

**In the  
Supreme Court of the United States**

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PEOPLE NOT POLITICIANS AND RICHARD VON GLAHN,  
*Applicants,*

v.

CONGRESSMAN ROBERT ONDER, RICHARD BRATTIN, PATRICIA THOMAS, AND DEBRA  
HAVENS,  
*Respondents,*

STATE OF MISSOURI AND DENNY HOSKINS, *in his official capacity as Missouri  
Secretary of State,*  
*Respondents.*

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**OPPOSITION TO APPLICATION FOR STAY**

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**CATHERINE L. HANAWAY**  
MISSOURI ATTORNEY GENERAL  
207 W. High St.  
Jefferson City, MO 65101  
Tel: (573) 645-9662  
Fax: (573) 751-0774

Louis J. Capozzi III  
*Solicitor General*  
*Counsel of Record*  
William J. Seidleck  
*Principal Deputy Solicitor General*  
J. Michael Patton  
*Deputy Solicitor General*  
Graham D. Miller  
*Deputy Solicitor General*  
Madeline S. Lansdell  
*Assistant Solicitor General*  
Louis.Capozzi@ago.mo.gov

September 23, 2026

*Counsel for Respondents Missouri and  
Secretary of State Denny Hoskins*

## **PARTIES TO THE PROCEEDING AND RELATED PROCEEDINGS**

Applicants People Not Politicians and Richard von Glahn were the Intervenor-Defendants in the U.S. District Court for the Eastern District of Missouri and Appellants in the U.S. Court of Appeals for the Eighth Circuit.

Congressman Robert Onder, Richard Brattin, Patricia Thomas, and Debra Havens were Plaintiffs in the U.S. District Court for the Eastern District of Missouri and Appellees in the U.S. Court of Appeals for the Eighth Circuit.

The State of Missouri and Missouri Secretary of State Denny Hoskins were Defendants in the U.S. District Court for the Eastern District of Missouri and Defendant-Appellees in the U.S. Court of Appeals for the Eighth Circuit.

## RELATED PROCEEDINGS

U.S. District Court for the Eastern District of Missouri:

*Congressman Robert Onder, et al., v. State of Missouri and Missouri Secretary of State Denny Hoskins*, No. 4:26-cv-01424-SRC (E.D. Mo. Sept. 8, 2026) (temporary restraining order)

U.S. Court of Appeals for the Eighth Circuit:

*Congressman Robert Onder, et al., v. State of Missouri and Missouri Secretary of State Denny Hoskins*, No. 26-2797 (8th Cir. Sept. 9, 2026) (denial of application for stay)

U.S. Supreme Court:

*People Not Politicians, et al., v. Congressman Robert Onder, et al.*, No. 26A326 (U.S., Sept. 10, 2026) (grant of application for stay)

U.S. Court of Appeals for the Eighth Circuit:

*Congressman Robert Onder, et al., v. State of Missouri and Missouri Secretary of State Denny Hoskins*, No. 26-2797 (8th Cir. Sept. 21, 2026) (opinion affirming the district court and remanding for entry of a permanent injunction)

U.S. District Court for the Eastern District of Missouri:

*Congressman Robert Onder, et al., v. State of Missouri and Missouri Secretary of State Denny Hoskins*, No. 4:26-cv-01424-SRC (E.D. Mo. Sept. 22, 2026) (amended permanent injunction)

## **RULE 29.6 STATEMENT**

Pursuant to Supreme Court Rule 29.6, Respondents the State of Missouri and Missouri Secretary of State Denny Hoskins represent that they do not have any parent entities and do not issue stock.

/s/ Louis J. Capozzi, III  
Louis J. Capozzi, III

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TO THE HONORABLE BRETT M. KAVANAUGH, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE EIGHTH CIRCUIT:

Missouri's goal throughout this litigation has been to run an orderly and fair congressional election. However, the Missouri Supreme Court's September 3, 2026 order—changing Missouri's congressional map one month after the Primary Election—virtually guaranteed that would be impossible. Ever since that ruling, Missouri has suffered substantial election-related chaos. State and local election officials have labored intensively to comply with court orders and a federal-law deadline to transmit absentee ballots to military and overseas voters. Resp. App. 3a–4a ¶ 13; 52 U.S.C. § 20302(a)(8). As large numbers of voters are quickly moved to new congressional districts after a year of campaigning and a finished Primary Election, voters and candidates have expressed substantial confusion and anger about recent events. Resp. App. 3a–4a ¶ 13; *see* Cameron McWhirter & Mariah Timms, *The Midterm Battle Lines Keep Shifting. Missouri Voters Are Caught in the Middle.*, WALL ST. J. (Sept. 12, 2026).<sup>1</sup>

The Missouri Supreme Court's order would force the State to violate the U.S. Constitution. A state trial court, the District Court, and the Eighth Circuit have agreed: Changing Missouri's congressional map between the Primary and the General Election requires Missouri to violate Article I, Section 2 of the U.S. Constitution and the right to vote by switching the districts of hundreds of thousands, if not millions, of voters. *See* Appl. App. at 22a–27a (per curiam) (joined by Loken,

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<sup>1</sup> <https://www.wsj.com/politics/elections/missouris-redistricting-chaos-has-voters-on-both-sides-feeling-disenfranchised-f7dd238c>

Smith, JJ.) (estimating that “more than 1.4 million Missourians could not vote for the congressional district nominees who will appear on their November 2026 general election ballot” because of the Missouri Supreme Court’s injunction); *id.* at 35a (Stras, J., concurring in part, dissenting in part) (agreeing that this case involves “a probable violation of Article I, section 2 of the Constitution as interpreted”); *id.* at 65a–66fa (Clark, C.J.); *von Glahn v. Hoskins*, No. 26AC-CC00440, 2026 WL 2520959, at \*13 (Mo. Cole Cnty. Cir., Aug. 19, 2026) (Green, C.J.).

