No. 21A375

In the Supreme Court of the United States

JOHN MERRILL, *etc., et al.,*

Applicants,

v.

EVAN MILLIGAN, *et al.,*

Respondents.

On Petition from the United States District Court
for the Northern District of Alabama

MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF, MOTION FOR LEAVE TO FILE BRIEF ON 8 1/2 BY 11 INCH PAPER, AMICUS CURIAE BRIEF IN SUPPORT OF EMERGENCY APPLICATION FOR ADMINISTRATIVE STAY AND STAY OR INJUNCTIVE RELIEF PENDING APPEAL

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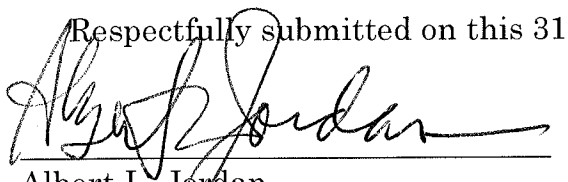
RULE 29.6 STATEMENT

Pursuant to Supreme Court Rule 29.6, Movant represents that neither he nor the Alabama State Republican Executive Committee has a parent corporation, and neither or them owns 10% or more of any publicly held company.

Respectfully submitted on this 31st day of January, 2022,



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MOTION FOR LEAVE TO FILE AMICUS BRIEF IN SUPPORT OF EMERGENCY APPLICATION FOR ADMINISTRATIVE STAY AND STAY OR INJUNCTIVE RELIEF PENDING APPEAL TO THE SUPREME COURT OF THE UNITED STATES

John Wahl, as Chairman of the Alabama State Republican Executive Committee ("ALGOP"), moves for leave to file the accompanying *amicus curiae* brief in support of Applicants' Emergency Application for Administrative Stay and Stay or Injunctive Relief Pending Appeal to the Supreme Court of the United States.

Respectfully submitted on this 31st day of January, 2022,

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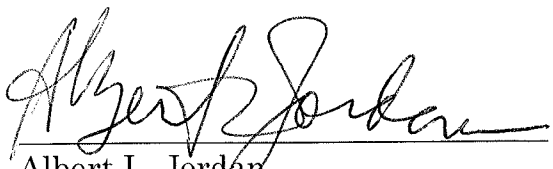
MOTION FOR LEAVE TO FILE BRIEF ON 8 1/2 BY 11 INCH PAPER BY ALABAMA STATE REPUBLICAN EXECUTIVE COMMITTEE CHAIRMAN JOHN WAHL

John Wahl, Chairman of the Alabama State Republican Executive Committee ("Wahl") respectfully moves for leave of Court to file his *amicus curiae* brief in support of Applicant Secretary of State John Merrill's ("Merrill") Emergency Application for Stay on 8 1/2 by 11 inch paper — rather than in booklet form.

In support of its motion, Wahl asserts that the Emergency Application for Stay filed by Merrill in this matter was filed on January 28, 2022. The expedited filing of Merrill's application and the resulting compressed deadline for any response prevents Wahl from being able to get this brief prepared for printing and filing in booklet form. Nonetheless, Wahl desires to be heard on the application and requests the Court grant this motion and accept the paper filing.

Respectfully submitted on this 31st day of January, 2022,



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AMICUS BRIEF IN SUPPORT OF EMERGENCY APPLICATION FOR ADMINISTRATIVE STAY AND STAY OR INJUNCTIVE RELIEF PENDING APPEAL TO THE SUPREME COURT OF THE UNITED STATES

STATEMENT OF INTEREST OF *AMICUS CURIAE*

Movant John Wahl is the Chairman of the Alabama State Republican Executive Committee ("ALGOP"). It is composed of over 400 persons who are elected from each of the State's 67 counties, and several persons he appoints and one person chosen separately by each of four named ancillary organizations self-identifying as Republican. ALGOP sends its Chairman, as well as two people, to serve on the Republican National Committee. ALGOP is known in common understanding as the Alabama Republican Party.

