.

An act is arbitrary when the decisionmaker does not employ any reason or principle. *City of Houston v. Cortez*, 640 S.W.3d 905, 914 (Tex. App.—Houston [14th Dist.] 2022, no pet.). Texas courts evaluate Article V, Section 18 claims consistent with those under Article I, Section 3. *Avery*, 406 S.W.2d at 427. And in reviewing claims under Article I, Section 3, Texas courts employ the United States Supreme Court's framework for voting rights. *Abbott v. Anti-Defamation League Austin, Sw. and Texoma Regions*, 610 S.W.3d 911, 919 (Tex. 2020). So, a decision that comports with Supreme Court precedent on voting rights is not arbitrary. That is exactly what happened—the Defendants adopted Map 7 for the express purpose of partisan advantage.[7] The Supreme Court has repeatedly held that such purposes are permissible. *See Alexander v. S.C. State Conf. of the* NAACP, 602 U.S. 1, 6 (2024). Put simply, the

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[6] The Supreme Court reversed, holding that "one person one vote" does apply to commissioners precincts. *See Avery v. Midland County*, 390 U.S. 474, 476 (1968).

[7] In addition to the court members comments at the June 3 meeting, Commissioner Krause said at his precinct's community hearing that his entire goal was to increase the Republican majority. Orig. Pet. at ¶ 135. At the May 20 briefing, he asked questions to confirm that partisan redistricting is legal (and received an affirmative answer). *See* https://www.youtube.com/watch?v=sgjjwkZWvE4 at 1:37:39. Defendants ask the Court to take judicial notice of the video of the May 20 meeting.

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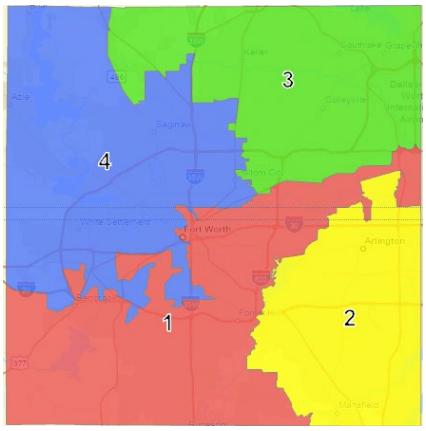
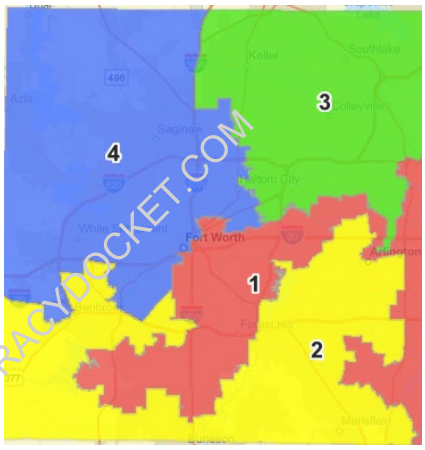
Defendants acted according to a valid legal principle. Because they did not act arbitrarily, Plaintiffs are unlikely to prevail on the merits of their Article V, Section 18 claim, and the Court should deny them injunctive relief.

Last, the Plaintiffs' position that Map 7 inconveniences people, but the prior map does not, is absurd on its face. *See* Orig. Pet. at ¶¶ 122-24. Plaintiffs correctly state that the new Precinct 2 boundaries stretch across the County, but so do the boundaries of the old Precinct 1:

Old



New



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Put simply, the very same "concerns" about County resources under Map 7 equally apply to the old map—a map that Plaintiffs do not allege violates Section V, Article 18.

3.2 The claim poses a nonjusticiable question

The Plaintiffs face another problem—the Court lacks jurisdiction over this (and the other non-TOMA claims). A court cannot issue an injunction—even temporarily—if it lacks jurisdiction. *Tex. Parks and Wildlife Dept. v. RW Trophy Ranch, Ltd.*, 712 S.W.3d 943, 963 (Tex. App.—15th Dist., mandamus denied). The Court lacks jurisdiction here because the Plaintiffs' non-TOMA claims present a nonjusticiable political question.

As discussed above, Defendants adopted Map 7 for political advantage. As a matter of federal law, courts lack jurisdiction to review those decisions. *Alexander*, 602 U.S. at 6. While no Texas court has decided this question, the Texas Supreme Court has signaled that such

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claims are nonjusticiable: "If this case boils down to whether Harris County went too far in using partisan considerations, we could also be forced to confront whether claims of political gerrymandering are even within Texas courts' subject-matter jurisdiction." *In re Khanoyan*, 637 S.W.3d 762, 768 fn. 10 (Tex. 2022). Because Texas courts follow Supreme Court precedent on voting rights issues, and the Supreme Court holds that partisan gerrymanders are nonjusticiable, it is very likely that such claims are also nonjusticiable under Texas law.