Regardless of whether this Court grants a stay or leaves the Eighth Circuit’s injunction in place, Missouri and its Secretary of State (collectively, “the State”) will do whatever they can to help local election officials comply. Yet the honest truth is that—regardless of what this Court does—Missouri will not be able to run an orderly 2026 General Election. If required to use the 2025 map, Missouri can maintain the status quo that governed for about a year and will avoid disenfranchising individuals who voted in the Primary Election; but Missouri will undoubtedly violate UOCAVA’s deadline for sending ballots to military and overseas voters. Resp. App. at 4a ¶¶ 14–15. However, if this Court grants a stay, voter and candidate confusion will persist, Missouri will endure a *fifth* court-ordered change to its map in September, hundreds of thousands of voters in the Primary Election will be disenfranchised, and candidates will be forced to run in new districts they have not campaigned in over the past year. See Appl. App. at 22a–32a. Of course, that assumes those candidates remain the candidates—as there are already challenges to the validity of Missouri’s Primary Election results based on the Missouri Supreme Court’s ruling. See Pet. for

Emergency Inj., *Hueffmeier v. Hoskins*, No. 26AC-CC00613 (Mo. Cole Cnty. Cir., Sept. 17, 2026).

Although no option is ideal, the State believes that voting under the 2025 map better advances the public interest. *See* Resp. App. at 1a–4a. The State acknowledges this Court’s prior stay order represented a preliminary indication that it views this situation differently—a point the State candidly acknowledged to the Eighth Circuit. *See* Resp. App. at 44a–45a. The State also understands the argument that the *Purcell* principle locks in place the Missouri Supreme Court’s dramatic alteration of the status quo. *See* Stay Appl. at 23–29. But the State respectfully maintains that a referendum organizer lacks appellate standing to appeal when the State chooses not to, that the merits overwhelmingly favor the Plaintiffs in this action, and that a referendum organizer should not be permitted to assert *Purcell* over a State’s objection. This Court, of course, remains free to alter its view after granting an interim stay. *See Allen v. Milligan*, 599 U.S. 1, 10 (2023) (“This Court stayed the District Court’s order pending further review. After conducting that review, we now affirm.”). The State therefore respectfully requests that this Court deny the stay application.

### **DECISIONS BELOW**

The District Court’s September 8, 2026 order granting the temporary restraining order is included in Applicants’ Appendix at 58a–70a. The Eighth Circuit’s September 9, 2026 order denying a stay of the TRO is included in Applicants’ Appendix at 81a.

The Eighth Circuit’s opinion—issued after merits briefing and argument—is included in Applicants’ Appendix at 1a–40a. The District Court’s original Permanent Injunction, issued September 21, 2026, is included in Applicants’ Appendix at 41a. Applicants fail to note, however, that the District Court issued an Amended Permanent Injunction on September 22, 2026. The Amended Permanent Injunction is contained in the State Respondents’ Appendix at 109a.

### **JURISDICTION**

As Judge Stras found, and as the State explains below, Applicants lack appellate standing to assert a generalized interest in the congressional map that will govern Missouri’s elections. *Hollingsworth v. Perry*, 570 U.S. 693, 706 (2013); Appl. App. at 36a–40a. Nor can Applicants assert the State’s interests to create standing. *Hollingsworth*, 570 U.S. at 708–09. Thus, this Court lacks jurisdiction over this appeal.

## STATEMENT

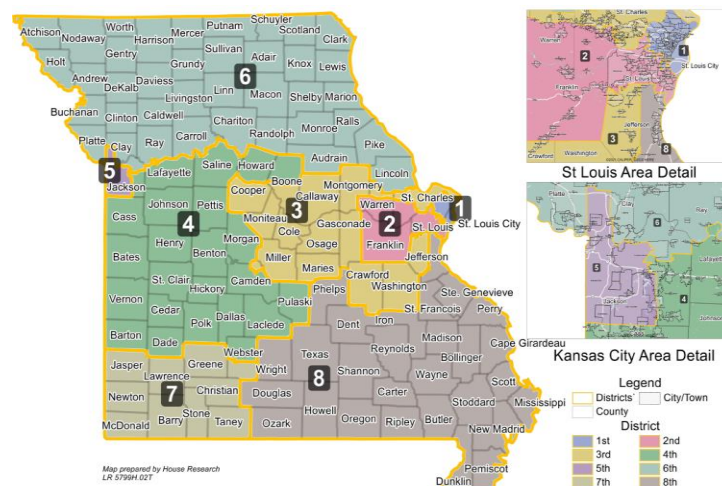
### I. Missouri's enactment of the HB 1 congressional map and subsequent failed challenges to the map.