Interest in candidates for the U.S. House of Representatives

ALGOP is eligible under State law to participate in a government administered primary election, where Alabama voters choose political party nominees for federal,

state, and local offices. (*See* Ala. Code §§ 17-13-42, 46). In August 2021, at its regular summer meeting, the ALGOP resolved to choose its nominees for public office through the primary election process. By the terms of that resolution, ALGOP began receiving completed candidacy forms of persons seeking to be its nominees on January 4, 2022. Under the ALGOP resolution, the last day for receiving those forms is January 28, 2022.

In 2022, the primary elections are set by state law for May 24 — some 121 days from the date of the preliminary injunction issued by the U.S. District Court for the Northern District of Alabama. In the normal course of events, ALGOP would be due to submit the names of its nominees to the Secretary of State by March 3, as provided by Ala. Code § 17-13-5(b).

The order of the district court sought to be stayed was issued on January 24. It enjoins Defendant John Merrill, the Secretary of State, from applying the deadline of January 28 that § "17-13-5(a) effectively establishes for candidates to qualify with major political parties." (App.3). Merrill is further ordered "to advise the political parties participating in the 2022 congressional elections of this order." (App.7). The deadline is extended "for 14 days, through February 11, 2022, to allow the Legislature the opportunity to enact a remedial plan." (App.6). The district court does not say what happens to the deadlines if the legislature adopts a new plan or if it fails to adopt a new plan.

ALGOP was neither a defendant nor a plaintiff in the district court and neither Wahl nor any other ALGOP officer otherwise participated in the proceedings as a

witness. Similarly, the other major political party in Alabama, the Alabama Democratic Party ("ALDEM"), was neither a plaintiff nor a defendant, and did not participate in the proceedings. At present, six of Alabama's members of the U.S. House of Representatives ("U.S. House") are nominees who won the Republican primary, and one member is a Democrat Party nominee.

As of the January 28 deadline established by ALGOP to accept names for persons seeking the nomination to be a member of the U.S. House from one of the seven districts, there are contested primary elections in two districts: Three and Five. (https://algop.org/federal-and-state-constitutional-offices-qualified-candidates/). In each of the other district, there is only an incumbent seeking the nomination, except District Seven where one person has qualified.

On January 27, the ALDEM announced on its website that it had extended the deadline to receive names to submit to the Secretary of State for persons seeking to the nomination to be a member of the U.S. House from one of the seven districts. Before the court order, the deadline was January 28, and candidates had been permitted to file with ALDEM for nearly eight weeks — since December 8. (https://aldemocrats.org/blog/alabama-democratic-party-extends-qualifying-deadline-congressional-races). As of January 28, ALDEM had two persons seeking its nomination for the U.S. House in Districts Two and Five. In District Seven, one person, the incumbent, is seeking re-election.

In recent years, ALGOP has come to be regarded as the dominant political party in Alabama. Following the 2010 elections, the Alabama legislature's 105-person House

members and 35-person Senate each were composed of members identified as Republican by super-majorities. There are a total of 102 of 147 legislators who were Republican nominees.[1]

Direct organizational interest in ALGOP membership

ALGOP also has an additional organizational interest in the district court order, that is perhaps more direct. Its members are chosen in primary elections based on residency in Alabama's seven Congressional districts. Thus, its members will be chosen in the May 24 primary election. At present, there are 71 positions being sought that are contested. (https://algop.org/algop-sec-qualified-candidates/).

In addition, the membership is allocated among the counties in each Congressional districts based on Republican votes cast. (https://algop.org/wp-content/uploads/2021/09/ALGOP-Bylaws-as-of-August-21-2021.pdf). Further, the membership includes bonus seats, based on the number of Republican nominees elected to the government from each county in a district. The members of ALGOP for each Congressional district chose a District Chair, who serves on a 21-person Steering Committee that is the governing body for ALGOP (*Id.*).