Because Plaintiffs are unlikely to prevail on their Article V, Section 18 claim, the Court should deny their request for a temporary injunction.

4. Section 106.001

Similarly, Plaintiffs are unlikely to prevail on their claim under Section 106.001 of the Civil Practice and Remedies Code. That statute prohibits an officer of a political subdivision from imposing an unreasonable burden on a person because of his race. Tex. Civ. Prac. & Rem. Code Ann. § 106.001(a)(6). Plaintiffs assert that their members have suffered two burdens: the inability to elect a Democrat in Precinct 2 (vote dilution) and that the members who moved from Precinct 2 to Precinct 1 will have their commissioner vote delayed two years. Motion for Temp. Inj. at ¶¶ 77, 81. Neither is cognizable.

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Plaintiffs do not cite a Texas statute or case recognizing either of their members' purported injuries, and the Defendants have found none. But the federal courts have dealt with these matters. Under that law, which Texas courts would likely follow, *see Abbott*, 610 S.W.3d at 619, Plaintiffs have not suffered any burden.

First, Plaintiffs incorrectly claim that Blacks and Latinos in the aggregate were a majority in the old Precinct 2 but are a minority under Map 7. In the former precinct, those two groups combined to just under fifty percent of the voting age population. Orig. Pet. at ¶ 73, Table 1. But federal law prohibits aggregating separately protected minority groups for purposes of a vote dilution claim. *Petteway v. Galveston County*, 111

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F.4th 596, 603 (5th Cir. 2024) (en banc).[8] This holds even when those groups share political preferences. *Id*. at 614.

Under the old map, Blacks comprised 23.9 percent of the Precinct 2 population, and Latinos comprised 25.3 percent. Orig. Pet. at ¶ 73. Because neither group was more than fifty percent of the precinct's population, it could not elect a commissioner of its choice absent a coalition. Because Blacks and Latinos are separately protected groups, Plaintiffs cannot aggregate the two for purposes of their vote dilution claim. *See Petteway*, 111 F.4th at 613-14 (courts cannot combine Black and Latino voters for vote dilution claims).

Next, while some voters who were redistricted from Precinct 2 to Precinct 1 will not be able to vote for county commissioner until 2028, that is not an unreasonable burden on the franchise. Again, Plaintiffs cite no Texas statute or case that guarantees the right to vote in a particular contest in a particular year. The federal courts that have considered temporary disenfranchisement following a redistricting have held that such effects are not a violation of voting rights; the most recent being Judge O'Connor in *Jackson*. *Jackson et al. v. Tarrant County et al.*, No. 4:25-cv-00587-O, Dkt. 42 at 6-8 (N.D. Tex. Sept. 12, 2025), *citing Pate v. El Paso County*, 337 F. Supp. 95, 100-01 (W.D. Tex. 1970) (three judge panel); *Carr v. Brazoria County*, 341 F. Supp. 155, 163 (S.D. Tex. 1972).

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These decisions are hardly surprising. A government would never be able to re-draw its districts in a staggered system if it resulted in a change to any voter's election year. Some of Plaintiffs' members might not vote for commissioner in 2026 as previously expected, but they will still be able to vote for county-wide offices (including County Judge), their state and federal representatives, and in any other state-wide races. Because Plaintiffs' members have not been unreasonably burdened in any way, Plaintiffs are unlikely to prevail on the merits.

5. Article I, Sections 3 and 3a

Last, Plaintiffs claim that Map 7 violates Article I, Sections 3 and 3a of the Texas Constitution in two ways: 1) by diluting the votes of

[8] Plaintiff LULAC is a party in *Petteway* and should be aware of the Fifth Circuit's holding.

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Black and Latino voters and 2) the temporary postponement of a vote for county commissioner for those persons redistricted from Precinct 2 to Precinct 1. Orig. Pet. at ¶¶ 173, 178. Plaintiffs failed to show that they are likely to prevail on these claims.

5.1 Plaintiffs did not establish facial discrimination

Courts analyze a claim under Article I, Section 3 in three steps. *State v. Loe*, 692 S.W.3d 215, 237 (Tex. 2024). First, the court determines whether equality under the law has been denied. *Id.* If so, then the court must determine whether the denial was because of a person's race. *Id.* If the plaintiff satisfies the first two elements, then the government must overcome a strict scrutiny test. *Id.* Plaintiffs have not established either of the first two elements.