On September 12, 2025, the Missouri General Assembly passed House Bill 1 (“HB 1”), which redistricted the boundaries of Missouri’s eight congressional districts. HB 1 abrogated Missouri’s previous congressional map enacted in 2022. These two maps are quite different, as these reproductions demonstrate:

#### Missouri's 2025 Congressional Map



#### Missouri's 2022 Congressional Map



In response, Applicants Richard von Glahn and People Not Politicians initiated the referendum campaign at issue in this case. Applicants sought a statewide vote on the HB 1 map, which they will get regardless of how this Court rules. *See von Glahn v. Hoskins*, No. SC 101805, 2026 WL 2628846, at \*5 (Mo. Sept. 3, 2026). Applicants also sought to bar the State from using the HB 1 map *before* a statewide vote by merely submitting their petition. *See* Jason Rosenbaum, *Missouri's stack of redistricting lawsuits expected to grow over whether new map is in effect*, ST. LOUIS PUBLIC RADIO (Dec. 16, 2025).<sup>2</sup> The State promptly expressed its view that Applicants' referendum campaign was unconstitutional and sought a federal court order saying so in October 2025. *See* Complaint, *Mo. Gen. Assembly v. von Glahn*, No. 4:25-cv-1535-ZMB (E.D. Mo., Oct. 15, 2025), ECF No. 1. Yet the federal court dismissed the State's lawsuit, reasoning that Secretary Hoskins could simply reject the referendum petition on federal constitutional grounds, and that the Missouri courts could avoid potential constitutional issues by interpreting the Missouri Constitution to disallow the referendum petition. *See Mo. Gen. Assembly v. von Glahn*, No. 4:25-cv-1535-ZMB, 2025 WL 3514277, at \*3–5 (E.D. Mo. Dec. 8, 2025).

The day after the federal court's dismissal, Applicants submitted their referendum petition in December 2025. *See Maggard v. Missouri*, 733 S.W.3d 411, 412–13 (Mo. 2026). Following Applicants' submission, the Secretary strictly complied with his state-law duties in processing it. *See* Mo. Rev. Stat. §§ 116.120–116.150. Within two weeks of the petition's submission, the Secretary forwarded Applicants'

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<sup>2</sup> <https://archive.is/m00Zy>

referendum petition to Missouri’s 116 local election authorities so that they could begin reviewing the petition’s signatures to verify validity. *See id.* § 116.130.1. That process takes a long time, which is why state law gave local election officials until July 28, 2026, and the Secretary until August 4, 2026—the day of the Primary Election—to finish the process. *See id.* §§ 116.130.2, 116.150.3.

While county officials processed signatures, substantial state-law litigation against the map ensued. The Missouri Supreme Court rejected all four challenges to the map. *See Luther v. Hoskins*, 730 S.W.3d 567 (Mo. 2026); *Healey v. Missouri*, 732 S.W.3d 827 (Mo. 2026); *Maggard v. Missouri*, 733 S.W.3d 411 (Mo. 2026); *NAACP v. Kehoe*, 734 S.W.3d 338 (Mo. 2026). In one of those cases—*Maggard*—the Missouri Supreme Court held that Missouri election officials could enforce HB 1 despite referendum petitions being *submitted*, but it suggested in dictum that a certified referendum would result in the law being retroactively deemed void. 733 S.W.3d at 420–21. The court also, however, expressly reserved the question whether federal congressional maps are subject to referenda under state law at all. *Id.* at 414 n.7. And the court did not address the State’s argument that—under the state-law equivalent of the *Purcell* principle, it was already too late to change Missouri’s congressional maps in 2026. *See Hadley v. Junior Coll. Dist. of Metro. Kan. City*, 460 S.W.2d 1, 2–3 (Mo. 1970) (per curiam).

When the Missouri Supreme Court issued its *Maggard* decision in May 2026, the Secretary faced an imminent Primary Election. *Cf. Abbott v. LULAC*, 146 S. Ct. 418, 419 (2025) (per curiam) (staying order affecting congressional map much further

in advance of upcoming primary election). Candidate filing had closed in March 2026 under the HB 1 map, and campaigns had already long relied on the HB 1 map. Mo. Rev. Stat. § 115.349.1. Under those circumstances, the Secretary issued a certificate rejecting the referendum petition on the final day permitted by the state-law deadline—the same day as the 2026 Primary Election. *Id.* § 116.150.3. He did not dispute that Applicants had obtained enough signatures. But he expressed his view that Missouri law does not authorize referenda on congressional maps, that the U.S. Constitution’s Elections Clause prohibits suspending maps before statewide referendum votes, and that switching maps between the Primary and General Elections would violate the U.S. Constitution and federal statutes. *See* Resp. App. at 110a–17a.

That same day, Missouri held its Primary Election. Well over a million Missourians voted in the election. *See von Glahn*, 2026 WL 2520959, at \*2. The State did so following the Missouri Supreme Court’s repeated upholding of the HB 1 map and the Attorney General’s issuance of an opinion letter on May 13, 2026, explaining why the 2026 Primary Election must occur under the HB 1 map. *Id.* (citing Mo. Att’y Gen., Op. Letter 03-2026 (May 13, 2026)). No court ever suggested that Missouri could not use the HB 1 map for the Primary Election. And the Eighth Circuit affirmed here that “[n]o party or amicus has identified any law that Secretary Hoskins violated in conducting the August 2026 primary election under the 2025 map.” *See* Appl. App. at 5a n.6.

## II. The *von Glahn* state-court litigation.

The same day the Primary Election occurred, Applicant von Glahn promptly sued in state court seeking an injunction against using the HB1 map for the 2026 General Election. *See von Glahn*, 2026 WL 2520959, at \*2.