[1]All statewide elected officeholders were Republican nominees, including the Governor, the Attorney General, the Chief Justice and all members of the appellate courts. Of Alabama's seven members of the U.S. House, six were Republican nominees. It remained that way until 2017 when Democrat nominee Doug Jones defeated Republican Roy Moore in special election to fill a vacancy arising from the resignation of U.S. Senator Jeff Sessions, who was appointed U.S. Attorney General.

ARGUMENT

The Preliminary Injunction issued by the district court against use of the 2021 Congressional district lines is unjustifiably disruptive of an ongoing political primary election process in which ALGOP and its potential nominees for membership in the U.S. House, have been participating. The disruption is all the more troubling because the U.S. House lines, though adjusted some for decennial census population shifts, have been largely the same for almost 30 years. The order issued only five days before candidate qualifying was due to end for May 24 primary elections, and is based on the unduly discretionary "totality of the circumstances" language of Section 2 of the Voting Rights Act. (52 U.S.C. § 10301). Worse perhaps, there still is no certainty about when new lines will be established for voting in the upcoming May primary elections.

The disruption of the primary election process is of special concern to ALGOP for several reasons. Most immediately, it subjects the process to charge of unfair manipulation, and alienates citizenry from participating in elections. Change in electoral structures in the midst, or on the eve, of voting has potential pernicious effects on the citizenry. Applicant's motion shows a stable core of Congressional districts since 1992, despite adjustments in each of three decades. (Motion at 6 (showing district configurations in three decades)). The district court injunction for the Plaintiff voters here can hardly be deemed protective of the status quo, pending full trial on the merits. Rather, the court order poses the prospect of a major change weeks before an election.

I. The Voting Rights Act, Relying on the "Totality of the Circumstances," is Too Open-Ended to Justify Preliminary Relief After Normal Candidate Qualifying Has Begun, as a Matter of the Public Interest.

ALGOP is more than aware of these problems, as it has risen to a dominant political position in part by citizen recognition that officials, including state courts, were manipulating the voting rules. The decision of the district court comes in the midst of the primary election process that will likely decide in each district who will be the member of the U.S. House from that district. Thus, in Districts Three and Five, the winner of the May 29 primary will likely be the winner of the general election. And, absent an adverse revision of district lines, six Republican nominees will likely be members of the U.S. House in the next Congress.

In these circumstances, court orders that risk being perceived as changing outcomes are an unwise use of equitable power. "Court orders affecting elections … can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, that risk will increase." *Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006) (per curiam) (overruling order enjoining enforcement of voter identification laws issued shortly before the election). *See also, Benisek v. Lamone*, 138 S. Ct. 1942 (2018) (preliminary relief denied against gerrymandered redistricting map in August 2017 for 2018 elections).

Long ago, in the landmark Alabama case of *Reynolds v. Sims*, 377 U.S. 533 (1964), the Court cautioned against held the proximity of the election matters, despite the recalcitrance of the State:

> [U]nder certain circumstances, such as where an impending election is imminent and a State's election machinery is already in progress, equitable considerations might justify a court in withholding the granting of immediately effective relief in a legislative apportionment case, even though the existing apportionment scheme was found invalid. In awarding or withholding immediate relief, a court is entitled to and should consider the proximity of a forthcoming election and the mechanics and complexities of state election laws, and should act and rely upon general equitable principles. With respect to the timing of relief, a court can reasonably endeavor to avoid a disruption of the election process which might result from requiring precipitate changes that could make unreasonable or embarrassing demands on a State in adjusting to the requirements of the court's decree.