Map 7 does not facially discriminate against anyone on the basis of race, and Plaintiffs offer no evidence that it does. The map does not prevent any person from voting in 2026. In preparing Map 7, PILF examined only two datapoints: population and partisan preference. The Defendants attach the data for Map 7 as **Exhibit 1**. Political preference is not synonymous with race. While Plaintiffs complain that it will be harder for their members to elect a Democrat in Precinct 2, all persons who prefer Democrats, regardless of race, will feel that impact.

The delayed vote in a commissioners contest is not facially discriminatory, either. As discussed in Section 4, the law does not guarantee anyone the right to vote in a particular contest in a specific year. Plaintiffs' members can (and presumably will) vote in several contests, including the County Judge. Simply, Plaintiffs members have not been denied equality under the law.

5.2 Plaintiffs' claims fail *Arlington Heights*

Because Map 7 involves no explicit classifications, Plaintiffs attempt to show discriminatory intent through disparate impact. Texas courts analyze such claims under the framework established by the United States Supreme Court. *Abbott*, 610 S.W.3d at 919. Judge O'Connor recently undertook this same analysis on the same claims and concluded that injunctive relief is inappropriate. *See Jackson*, No. 4:25-cv-00587-O, Dkt. 42 at pp. 17-22. There is no reason for the Court to depart from Judge O'Connor's findings.

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Under federal law, when race and political preference are highly correlated (as is the case here), a plaintiff must "disentangle race and politics if it wishes to prove" that race rather than partisanship motivated the legislative body. *Alexander*, 602 U.S. at 6. This is a heavy burden in which the plaintiff must show that race was the predominant factor motivating the legislature. *Id.* at 7.

The Defendants had two motives in adopting Map 7: population equalization and increasing Republican advantage. Under federal law, partisan gerrymanders are nonjusticiable political questions. *Alexander*, 602 U.S. at 6. The Texas Supreme Court signaled that as a matter of state law, such claims are likely nonjusticiable. *See Khanoyan*, 637 S.W.3d at 768, fn. 10. This alone is reason to deny Plaintiffs' request for a temporary injunction.

Even if this case is justiciable, Plaintiffs have not established that they will likely prevail. Plaintiffs, like the *Jackson* plaintiffs, claim that the Defendants intended to dilute their members' voting power. *Compare* Orig. Pet. at ¶ 173 *with* First Amend. Complaint at ¶¶ 113-19.[9] To succeed on such a claim, Plaintiffs must show that Defendants had the purpose and effect of diluting the minority vote. *Alexander*, 602 U.S. at 39. In determining whether discriminatory purpose was a motivating factor, courts look to five factors to infer whether discrimination was a motivating factor. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266-68 (1977); *Bell v. Low Income Women of Tex.*, 95 S.W.3d 253, 259-60. Plaintiffs have not established these factors.

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5.2.1 Effects on groups

The first factor is whether Map 7 effects one race more heavily than another. *Arlington Heights*, 429 U.S. at 266. In other words, a court examines whether the minority group is impacted at a higher rate. *Jackson*, No. 4:25-cv-00587-O at 20. Plaintiffs contend that Anglos have three times the voting power as Blacks and Latinos. Motion for T.I. at ¶ 78. This contention depends on a coalition of Blacks and Latinos, but as discussed in Section 4, each minority group must be considered separately. *Petteway*, 111 F.4th at 603. According to Plaintiffs, Blacks

[9] The First Amended Complaint is attached as Exhibit 1 to the Defendants' reply in support of motion to stay.

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make up 16.4 percent of the County's voting population and Latinos are 26.3 percent. Orig. Pet. at ¶ 35. So, from a population standpoint, neither group could elect a commissioner of their choice without a coalition. Yet, those communities are represented by fifty percent of the county commissioners, which exceeds proportional representation. *Petteway*, 111 F.4th at 612. And the change in the Latino voting age population in Precinct 2 changed by less than 0.5 percent, while its citizen voting age population increased. Orig. Pet. at ¶ 113, Table 4. So, the Black and Latino vote has not been impacted in any way recognized under the law.

Further, as Plaintiffs and Judge O'Connor note, race and political preference correlate in Tarrant County. Because of that correlation, "almost every reallocation of voting power at the hands of either party will tend to bear more heavily on some races and less on others." *League of United Latin American Citizens v. Abbott*, 601 F. Supp.3d 147, 169 (W.D. Tex. 2022) (three judge panel). As such, not every redistricting for partisanship gives rise to discriminatory effect of constitutional dimensions. *Id*. So, while Map 7 does move some Blacks and Latinos, that effect does not suggest discriminatory intent.