The state trial court rejected Applicant’s requests on several grounds, holding that both the Missouri and U.S. Constitutions prohibit referenda on congressional maps. *Id.* at \*3–11. It also held that the U.S. Constitution’s Elections Clause forbids changing Missouri’s congressional map based on a referendum petition signed by just “five percent of the legal voters in each of two-thirds of the congressional districts in the state.” *Id.* at \*11 (quoting Mo. Const. art. III, § 52(a)). The court further held that changing Missouri’s congressional map between the Primary and General Elections would violate Article I, Section 2 and the Equal Protection Clause of the U.S. Constitution. *Id.* at \*13–14. Finally, the trial court held it would not change the HB 1 map before the 2026 election in light of Missouri’s version of the *Purcell* principle. *Id.* at \*16–17 (citing *Hadley*, 460 S.W.2d 1).

Surprisingly, the Missouri Supreme Court reversed and directly issued an injunction prohibiting the Secretary—“and all of those acting in concert with him”—“from implementing, using, or mandating the use of the congressional redistricting in HB 1.” *von Glahn*, 2026 WL 2628846, at \*6–7. Although the court provided no detail on how Missouri is to comply with its order, a footnote in the court’s opinion stated that Missouri must use “the congressional redistricting [plan] the General Assembly established in 2022.” *Id.* at \*6 n.8. The court justified this injunction by concluding that, under the Missouri Constitution, just 3.3% of the State’s voters can

unilaterally override the state legislature and impose their preferred congressional map for an entire election cycle. *See id.* at \*5–7 n.8 (citing Mo. Const. art. III, § 52(b)); Mo. Const. art. III, § 52(a). That court also explicitly eschewed any consideration of the “confusion, expense, and practical difficulties” that “may result” from its injunction. *Id.* at \*6 n.8.

The Missouri Supreme Court also refused to address the Secretary’s federal defenses. The court added that it would issue an improper “advisory opinion” if it considered whether its injunction—forcing a change in Missouri’s congressional map—would violate the U.S. Constitution. *Id.* at \*2 n.5. The State is aware of no other court that has held that it would render an “advisory opinion” by considering whether an order—affirmatively issued by the court—would violate the U.S. Constitution.

The State sought a stay of the Missouri Supreme Court’s injunction from this Court, but Justice Kavanaugh denied the State’s application without explanation. *See Hoskins v. von Glahn*, No. 26A304, 2026 WL 2647016, at \*1 (U.S. Sept. 8, 2026) (Kavanaugh, J., in chambers).

### **III. The present *Onder* lawsuit.**

On September 4, two congressional candidates and two voters sued Secretary Hoskins and the State itself. Resp. App. at 65a–90a. Plaintiffs argued the State would—because of the Missouri Supreme Court’s order—imminently violate their federal constitutional rights by changing congressional maps, and they accordingly sought a temporary restraining order, preliminary injunction, and permanent injunctive relief. *Id.*

Although the State was adverse to Plaintiffs because it lacked the power to voluntarily give them the relief it sought, it informed the District Court that it agreed with Plaintiffs' argument that the Missouri Supreme Court's order would force it to violate the U.S. Constitution, and that—at that time—the equities favored maintaining the congressional map that governed the Primary Election. *Cf. Hollingsworth*, 570 U.S. at 708–09; *Nat'l Republican Senatorial Comm. v. FEC*, 146 S. Ct. 2404, 2413 (2026) (federal government declining to defend unconstitutional statute).

Applicants promptly moved to intervene—and were granted intervention. *See* Resp. App. at 91a–108a. Despite Applicants' intervention and opposition to Plaintiffs, the District Court granted Plaintiffs' request for a TRO and ordered the State to use the HB 1 map for the General Election. Appl. App. at 58a–70a. On the merits, the District Court found Plaintiffs have a “high probability of success” because the State was poised to “disenfranchise voters of their votes in the primary election, in clear violation of Article I, Section 2” of the U.S. Constitution. *Id.* at 65a–66a. The District Court also found a “high probability of success” on Plaintiffs' Equal Protection Clause claim. *Id.* at 66a–68a. The court reasoned that: “Using any map other than HB 1's for the general election creates two classes of voters: those who happen to stay in their HB 1 congressional districts, and those who do not. Likewise, it divides candidates between those who retain the same electorate, and those who do not. In both situations, those who ‘do not’ are divested of their fundamental electoral rights.” *Id.* at 67a.

After the Eighth Circuit declined to stay the District Court’s TRO, *Onder v. People Not Politicians*, No. 26-2797, 2026 WL 2661912, at \*1 (8th Cir. Sept. 9, 2026),<sup>3</sup> this Court granted a stay, *see People Not Politicians v. Onder*, No. 26A326, 2026 WL 2659767, at \*1 (U.S. Sept. 10, 2026).

Shortly thereafter, the Eighth Circuit, “[o]n [its] own motion,” directed the clerk to issue an “expedited schedule for briefing and arguing the merits of this appeal.” Order, *Onder v. People Not Politicians*, No. 26-2797 (8th Cir., filed Sept. 10, 2026). The parties briefed and argued the merits of the appeal in accordance with the Eighth Circuit’s order. The State again expressed its view that Plaintiffs are likely correct on the merits, though it did not ask for an order switching the map again. *See* Resp. App. at 44a–62a.