Id. at 585. This standard is reflected in numerous early re-apportionment cases deemed justiciable. *See also, Upham v. Seamon*, 456 U.S. 37, 44 (1982) (allowing elections to be held despite failure to meet legal requirements); *Wells v. Rockefeller*, 394 U.S. 542, 547 (1969) (map illegal, primary three months away, election allowed). *See Kilgarlin v. Hill,* 386 U.S. 120 (1967) (per curiam), *Kirkpatrick v. Preisler*, 390 U.S. 939 (1968) (permitting 1968 elections to proceed in districts deemed by the district court to be constitutionally void); *Martin v. Bush*, 376 U.S. 222 (1964) (affirming determination of unconstitutionality, but staying relief). [2]

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[2]Numerous lower courts are reported to have reached the same conclusion. *Southwest Voter Registration Educ. Project v. Shelley*, 344 F.3d 914, 918 (9th Cir. 2003) (en banc) (affirming district court's refusal to enjoin imminent election); *Chisom v. Roemer*, 853 F.2d 1186 (5th Cir. 1988) (vacating injunction); *Md. Citizens for Representative General Assembly v. Governor of Md.*, 429 F.2d 606, 610 (4th Cir. 1970) (denying relief where a new plan "in final form could not have been expected until close upon the eve of the July 6, 1970 deadline for the filing of candidacies. Such a result would necessarily impose great disruption upon potential candidates, the electorate and the elective process."); *Cardona v. Oakland Unified Sch. Dist.*, 785 F. Supp. 837 (N.D. Cal. 1992) (declining to enjoin use of malapportioned districts in primary election four months away); *Kostick v. Nago*, 878 F. Supp. 2d 1124, 1147 (D. Haw. 2012) (three-judge court) (declining to enjoin use of existing boundary lines when primary

The risks of judicial involvement are heightened when attempting to apply § 2 of the Voting Rights Act. *See* 52 U.S.C. § 10301. Its language is open-ended, as it directs a consideration of the "totality of the circumstances" when evaluating its fundamental command. *(Id.* § 10301(b)). That command of course directs an end to any practice that "results in . . . abridgement of the right to vote on account of race" by having "less opportunity . . . to elect" candidates of choice. (*Id.*). The assessment of "vote dilution" too is open-ended arising from the establishment of district lines for election to multi-member bodies, despite old, established racially-focused preconditions to evaluating the "totality of the circumstances," *see Thornburgh v. Gingles*, 478 U.S. 30, 50–51 (1986), *see also, Growe v. Emison,* 507 U.S. 25 (1993).

The most precise analytical benchmark in the text of the statute for a claim of vote dilution — proportionality — is explicitly rejected by the statute as a right: "[N]othing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population." *Id.* And, part of the ambiguous "totality of the circumstances" is "the extent to which members of a protected class have been elected to office . . . ."

The statute's application of its concept of "vote dilution" has a history of being applied incorrectly. *See, e.g., Holder v. Hall*, 512 U.S. 874 (1994) (§ 2 not available to find that number of officeholders is vote dilution). The *Gingles* standards are focused on race and can lead easily to an excessive use of race in drawing districts — despite

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was three months away).

remedial objectives. *See Abbott v. Perez*, 138 S. Ct. 2305, 2334–35 (2018); *Cooper v. Harris*, 137 S. Ct. 1455 (2017) (deliberately moving African-American voters into a district to ensure the district's racial composition in enlarged district — without evidence that same could occur without focus on race). *Ala. Legislative Black Caucus v. Alabama*, 135 S. Ct. 1257 (2015); *Miller v. Johnson*, 515 U.S. 900 (1995) (State and USDOJ misapply requirements). *See also,* J. Chen, *et al.*, *The Race Blind Future of Voting Rights,* 130 Yale L. J. 862 (2021).

