

**NINETEENTH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA**

JAMES BULLMAN, KIRK GREEN, STEPHEN
HANDWERK, DARRYL MALEK-WILEY,
AMBER ROBINSON, and POOJA PRAZID

Plaintiffs,

v.

R. KYLE ARDOIN, in his official capacity as
Louisiana Secretary of State,

Defendant.

Civil Action No. _____

PETITION FOR INJUNCTIVE AND DECLARATORY RELIEF

Plaintiffs James Bullman, Kirk Green, Stephen Handwerk, Darryl Malek-Wiley, Amber Robinson, and Pooja Prazid, by and through their undersigned counsel, file this Petition for Declaratory and Injunctive Relief against Defendant R. Kyle Ardoin, in his official capacity as Louisiana Secretary of State, and allege as follows:

NATURE OF THE ACTION

1. This is an action challenging Louisiana's current congressional districts, which were rendered unconstitutionally malapportioned by a decade of population shifts. Plaintiffs ask this Court to declare Louisiana's current congressional district plan unconstitutional, enjoin Defendant from using the current plan in any future elections, and implement a new congressional district plan that adheres to the constitutional requirement of one person, one vote should the Legislature and the Governor fail to do so.

2. On April 26, 2021, the U.S. Secretary of Commerce delivered the apportionment data obtained by the 2020 Census to the President. These data were followed by the census-block results of the 2020 Census, which the U.S. Secretary of Commerce delivered to the Governor and legislative leaders on August 12, 2021. These data make clear that the configuration of Louisiana's congressional districts does not account for the current population numbers in Louisiana, in violation of state and federal law.

3. Specifically, the current configuration of Louisiana's congressional districts, *see* La. Rev. Stat. § 18:1276.1, violates Article I, Section 2 of the U.S. Constitution and Article I, Sections 7 and 9 of the Louisiana Constitution. The current congressional plan therefore cannot be used in any upcoming elections, including the 2022 elections.

4. Louisiana’s political branches have failed to reach consensus and enact a lawful congressional district plan during the special legislative session on redistricting, signaling that the process is at an impasse. The Louisiana House of Representatives and State Senate, which are controlled by Republicans, passed House Bill 1 and Senate Bill 5, nearly identical congressional redistricting plans, on February 18, 2022. Governor John Bel Edwards, a Democrat, vetoed the bills on March 9. Because Republicans in the Legislature lack the supermajority necessary to override a veto, there is no prospect that Louisiana’s political branches will enact a new congressional plan in time for the 2022 elections.

5. Because Louisiana’s political branches have failed to enact a new congressional districting plan, this Court must intervene to protect the constitutional rights of Plaintiffs and voters across this state. Absent this Court’s intervention, Plaintiffs will be forced to cast unequal votes in violation of their constitutional rights.

JURISDICTION AND VENUE

6. This Court has original jurisdiction over the subject matter of this action pursuant to Article V, Section 16(A) of the Louisiana Constitution because the matter concerns “the right to office or other public position” and “civil or political right[s].”

7. Venue is proper in this District because the action is filed “against an officer or employee of the state or state agency for conduct arising out of the discharge of his official duties or within the course and scope of his employment[.]” La. Rev. Stat. § 13:5104(A).

8. This Court has authority to enter a declaratory judgment in this action under Louisiana Code of Civil Procedure Article 1871. This Court also has the authority to grant injunctive relief under the Louisiana Code of Civil Procedure. *See* La. Code Civ. P. 3601(A).

PARTIES

9. Plaintiffs are citizens of the United States and are registered to vote in Louisiana. Plaintiffs intend to advocate and vote for candidates in the upcoming 2022 primary and general elections. Plaintiffs reside in the following congressional districts.

Plaintiff's Name	Parish of Residence	Congressional District
James Bullman	East Baton Rouge	6
Kirk Green	East Baton Rouge	6
Stephen Handwerk	Lafayette	3
Darryl Malek-Wiley	Orleans	1
Amber Robinson	Lafayette	3
Pooja Prazid	St. Bernard	1

10. Plaintiffs reside in districts that are now overpopulated relative to other districts in the state. If the 2022 elections are held pursuant to the map currently in place, then Plaintiffs will be deprived of their right to cast an equal vote, as guaranteed to them by the U.S. Constitution and the Louisiana Constitution.