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5.2.2 History, sequence and legislative history

The remaining factors —the historical context, specific sequence of events leading up to the adoption of Map 7, the departure from normal procedure, and legislative history—do not indicate discriminatory intent, either. *See Arlington Heights*, 429 U.S. at 267-68 (factors).

For historical context, Plaintiffs assert that Texas has a history of discrimination, that Andy Nguyen (a prior candidate for commissioner) indicated a willingness to be called racist in 2016, and that Tarrant County considered redistricting in 2021 (but did not do so). Motion for T.I. at ¶¶ 99-101; Exh. 13 (Nguyen). Like Judge O'Connor, the Court should conclude that none of this evidence bears on the intent of the current commissioners. *See Jackson*, No. 04-25-cv-00587-O Dkt. 42 at 21.

Regardless of whether Texas has previously violated the Voting Rights Act, Plaintiffs have not shown that Judge O'Hare or Commissioners Krause or Ramirez had any role in those redistricting decisions. Nor have they given any reason that Mr. Nguyen's comments

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in 2016 should be imputed to those who approved Map 7. And while the prior commissioners court chose not to redistrict in 2021, that decision does not bind future commissioners courts. Plaintiffs correctly point out that the prior court expressly sought to preserve racial coalition districts. Motion for TI at ¶ 66. In other words, race was a motivating factor for the prior court, which renders the old map subject to challenge. *See Louisiana v. Callais*, 145 S. Ct. 2608 (2025) (Thomas, J., dissenting). In short, Plaintiffs offer no historical evidence to support an inference of discrimination.

Next, the sequence of events and purported procedural departures from the norm do not support an inference of intentional discrimination. Plaintiffs contend that a mid-decade redistricting is unprecedented, but that is not the case. Over 20 years ago, the Texas Legislature conducted a mid-decade redistricting of the state's congressional districts for partisan advantage. *League of United Latin American Citizens v. Perry*, 548 U.S. 399. 409 (2006). The Supreme Court declined to find such redistricting unconstitutional. *Id*. at 420. This year, the Texas Legislature redistricted its congressional districts, again for partisan advantage. Several other states, including California, Florida, New York, and Missouri are considering a mid-decade redistricting as well. *See Jackson*, No. 04:25-cv-00587-O Dkt. 42 at 12. Simply, the County's redistricting is not unusual.

Plaintiffs contend that this redistricting departed from the previous process in 2021, including but not limited to: 1) hiring a firm from outside Texas, 2) not holding any public map drawing sessions, 3) not adopting formal criteria for the new maps, and 4) failing to release racial and ethnic data. Motion for T.I. at ¶ 106. Those factors all relate to the prior commissioners court's policy preferences. This court does not share those preferences; instead, it (like many other legislatures now) seeks to increase partisan advantage. The procedure leading up to the adoption of Map 7 is consistent with the goal of political advantage. *See Jackson*, No. 04:25-cv-00587-O Dkt. 42 at 21-22.

Last, Plaintiffs do not offer any legislative history to show that the commissioners had discriminatory intent. Again like the *Jackson* plaintiffs, they point to an interview Judge O'Hare gave after the court adopted Map 7. *See* Motion for T.I. at ¶ 111. His statement—that the

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policies of Democrats have failed Blacks and that the Republican party will welcome them—indicates that the motivation was to increase Republican membership.

Plaintiffs also cite a weekly newsletter from the Tarrant County GOP as evidence of discriminatory intent. Motion for T.I. at ¶ 112, Exh. 15. That newsletter is not legislative history, but even if it were, it supports the Defendants. The first thing it says is that the redistricting proposal "will help secure the Tarrant County's conservative leadership for years to come." Motion for T.I. Exh. 15, p. 1. The newsletter then explains how the partisan makeup of the commissioners court conflicts with the Tarrant County outcomes in every other county-wide and state-wide contest, which strongly favors Republicans. *Id*. at pp. 2-4. In short, this newsletter shows a partisan intent rather than a discriminatory one.

But an examination of the actual legislative history shows a non-discriminatory intent. All three Republicans spoke about redistricting and said that they sought to gain a Republican seat on the court. Judge O'Hare opined that he believed conservative values are better for everybody.

None of the *Arlington Heights* factors weigh in favor of a finding of discrimination. So, the Plaintiffs are unlikely to prevail on the merits and the Court should deny them temporary injunctive relief.