These timing problems are compounded when partisan alignment corresponds to race, as here. ((App.176) (Dist. 6 and 7). *See also* Doc. 66-4). Specifically, the district court order creates the risk that enforcement of Section Two is linked in the eyes of the public to partisan political success, rather than an opportunity by the non-partisan citizen to participate. Attempts to identify and remedy vote dilution inevitably result in frustrating efforts to identify fair outcomes. *See also, Rucho v. Common Cause*, 139 S. Ct. 2484, 2499–2500 (2019) (partisan vote dilution claim non-justiciable); *id*. at 2501 (noting that "a racial gerrymandering claim does not ask for a fair share of political power and influence"); *Hunt v. Cromartie*, 526 U.S. 541, 551 (1999) ("a jurisdiction may engage in constitutional political gerrymandering, even if it so happens that the most loyal Democrats happen to be black Democrats and even if the State were conscious of that fact."). In short, the better use of judicial discretion counsels against a "vote dilution" remedy when it will disrupt election planning.

The district court here was too quick to conclude that its requirement for a reset of the U.S. House lines would not be disruptive of political planning and problematic for election administration. (App.214) ("the Legislature enacted the [2021] Plan in a matter of days last fall"); *id.* (Legislature on notice four "months ago" when suit filed). Indeed, there is a tone of certitude in the order about pushing forward despite the administrative changes required, costs and confusion. (App.201–02) ("Even if we were worried that election are coming too soon (which we are not), we have no evidence from which we could find (or even infer) that it is necessary that we allow those elections to proceed on the basis of an unlawful plan).

Fairness going forward to persons with direct interest in the district lines counsels to stay. Even with the court-imposed deadline of February 11 for the Legislature to submit a Plan, the parties, and presumably anyone claiming to be affected, remain entitled to a hearing on any newly proposed district lines. For instance, anyone of six primary candidates in presently configured District Five would be due a hearing on adjustments made to the lines. That does not seem factored into the court's decision-making.

In theory, the district court might order a special U.S. House election date — after the regular primary election (and any required runoff) is concluded. But, according to the court in finding the recent special election of a black candidate in virtually all-white Shelby County to be non-probative (App.179) (Kenneth Paschal State legislator

election),[3] that raises doubts whether a special U.S. House election date would be remedial for voters said to have experienced a racial dilution.

Finally, it bears note that the order is not responding to the kind of bald government indifference to a clear statutory direction in the Voting Rights Act. *See Lucas v. Townsend*, 486 U.S. 1301 (1988) (election stayed due to failure to seek preclearance of date for voting) (Kennedy, J. in chambers).

II. The Historic Stable Core of the Congressional Districts Since 1992 is an Important Circumstance Counseling Against the District Court Preliminary Relief.

Though Republican nominees at present hold six of the State's seven U.S. House seats, that only occurred in the last decade. When the basic configuration of the existing district lines was first established in 1992, Republicans held two of seven seats, and picked up a third in that election. Attached as Exhibit 1 is a chart showing the history of partisan alignment of members of the U.S. House from Alabama since 1992.

One of the important features of Alabama political history in recent decades has been the landmark events by the other major political party, dominant for over a hundred years in Alabama, to manipulate the rules of election for advantage. In 1965, the original Voting Rights Act was adopted to prohibit changes in the election rules

[3] It bears note that Paschal has qualified to seek the nomination as the Republican candidate for the same seat, and he has no opposition. In so far as his special election in 2021 is said by the district court not to indicate support from virtually all-white Shelby County voters (App.179–80), it should have a different perspective at the remedial stage of the case, given that Paschal apparently has winning support from white voters.

that served to impair voting registration, and voting itself, and of course provided for U.S. Attorney General supervision of voting changes. *See Shelby County v. Holder*, 570 U.S. 529, 545–46 (2013) (in 1965, only 19.4% of eligible African-Americans registered). The district court notes Alabama's jaded history and more, but does not associate it with the hegemony of the Democratic Party. (App.73–78) (citing stipulation of the parties). However, "it is beyond dispute that the Democratic Party dominated both national and state elections in Alabama from 1874 until 1964 and onctinued to dominate state and local elections in Alabama from 1874 until 2000." *Ala. State Conf. NAACP v. Alabama*, 2020 WL 583803 at *147 (M.D. Ala. Feb. 5, 2020).