11. Defendant R. Kyle Ardoin is the Louisiana Secretary of State. He is the “chief election officer of the state,” La. Rev. Stat. § 18:421(A), and as such will be “involved in providing, implementing, and/or enforcing whatever injunctive or prospective relief may be granted” to Plaintiffs. *Hall v. Louisiana*, 974 F. Supp. 2d 978, 993 (M.D. La. 2013).

FACTUAL ALLEGATIONS

I. Louisiana’s current congressional districts were drawn using 2010 Census data.

12. Louisiana’s current congressional district map was drawn in 2011 using 2010 Census data. The congressional district plan was enacted on April 14, 2011.

13. According to the 2010 Census, Louisiana had a population of 4,533,372. Accordingly, a decade ago, the ideal population for each of Louisiana’s six congressional districts (i.e., the state’s total population divided by the number of districts) was 755,562 persons.

14. The 2010 congressional plan had a maximum deviation (i.e., the difference between the most populated district and least populated district) of 162 people.

15. That plan has been used in every Louisiana election since 2012.

II. The 2020 Census is complete.

16. In 2020, the U.S. Census Bureau conducted the decennial census required by Article I, Section 2 of the U.S. Constitution. On April 26, 2021, the U.S. Secretary of Commerce delivered the results of the 2020 Census to the President.

17. The results of the 2020 Census report that Louisiana’s resident population, as of April 2020, is 4,657,757. This is an increase from a decade ago, when the 2010 Census reported a population of 4,533,372.

18. Louisiana will again be apportioned six congressional districts for the next decade.

19. According to the 2020 Census results, the ideal population for each of Louisiana's congressional districts is 776,293.

III. As a result of significant population shifts in the past decade, Louisiana's congressional districts are unconstitutionally malapportioned.

20. In the past decade, Louisiana's population has shifted significantly. Because the 2020 Census has now been completed, the 2010 population data used to draw Louisiana's congressional districts are obsolete, and any prior justifications for the existing map's deviations from population equality are no longer applicable.

21. On August 12, 2021, the U.S. Census Bureau delivered to Louisiana its redistricting file in a legacy format, which allowed the State to tabulate the new population of each political subdivision. These data are commonly referred to as "P.L. 94-171 data," a reference to the legislation enacting this process, and are typically delivered no later than April of the year following the Census. *See* Pub. L. No. 94-171, 89 Stat. 1023 (1975).

22. These data make clear that significant population shifts have occurred in Louisiana since 2010, skewing the current congressional districts far from population equality.

23. The table below, generated from the P.L. 94-171 data file provided by the Census Bureau on August 12, 2021, shows how the populations of each of Louisiana's congressional districts shifted between 2010 and 2020. For each district, the "2010 Population" column represents the district's 2010 population according to the 2010 Census, and the "2020 Population" column indicates the district's 2020 population according to the P.L. 94-171 data. The "Shift" column represents the shift in population between 2010 and 2020. The "Deviation from Ideal 2020 Population" column shows how far the 2020 population of each district strays from the ideal 2020 congressional district population. And "Percent Deviation from Ideal 2020 Population" column shows that deviation as a percentage of the ideal 2020 district population.

District	2010 Population	2020 Population	Shift	Deviation from Ideal 2020 Population	Percent Deviation from Ideal 2020 Population
1	755,445	812,585	57,140	+36,292	+4.68%
2	755,538	775,292	19,754	-1,001	-0.13%
3	755,596	785,824	30,228	+9,531	+1.23%
4	755,605	728,346	-27,259	-47,947	-6.18%
5	755,581	739,244	-16,337	-37,049	-4.77%
6	755,607	816,466	60,859	+40,173	+5.17%

24. The table above indicates that population shifts since 2010 have rendered Congressional Districts 2, 4, and 5 underpopulated, and Congressional Districts 1, 3, and 6 significantly overpopulated. Indeed, according to these figures, the maximum deviation among Louisiana’s congressional districts (i.e., the difference between the most and least populated districts divided by the ideal district population) increased from 0 to over 11 percent between 2010 and 2020.