#### **IV. The Eight Circuit enters a permanent injunction requiring the State to use the HB 1 map for the 2025 election.**

All three judges on the Eighth-Circuit panel agreed that the Missouri Supreme Court’s order will force Missouri to violate Article I, Section 2 of the U.S. Constitution. *See* Appl. App. at 22a–27a; *see also id.* at 35a (Stras, J., concurring in part and dissenting in part) (agreeing that the Missouri Supreme Court’s injunction creates “a

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<sup>3</sup> Applicants also successfully persuaded the Missouri Supreme Court to hold Secretary Hoskins in contempt for following the District Court’s TRO in the interim period between the federal TRO and this Court’s stay. Appl. App. at 82a–86a. The Missouri Supreme Court held that the District Court’s federal TRO “did not relieve [the Secretary] of any obligation to comply with an order of” the Missouri Supreme Court, even though the court’s injunction was issued only under state law. *Id.* at 84a. The Eighth Circuit’s opinion therefore clarified that its federal injunction supersedes the Missouri Supreme Court’s injunction, which was issued solely on state-law grounds and did not consider federal-law issues. *Id.* at 32a–34a.

probable violation of Article I, section 2 of the Constitution as interpreted”). Relying on this Court’s precedent, the Eighth Circuit affirmed that Article I, Section 2 guards the “right of qualified voters within a state to cast their ballots and have them counted at Congressional elections,” including in primary elections. *Id.* at 23a (quoting *United States v. Classic*, 313 U.S. 299, 315 (1941)). The Eighth Circuit then found that the Missouri Supreme Court’s application of state law here violated Article I, Section 2 because, as a result of the State Supreme Court’s order, “one-in-four Missourians had no opportunity to choose the congressional nominees that will appear on their November 2026 ballot.” *Id.* at 25a. Additionally, the Eighth Circuit emphasized that “more than half of the Missourians living in the Fifth Congressional District under the 2025 map used in the August 2026 primary election—57%—will find themselves in other districts if the 2022 map is used in the November 2026 general election.” *Id.* at 24a. “As a result,” the Eighth Circuit continued, “a majority of residents in the Fifth Congressional District had no voice in who will appear on their November 2026 ballot; they will be forced to choose from nominees selected by a minority of residents in the district as well as voters who are no longer in the district.” *Id.*

The panel majority also reasoned that *Purcell* did not bar its order. It acknowledged that “Missouri has an ‘extraordinarily strong interest in avoiding late, judicially imposed changes to its election laws and procedures.’” *Id.* at 28a–29a (quoting *Merrill v. Milligan*, 142 S. Ct. 879, 881 (2022) (Kavanaugh, J. concurring in grant of applications for stays)). But it rejected Applicants’ contorted reading of *Purcell* as somehow creating “an absolute prohibition on federal-review of last-minute

state-court decisions.” *Id.* at 29a. Relying on this Court’s precedent, the Eighth Circuit emphasized that:

The provisions of the Federal Constitution conferring on state legislatures, not state courts, the authority to make rules governing federal elections would be meaningless if a state court could override the rules adopted by the legislature simply by claiming that a state constitutional provision gave the courts the authority to make whatever rules it thought appropriate for the conduct of a fair election.

*Id.* (quoting *Republican Party of Pa. v. Boockvar*, 592 U.S. 1068, 1070 (2020) (statement of Alito, J., joined by Thomas & Gorsuch, JJ.)). The Eighth Circuit found that is what happened here. The Missouri General Assembly passed the HB 1 map in September 2025. *Id.* at 30a. Then, “[m]ore than 1.2 million Missourians voted for congressional candidates under the 2025 map” during the Primary Election in August 2026. *Id.* Also, “[t]he 2025 map was the status quo for virtually all of this election cycle until the Missouri Supreme Court issued its September 3, 2026 ruling in *von Glahn*.” *Id.* at 30a–32a. Thus, the Eighth Circuit held that the Missouri Supreme Court’s last-minute change to Missouri’s federal congressional map was not entitled to deference under *Purcell*. *Id.* at 32a.

Concurring in part and dissenting in part, Judge Stras indicated agreement on the Article I, Section 2 holding. *Id.* at 35a (Stras, J., concurring in part and dissenting in part). But Judge Stras dissented because he believed Applicants lack appellate standing to appeal any injunction in the first place. *Id.* at 36a–40a. Judge Stras also emphasized that, “[t]he *Purcell* principle, as powerful as it may be, cannot be a shortcut around jurisdiction.” *Id.* at 38a n.7 (*Purcell* is “not an ironclad rule that allows *anyone* to advocate for its application.” (emphasis in original)).

## REASONS FOR DENYING A STAY

“A stay is not a matter of right, even if irreparable injury might otherwise result,” but is instead “an exercise of judicial discretion.” *Nken v. Holder*, 556 U.S. 418, 433 (2009) (internal quotations omitted). Applicants bear “the burden of showing” four factors: (1) “whether the stay applicant has made a strong showing that he is likely to succeed on the merits;” (2) “whether the applicant will be irreparably injured absent a stay;” (3) “whether issuance of the stay will substantially injure the other parties interested in the proceeding;” and (4) “where the public interest lies.” *Id.* at 433–34 (citation omitted). As part of the merits factor, the applicant must provide “not only an assessment of the underlying merits but also a discretionary judgment about whether the Court should grant review in the case.” *Does 1-3 v. Mills*, 142 S. Ct. 17, 18 (2021) (Barrett, J., concurring in the denial of application for injunctive relief).