In 1986, serious change began in reaction to perceived misuse of the election process under the aegis of federal court blessing. The result was an ALGOP nominee won its first Statewide election in over one hundred years — for the office of Governor. It occurred in the aftermath of a dispute over changing the rules in the midst of an election, i.e., in the Democratic primary election runoff. *See Henderson v. Graddick*, 641 F. Supp. 1192 (M.D. Ala. 1986) (3-judge court) (finding candidate/official attempted change of election rules after primary and before runoff without preclearance). *See also Ala. State Conf. NAACP v. Alabama*, *supra*, at *147–48 (noting witness testimony about decline of Democratic Party in Alabama, denying § 2 relief to require districts for election of State appellate courts). In the end, federal courts approved the Democratic Party estimate of the number of persons who voted in the Democratic runoff, but had noted in the Republican primary. It further approved the

disqualification of the candidate who had urged that it occur. *See Curry v. Baker*, 802 F. 2d 1302 (11th Cir. 1986).

The Alabama legislature was controlled by the Democratic Party in 1992 when it established the U.S. House districts who features are essentially the configuration in place today. In the wake of establishment of new U.S. House districts in 1992, ALGOP nominees initially added one seat, and then held three of the State's seven seats. (https://www.fec.gov/resources/cms-content/documents/federalelections92.pdf).

Then, in 1994, ALGOP had its first Statewide judicial election success. Driven in part by urging "tort reform," its nominee for the Chief Justice also campaigned against Democratic control of the Alabama Supreme Court, and a misuse of the Voting Rights Act to create by consent decree appellate election districts and change the number of members on the appellate courts using racial proportions. After a prolonged court fight (gaining national attention) over changing the rules for counting absentee ballots after the voting was complete, the Republican was seated. *See Roe v. Alabama*, 68 F. 3d 404 (11th Cir. 1995). Not long thereafter, the dispute about misuse of the Voting Rights Act to change the size of the Alabama appellate courts was resolved by vacating the consent decree. *See White v. Alabama*, 74 F.3d 1058 (11th Cir. 1996).

In 1998, ALGOP nominees won additional seats in the U.S. House. The State's House delegation therefore was four Republicans and three Democrats.

In 2002, Alabama retained its seven seats in the U.S. House after the census. And, the districts from which the members were chosen did not change in any substantial

way. As of 2004, the voting registration rates for whites and blacks was 73.8% and 72.9 % respectively. *See Shelby County v. Holder*, 570 U.S. at 548.

Until 2008, the delegation did not have its current partisan make-up, but instead had five Republican nominees as members of the U.S. House during the course of the decade. In that year, the make-up changed to three Democrat nominees. (*See* Ex. 1).

By 2008, this Court acknowledged that things had changed in Alabama, and reversed district court decisions in Alabama applying the Voting Rights Act. *See Riley v. Kennedy*, 553 U.S. 406 (2008). There, the lower federal courts had blocked the Republican Governor from filling local office vacancies in the name of enforcing pre-clearance requirements of § 5. This Court concluded that the Alabama Supreme Court rulings that were claimed to change practice actually was a judicial correction of a temporary erroneous trial court decision. But, of special note, the two dissenting justices observed that Alabama itself had changed: "Voting practices in Alabama today are vastly different from those that prevailed prior to the enactment of the Voting Rights Act . . . ." *Id.* at 429. (Stevens, J., dissenting).

In 2010, voter registration showed that black voter registration exceeded that of whites. As reported in a 2020 federal court decision, 74.38% of the black voting age population was registered to vote, compared to 74.35 % of the white, voting age population." *Alabama State Conf., NAACP*, 2020 WL at *120. In elections that year, for the first time in 136 years, the Republican nominees won in sufficient numbers to constitute a majority of the members of the Alabama House and the Alabama Senate.