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6. The equities weigh against granting an injunction

Regardless of whether Plaintiffs have shown a probable right to relief, the equities weigh against granting an injunction. In deciding whether to grant a temporary injunction, the court must balance competing equities. *In re Gamble*, 71 S.W.3d 313, 317 (Tex. 2002). This involves considering the injury to the applicant if the injunction is wrongly denied and gravity of the injury to the opposing party if wrongly granted. *T.F.W. Mgmt., Inc. v. Westwood Shores Prop. Owners Ass'n*, 162 S.W.3d 564, 575 (Tex. App.—Houston [14th Dist.] 2004, no pet.). The equities weigh against injunctive relief.

For one, a court errs when it grants a temporary injunction, the effect of which is to accomplish the object of the suit. *Dallas Indep. Sch. Dist. v.* Daniel, 323 S.W.2d 639, 641 (Tex. App.—Dallas 1959, no writ).

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That is exactly what the temporary injunction Plaintiffs seek would do. Plaintiffs seek a permanent injunction prohibiting Defendants from using or implementing Map 7 in any election. Orig. Pet. at 45. Now they ask the Court to temporarily enjoin the County from implementing Map 7. Motion for T.I. at 42. The election cycle begins on November 8. *Id*. at 3, Exh. 1. The final trial on the merits of this case would not occur until the 2026 election is well underway (or possibly even concluded). So, a temporary injunction would effectively accomplish the Plaintiffs' purpose in filing this suit. That alone is reason to deny their motion.

Another reason is that the Plaintiffs were dilatory in pursuing their relief. Texas courts cannot grant injunctive relief that would disrupt an election. *Khanoyan*, 637 S.W.3d at 764. When seeking judicial intervention in the context of elections, "time is of the essence." *Id*. So, when a party seeks injunctive relief that could disrupt an election, it must explain the practical consequences of that relief. *Id*. at 764-65.

Plaintiffs claim an immediate need for relief, but their conduct does not match this claimed urgency. Representatives of both Plaintiffs were present at the June 3 commissioners court meeting in which the County adopted Map 7. Yet, Plaintiffs waited almost two and a half months to file this lawsuit. And then they waited roughly 30 days to seek a temporary injunction (just days before Judge O'Connor's anticipated ruling on the *Jackson* plaintiffs' request for a preliminary injunction). Plaintiffs cannot claim an imminent injury when they failed to expeditiously pursue relief.

The equities do not weigh in the Plaintiffs favor; thus, the Court should deny them temporary injunctive relief.

Conclusion

The evidence shows that the Defendants made a political decision to redistrict for political purposes. Because Plaintiffs have not shown otherwise, the Court should decline to issue a temporary injunction.

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Certificate of Service

On September 23, 2025, I served a copy of the above document on all parties as required under Rule 21a.

STEPHEN A. LUND

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5.27.25b	Population			2016		2018				2020				2022		2024			
Precinct	Total	Deviation		President		U.S. Senate		Governor		President		U.S. Senate		Governor		President		U.S. Senate	
		Total	%	R	D	R	D	R	D	R	D	R	D	R	D	R	D	R	D
1	527,659	-1	-0.0002%	26.6%	69.5%	25.2%	74.2%	29.4%	69.0%	26.9%	71.7%	28.1%	69.1%	28.5%	70.3%	31.9%	66.6%	28.7%	69.0%
2	527,660	0	0.0000%	54.4%	40.3%	51.8%	47.3%	57.2%	40.9%	51.1%	47.3%	53.1%	44.3%	52.8%	45.9%	52.4%	46.1%	49.3%	48.3%
3	527,660	0	0.0000%	61.9%	32.6%	59.1%	40.1%	64.8%	33.3%	57.7%	40.6%	60.3%	37.1%	59.7%	38.8%	59.2%	39.3%	56.4%	41.3%
4	527,661	1	0.0002%	56.8%	37.8%	53.5%	45.7%	58.4%	39.8%	54.5%	43.8%	56.3%	40.7%	55.8%	42.7%	57.5%	41.3%	53.8%	43.7%

5.27.25b	2020				2022		2024			
Precinct	Sheriff		Tax Assessor		County Judge		Sheriff		Tax Assessor	
	R	D	R	D	R	D	R	D	R	D
1	28.4%	71.6%	31.0%	69.0%	28.9%	71.1%	31.4%	68.6%	33.2%	66.8%
2	54.9%	45.1%	57.7%	42.3%	54.5%	45.5%	54.5%	45.5%	56.4%	43.6%
3	62.4%	37.6%	65.2%	34.8%	61.7%	38.3%	62.2%	37.8%	63.9%	36.1%
4	58.1%	41.9%	61.0%	39.0%	57.7%	42.3%	59.2%	40.8%	61.1%	38.9%

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Filing Description: Response to Motion for Temporary Injunction
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