### **I. The Court need not reach any of the stay factors because Applicants lack standing to appeal.**

As Judge Stras explained, Appl. App. at 36a–40a, the Court need not reach the merits or consider the stay factors because Applicants lack standing to appeal the District Court’s order.<sup>4</sup> This Court has instructed that an “actual controversy” must “persist throughout *all* stages of litigation.” *Hollingsworth*, 570 U.S. at 705 (emphasis added) (citation omitted). Parties seeking appellate review must meet the

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<sup>4</sup> Plaintiff candidates had standing to bring this case below because they have strong interests in the rules governing an upcoming election. *Bost v. Ill. State Bd. of Elections*, 607 U.S. 71, 76–79 (2026). The voter plaintiffs had standing to bring this case below because the State was imminently about to violate their federal constitutional rights. *See TransUnion LLC v. Ramirez*, 594 U.S. 413, 423–27 (2021).

standing requirements of Article III, “just as [they] must be met by persons appearing in courts of first instance.” *Id.* (citation omitted). This Court has repeatedly emphasized that “[t]he decision to seek review ‘is not to be placed in the hands of concerned bystanders,’ persons who would seize it ‘as a vehicle for the vindication of value interests.’” *Arizonians for Off. Eng. v. Arizona*, 520 U.S. 43, 64–65 (1997) (internal quotation marks omitted) (quoting *Diamond v. Charles*, 476 U.S. 54, 62 (1986)). Rather, persons wishing to appeal must demonstrate that they “have suffered a concrete and particularized injury.” *Hollingsworth*, 570 U.S. at 700.

Applicants cannot make this showing. This Court “has never identified initiative proponents as Article-III-qualified defenders.” *Arizona*, 520 U.S. at 45. And here, Applicants’ only asserted interest is a generalized grievance “that is plainly undifferentiated and common to all members of the public.” *Lance v. Coffman*, 549 U.S. 437, 440–41 (2007) (cleaned up); *Gill v. Whitford*, 585 U.S. 48, 65–67 (2018). Applicants’ asserted interests are defending the Missouri Supreme Court’s order and vindicating their “right to a referendum on legislative acts.” *See* Resp. App. at 101a (Appls.’ Mot. for Intervention). But Applicants will receive their referendum vote this November. The only implication of this case is the status of Missouri’s congressional map statewide. That is a classic generalized grievance. *See Lance*, 549 U.S. at 441–42 (finding plaintiffs lacked standing where they alleged a generalized grievance that the government failed to comply with the law); *Gill*, 585 U.S. at 65–67 (holding that plaintiffs complaining of statewide gerrymandering, without alleging that they lived in gerrymandered districts, asserted only a generalized grievance).

This Court’s decision in *Hollingsworth*, which held that proponents of a California initiative lacked standing to appeal after the enacted law was found unconstitutional, is instructive. 570 U.S. at 712–13. Similar to this case, the plaintiff in *Hollingsworth* challenged the constitutionality of a state law enacted by initiative, but the State refused to defend it. *Id.* at 702. Like this case, the trial court allowed the initiative’s proponents to intervene. *Id.* The trial court agreed the state law was unconstitutional, and the State declined to appeal; only the initiative’s proponents appealed. *Id.* In holding that the proponents lacked standing, this Court noted that “[w]e have never before upheld the standing of a private party to defend the constitutionality of a state statute when state officials have chosen not to.” *Id.* at 715.

Instead, *Hollingsworth* explained, in order to demonstrate “[s]tanding to defend on appeal in the place of the original defendant,” Applicants must “possess a direct stake in the outcome” *beyond* their interest in vindicating the interest of the State. *Id.* at 712 (cleaned up). But Applicants have not made this showing. Below, Applicants asserted that their interest in the litigation stems from their Missouri constitutional “right to a referendum on legislative acts.” Resp. App. at 101a. But the Eighth Circuit’s and the District Court’s orders do not disturb HB 1’s place on the November ballot. Appl. App. at 37a. Applicants will have the opportunity to exercise their right to referendum by voting on HB 1 in the General Election. Beyond that, Applicants seemingly assert only that they care about which congressional map will

apply in Missouri in the General Election—a generalized injury that cannot confer standing. *See Gill*, 585 U.S. at 65–67.<sup>5</sup>

Applicants have not alleged that they will suffer a “concrete and particularized” injury as a result of the District Court’s order. It simply “is not enough that” Applicants “have a keen interest in the issue.” *Hollingsworth*, 570 U.S. at 700; *see also* Appl. App. at 40a (Stras, J., concurring in part and dissenting in part) (“[T]he plea heard throughout oral argument—‘if not us, then who?’—not only ignores obvious alternatives, but has never been ‘a reason to find standing.’” (citing *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208, 227 (1974))). Thus, Applicants lack appellate standing and this Court should deny a stay.

## **II. Applicants are unlikely to succeed on the merits.**

### **A. Changing Missouri’s congressional map between a primary and a general election violates the U.S. Constitution.**

It is undisputed that—if Applicants obtain a stay—hundreds of thousands, if not millions, of Missourians will vote for candidates in the General Election that they had no opportunity to consider in the Primary Election. *See* Appl. App. at 24a

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<sup>5</sup> For the first time in this Court, Applicants assert a new interest in footnote 15 of their stay application. *See* Stay Appl. at 30–31 n.15. They claim that they have a “state constitutional right to delay the implementation of HB 1 until after the election.” *Id.* But Applicants cite zero authority—in text or precedent—to support this claim. Of course, Article III, Section 52(b) of the Missouri Constitution provides, as a procedural matter, that “[a]ny measure referred to the people shall take effect when approved by a majority of the votes cast thereon, and not otherwise.” But this does not mean that Applicants have an individual *right* to statewide suspension of a duly-enacted law. Indeed, Article III, Section 52(b) does not contain “rights-creating” language. *Cf. Medina v. Planned Parenthood S. Atl.*, 606 U.S. 357, 368 (2025). Without any authority supporting Applicants’ argument, the Court should reject Applicants’ late-breaking attempt to justify standing.