(https://www.sos.alabama.gov/sites/default/files/voter-pdfs/2010/2010GeneralResults-AllStateAndFederalOfficesAndAmendments-withoutWrite-inAppendix.pdf). In other words, for the first time they controlled the redistricting process.

In the 2011 redistricting, the legislature preserved the core of the existing U.S. House districts established in 1992. *See* Emergency Application, etc. at 6–7 (Jan. 28, 2022).

Two years later, in 2013, in light of the vast increase in voter registration, and the absence of racial disparity in numerous states, including Alabama, this Court found unconstitutional the formula used to figure which States (and local jurisdictions) were covered by the 2006 re-adoption of the Voting Rights Act, Pub. L. 109-246, 120 Stat. 577, 52 U.S.C. § 10101, *et seq*. The formula was said to be out of touch with current reality, and an unjustified denial of "'the fundamental principle of equal sovereignty' among the States." *Shelby County v. Holder,* 570 U.S. at 544 (quoting *Northwest Austin Municipal Utility District No. 1 v. Holder,* 557 U.S. 193, 203 (2009)). Accordingly, Alabama was to be treated like all other states, and was no longer required to submit voting changes to the U.S. Attorney General for approval before they went into effect.

In 2015, this Court found that the State legislative districts (now mostly Republican) were constructed improperly in 2012 in response to population shifts revealed by the 2010 census. *See Alabama State Legislative Caucus v. Alabama*, 575 U.S. 254, 275 (2015). The problem was the legislature, in order to meet its obligations under § 5 of the Voting Rights Act, arranged majority black districts so as to "not

substantially reduce the relative percentages of black voters in those districts." *Id.* There was yet another misunderstanding of the Voting Rights Act, that applied standards not set in the text of the Act. But no challenge to the U.S. House districts had been filed.

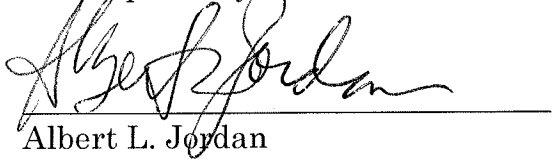
Then, in 2018, a court challenge was filed against the House election districts, seeking the creation of two majority-black districts, but it was dismissed as moot in 2020. The court deemed changes in the 2020 census, including a concern that Alabama would have sufficient population only for six members of the U.S. House coupled with the doctrine of laches to justify dismissal. *See Chestnut v. Merrill*, 446 F. Supp. 2d 908, 915 (N.D. Ala. 908) (refusing to find that judgment would provide benchmark for "core retention"in districting).

CONCLUSION

It is conceivable that the legislature with all its Republicans, could have drawn seven U.S. House districts likely to be won by Republican nominees — and have done so without considering race. Their restraint is commendable as a matter of public policy, and even for the advancement of Republican ideals — though not for immediate partisan advantage. At the end of the day, the claim that Section Two requires relief now is too disruptive, and not an urgent need, even if justified ultimately.

For these reasons, Amicus John Wahl, the ALGOP Chairman, urges the Court to enter the stay requested by Defendant John Merrill against the preliminary injunction issued by the district court, and prevent interference with the May 24 primary elections.

Respectfully submitted on this 31st day of January, 2022,



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Chairman, Alabama State Republican Executive Committee

Exhibit 1

EXHIBIT 1

<table>
<tr><th rowspan="2">Congress 1</th><th colspan="7">District</th></tr>
<tr><th>1st</th><th>2nd</th><th>3rd</th><th>4th</th><th>5th</th><th>6th</th><th>7th</th></tr>
<tr><td>117th (2021–2023)</td><td>Jerry Carl (R)</td><td>Barry Moore (R)</td><td rowspan="6">Mike Rogers (R)</td><td rowspan="6">Robert Aderholt (R)</td><td rowspan="3">Mo Brooks (R)</td><td rowspan="2">Gary Palmer (R)</td><td rowspan="3">Terri Sewell (D)</td></tr>
<tr><td>116th (2019–2021)</td><td rowspan="3">Bradley Byrne (R)</td><td rowspan="3">Martha Roby (R)</td></tr>
<tr><td>115th (2017–2019)</td></tr>
<tr><td>114th (2015–2017)</td><td rowspan="3">Spencer Bachus (R)</td></tr>
<tr><td>113th (2013–2015)</td><td rowspan="4">Jo Bonner (R)</td></tr>
<tr><td>112th (2011–2013)</td><td>Parker Griffith (R)</td></tr>
<tr><td>111th (2009–2011)</td><td>Bobby Bright (D)</td><td>Parker Griffith (D)</td><td rowspan="3">Artur Davis (D)</td></tr>
<tr><td>110th (2007–2009)</td><td rowspan="5">Terry Everett (R)</td><td rowspan="5">Robert E. Cramer (D)</td></tr>
<tr><td>109th (2005–2007)</td></tr>
<tr><td>108th (2003–2005)</td></tr>
<tr><td>107th (2001–2003)</td><td rowspan="4">Sonny Callahan (R)</td><td rowspan="2">Bob Riley (R)</td><td rowspan="3">Earl Hilliard (D)</td></tr>
<tr><td>106th (1999–2001)</td></tr>
<tr><td>105th (1997–1999)</td><td rowspan="2">Glen Browder (D)</td><td rowspan="2">Tom Bevill (D)</td></tr>
<tr><td>104th (1995–1997)</td></tr>
<tr><td>103rd (1993–1995)</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>102nd (1991–1993)</td><td rowspan="3">Sonny Callahan (R)</td><td rowspan="8">Bill Dickinson (R)</td><td>Glen Browder (D)</td><td rowspan="8">Tom Bevill (D)</td><td>Robert E. Cramer (D)</td><td rowspan="3">Ben Erdreich (D)</td><td rowspan="2">Claude Harris Jr. (D)</td></tr>
<tr><td>101st (1989–1991)</td><td rowspan="7">Bill Nichols (D)</td><td rowspan="4">Ronnie Flippo (D)</td></tr>
<tr><td>100th (1987–1989)</td><td rowspan="3">Richard Shelby (D)</td></tr>
<tr><td>99th (1985–1987)</td><td rowspan="5">Jack Edwards (R)</td><td rowspan="2">Albert Smith Jr. (R)</td></tr>
<tr><td>98th (1983–1985)</td><td rowspan="4">John Hall Buchanan Jr. (R)</td></tr>
<tr><td>97th (1981–1983)</td><td rowspan="3">Walter Flowers (D)</td></tr>
<tr><td>96th (1979–1981)</td><td rowspan="2">Bob Jones (D)</td></tr>
<tr><td>95th (1977–1979)</td></tr>
<tr><td>94th (1975–1977)</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>93rd (1973–1975)</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td rowspan="2">Congress</td><td>1st</td><td>2nd</td><td>3rd</td><td>4th</td><td>5th</td><td>6th</td><td>7th</td></tr>
<tr><td colspan="7">District</td></tr>
</table>

Chart based on the following readily identifable sources:

App. 107, 115, 189

https://www.govtrack.us/congress/members/all#all_role_types=2&all_role_states=AL

Joint Stipulated Facts (Doc. 53 at 10, 11, 23, 24, 25)

Bonner Deposition (Doc.80-2 at 46, 86)

District 7 Units Assigned to a District (Doc. 80-20 at 82)

Transcript of Preliminary Injunction Hearing, Vol. I (Doc.105 at 104)

Transcript of Preliminary Injunction Hearing, Vol. IV (Doc.105-3 at 177)

Transcript of Preliminary Injunction Hearing, Vol. VII (Doc. 105-6 at 56)