(estimating that, under the Missouri Supreme Court’s injunction, “more than 1.4 million Missourians could not vote for the congressional district nominees who will appear on their November 2026 general election ballot”); *see generally* Stay Appl. (never disputing this point). The Eighth Circuit—like every court to issue a written opinion addressing this issue—held that changing Missouri’s congressional districts between a primary and a general election violates Article I, Section 2 of the U.S. Constitution. *See* Appl. App. at 22a–27a (per curiam) (joined by Loken, Smith, JJ.); *id.* at 35a (Stras, J., concurring in part and dissenting in part); *id.* at 65a–66a (Clark, C.J.); *von Glahn*, 2026 WL 2520959, at \*13 (Green, C.J.). To agree with their conclusions, this Court need only accept two propositions: (1) that the constitutional right to vote applies to primary elections and (2) that the right to vote prohibits depriving voters of the opportunity to participate in the Primary Election for their representative.

This Court, of course, has already held that the Constitution protects a right to vote in primary elections. *See Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 227 (1986); *Classic*, 313 U.S. at 318–19; *Smith v. Allwright*, 321 U.S. 649, 661–62 (1944). But that right would mean very little if a state supreme court could simply void a completed primary election and force voters into dramatically different districts—all while expressly disclaiming any consideration of potential “federal law violations.” *von Glahn*, 2026 WL 2628846, at \*2 n.5; *see* Appl. App. at 22a–32a.

Applicants’ response has been to note a lack of precedent applying Article I, Section 2 to a situation like this. Stay Appl. at 2–3, 33. The reason for that is that

no court has ever issued an order like that of the Missouri Supreme Court: one dramatically switching a congressional map one month after a lawfully-conducted primary election. And a host of federal courts have recognized that it would be absurd to switch congressional maps between a primary and general election. *See Covington v. North Carolina*, 316 F.R.D. 117, 176–77 (M.D.N.C. 2016) (allowing General Election “to proceed as scheduled under the challenged plans” despite being determined unconstitutional after the Primary); *Page v. Va. State Bd. of Elections*, 58 F. Supp. 3d 533, 554 (E.D. Va. 2014) (same), *vacated on other grounds sub nom., Cantor v. Personhuballah*, 135 S. Ct. 1699 (2015); *Vera v. Richards*, 861 F. Supp. 1304, 1310, 1351 (S.D. Tex. 1994), *aff’d sub nom., Bush v. Vera*, 517 U.S. 952 (1996); *see also Terrazas v. Slagle*, 821 F. Supp. 1154, 1159 (W.D. Tex. 1992) (“Primary elections for offices chosen by the electorate in separate geographical districts obviously make no sense unless the districts are the same for the ensuing general election as for the primary.”); *Montano v. Lefkowitz*, 575 F.2d 378, 385 (2d Cir. 1978) (Friendly, J.) (“It is simply inconsistent with the concept of election of Representatives by districts that a candidate should be chosen in part by persons outside the district elected to these posts as such.”).<sup>6</sup>

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<sup>6</sup> Missouri respectfully maintains and reaffirms its prior arguments that Applicants are also unlikely to succeed on the merits because (1) the Missouri Supreme Court’s order violates the Equal Protection Clause and (2) allowing 3.3% of voters to void a congressional map *before* a statewide vote violates the Elections Clause. *See* State’s Opp. Br. at 30–35, *People Not Politicians v. Onder*, No. 26A326 (U.S., filed Sept. 10, 2026); Resp. App. at 47a–53a, 58a–62a.

Also, Applicants themselves cite zero authority to support their claim that voters have no right “to vote for the same candidates within the same constituency at successive stages of an election.” Stay Appl. at 33. The best that they can muster is *Rodriguez v. Popular Democratic Party*, 457 U.S. 1 (1982)—a case about Puerto Rico’s procedure for replacing late incumbents in its territorial legislature. But *Rodriguez* had nothing to do with the permissibility of switching the districts of 1.4 million voters in between a primary and a general election. See Appl. App. 24a. Also, *Rodriguez* did not involve a federal congressional election. Thus, Article I, Section 2 of the U.S. Constitution was never at issue. In fact, *Rodriguez*’s only reference to Article I, Section 2 was to note that the U.S. Constitution establishes *different* procedures than Puerto Rico for filling vacancies in Congress. See 457 U.S. at 8 n.7 (“When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.” (U.S. const. art. I, § 2)). *Rodriguez* also emphasized that nothing in its opinion should be understood to apply to elections, where citizens have “a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction.” *Id.* at 10 (internal quotation omitted). Thus, to the extent *Rodriguez* has anything to do with this case, it supports Respondents, not Applicants.

**B. Applicants’ procedural objections lack merit.**

Applicants lodge a couple procedural objections to the Eighth Circuit’s ruling, but both fail.

*First*, Applicants claim that the District Court and the Eighth Circuit lacked jurisdiction to enter a permanent injunction under 28 U.S.C. § 2284. Stay Appl. at

17–23. However, this case does not fall within 28 U.S.C. § 2284(a)—which requires a three-judge panel “when an action is filed challenging the constitutionality of the *apportionment* of congressional districts,” *id.* (emphasis added). The candidates and voters who brought this action are not challenging the constitutionality of the “apportionment” enacted by the General Assembly. *Id.* They are arguing that ordering Missouri to switch to an old redistricting map between elections violates Article I, Section 2 and the Equal Protection Clause. No one is challenging the underlying constitutionality of any “apportionment,” and thus § 2284(a) does not apply here.

*Second*, Applicants argue that the Eighth Circuit and the District Court violated 2 U.S.C. § 2a(c) by enjoining implementation of any map other than the HB 1 map. Stay Appl. at 2, 28. However, Section 2a(c) does not require federal courts to enforce any congressional map established by state law. Rather, the text of the statute sets a default plan for how a state is to host congressional elections “[u]ntil [the] State is redistricted in the manner provided by the law thereof.” 2 U.S.C. § 2a(c) (emphasis added). Applicants thus misinterpret the text by insisting that § 2a(c) somehow gives States a blank check to impose a congressional map *whenever* and *however* they want—even if it violates the U.S. Constitution. No court has ever accepted that reading of Section 2a(c), and this Court should not endorse that plainly incorrect reading now on its interim docket.

### III. The Court could also deny a stay based on the equities.

#### A. A stay would change Missouri's congressional map for the fifth time since the beginning of September.

If this Court grants a stay, that would be the *fifth* time that a court has ordered Missouri to use a different congressional map since September 3—when the Missouri Supreme Court became the first court to ever enter an injunction forcing a State to use a dramatically different congressional map between a primary and general election.

The honest truth is that the chaos injected by the Missouri Supreme Court will remain no matter what this Court does. Since this Court granted a stay, election officials have scrambled to comply with deadlines; voters and candidates have expressed confusion *en masse*; and the State is facing a lawsuit seeking to void the results of the Primary Election. See Cameron McWhirter & Mariah Timms, *The Midterm Battle Lines Keep Shifting. Missouri Voters Are Caught in the Middle.*, WALL ST. J. (Sept. 12, 2026);<sup>7</sup> Resp. App. at 3a–4a ¶ 13. If this Court grants a stay, Missouri faces the risk of an invalidated primary election *even after* voters have begun voting on candidates for the General Election. See Pet. for Emergency Inj., *Hueffmeier v. Hoskins*, No. 26AC-CC00613 (Mo. Cole Cnty. Cir., filed Sept. 17, 2026) (pleading of candidates whole lost the primary election suing to invalidate primary results in light of the Missouri Supreme Court's order changing the congressional map).

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<sup>7</sup> <https://www.wsj.com/politics/elections/missouris-redistricting-chaos-has-voters-on-both-sides-feeling-disenfranchised-f7dd238c>

More than anything, Missouri voters need stability. The Secretary respectfully believes that denying a stay—and declining to change Missouri’s congressional map for a *fifth* time—is the best way to promote stability. *See* Resp. App. at 1a–4a. The HB 1 map governed for the vast majority of the 2026 election cycle, including during candidate filing, most of campaign season, and the Primary Election. Maintaining that status quo promotes stability. *See* Appl. App. at 28a–32a. Of course, the new injunction would impose additional duties on Missouri’s county election authorities, and the State would need to apply for a UOCAVA waiver. But such a ruling would at least allow candidates to run in the same districts and would ensure that approximately 1.4 million voters consider candidates in the General Election that they had an opportunity to nominate in the Primary. *See id.* at 24a.

**B. Applicants’ attempt to invoke *Purcell* against a State’s objection is improper.**

Applicants largely rely on the *Purcell* doctrine in asking this Court to exercise equitable discretion to grant a stay on the interim docket. Stay Appl. at 23–29. But as Applicants have previously explained, *Purcell* is—at least in part—a federalism doctrine. *See* Stay Opp. at 36–37, *Hoskins v. von Glahn*, No. 26A304 (U.S. Sept. 7, 2026). Given that representation, the State struggles to understand how Applicants think that they can assert *Purcell* over the State’s objection. The State is unaware of any case in which this Court has applied *Purcell* against a State. And there are good reasons not to do so. The State is surely better positioned to understand the consequences of court rulings than a political activist asserting a generalized interest

in the congressional map governing Missouri’s 2026 General Election. *See Gill*, 585 U.S. at 65–67.

**C. Applicants will suffer no harm if this Court denies a stay.**

As Judge Stras found, Applicants lack even Article III standing to contest the status of Missouri’s congressional map. *See Appl. App.* at 36a–40a (Stras, J., concurring in part and dissenting in part). Thus, Applicants have no legitimate interest overriding the Missouri General Assembly—and disenfranchising hundreds of thousands of Primary voters, *Appl. App.* at 24a—based on a referendum petition signed by just 3.3% of the State’s electorate, *see Mo. Const. art. III, § 52(a)*. Meanwhile, regardless of what this Court does, Applicants are guaranteed a statewide vote on the HB 1 map.

Under *Nken*, Applicants bear “the burden of showing” that they satisfy all four stay factors, including “whether the applicant will be irreparably injured absent a stay.” *Nken*, 556 U.S. at 433–34. Yet Applicants have failed to make any showing of an irreparable injury. The Court can deny a stay on this basis alone.

**CONCLUSION**

This Court should deny the application for stay.

September 23, 2026

Respectfully submitted,

**CATHERINE L. HANAWAY**  
MISSOURI ATTORNEY GENERAL

/s/ Louis J. Capozzi, III  
Louis J. Capozzi, III  
*Solicitor General*  
*Counsel of Record*  
William J. Seidleck  
*Principal Deputy Solicitor General*  
J. Michael Patton  
*Deputy Solicitor General*  
Graham D. Miller  
*Deputy Solicitor General*  
Madeline S. Lansdell  
*Assistant Solicitor General*  
OFFICE OF THE MISSOURI  
ATTORNEY GENERAL  
Supreme Court Building  
207 West High Street  
P.O. Box 899  
Jefferson City, MO 65102  
(573) 645-9662  
Louis.Capozzi@ago.mo.gov

*Counsel for Respondents State of Missouri  
and Missouri Secretary of State*