25. Due to these population shifts, Louisiana’s existing congressional district map is unconstitutionally malapportioned. If used in any future election, this district configuration will unconstitutionally dilute the strength of Plaintiffs’ votes because Plaintiffs live in districts with populations that are significantly larger than those in which other voters live.

IV. Louisiana’s political branches have failed to enact a lawful congressional district map in time for the next election.

26. In Louisiana, a congressional district plan is enacted through legislation, which must pass both chambers of the Legislature and be signed by the Governor. *See* La. Const. art. III, § 6.

27. In the Legislature’s 2021 Regular Session, the House and Senate failed to pass any redistricting bills. The Governor vetoed 31 other bills that were passed, including at least three election-related bills, and the Legislature failed to override *a single veto*. Indeed, Louisiana’s Legislature has not overturned a gubernatorial veto since 1993.

28. On February 2, 2022, the Legislature convened a special session on redistricting, and the House and Senate passed two nearly identical congressional redistricting plans, HB1 and SB5, on February 18. The Senate passed the final version of HB1 by a vote of 27-10, and the House passed the same version of the bill by a vote of 62-27. The Senate passed the final version of SB5 by a vote of 26-9, and the House passed the same version of the bill by a vote of 64-31. On March 9, the Governor vetoed HB1 and SB5, explaining that the maps “run[] afoul of federal law”

by failing to include a second majority-minority district. The Bill's supporters in the Legislature do not have enough votes to override the veto.

29. There is no reasonable prospect that the Governor and Legislature will reach a compromise in time to adopt a map for use in the 2022 elections. Governor Edwards has publicly stated his view that Louisiana's Black citizens should be able to elect their representative of choice in two of the state's six congressional districts. In HB1 and SB5, however, Black voters comprise a majority of only one district—CD-2—and are held below 33 percent of the population in every other district. Given this fundamental disagreement between the Governor and Legislature about how congressional districts should be drawn, there is no basis to expect that they will reach agreement on a congressional plan.

30. It is in the interest of voters, candidates, and Louisiana's entire electoral apparatus that finalized congressional districts be put in place as soon as possible. Potential congressional candidates cannot make strategic decisions—including, most importantly, whether to run at all—without knowing their district boundaries. And voters have a variety of interests in knowing as soon as possible the districts in which they reside and will vote, and the precise contours of those districts. These interests include deciding which candidates to support and whether to encourage others to run; holding elected representatives accountable for their conduct in office; and advocating for and organizing around candidates who will share their views, including by working together with other district voters in support of favored candidates.

31. Delaying the adoption of the new plan will substantially interfere with Plaintiffs' abilities to associate with like-minded citizens, educate themselves on the positions of their would-be representatives, and advocate for the candidates they prefer. *Cf. Anderson v. Celebrezze*, 460 U.S. 780, 787–88 (1983) (“The [absence] of candidates also burdens voters’ freedom of association, because an election campaign is an effective platform for the expression of views on the issues of the day, and a candidate serves as a rallying point for like-minded citizens.”).

32. In light of Louisiana's likely impasse, this Court must intervene to ensure Plaintiffs and other Louisiana voters do not suffer unconstitutional vote dilution.

CLAIMS FOR RELIEF

COUNT I

Violation of Article I, Section 2 of the United States Constitution Congressional Malapportionment

33. Plaintiffs reallege and reincorporate by reference all prior paragraphs of this Petition and the paragraphs in the count below as though fully set forth herein.

34. Article 1, Section 2 of the U.S. Constitution provides that members of the U.S. House of Representatives “shall be apportioned among the several States . . . according to their respective Numbers.” This provision “intends that when qualified voters elect member of Congress each vote be given as much weight as any other vote,” *Wesberry v. Sanders*, 376 U.S. 1, 7 (1964), meaning that state congressional districts in a state must “achieve population equality ‘as nearly as is practicable,’” *Karcher v. Daggett*, 462 U.S. 725, 730 (1983) (quoting *Wesberry*, 376 U.S. at 7–8).

35. Article I, Section 2 “permits only the limited population variances which are unavoidable despite a good-faith effort to achieve absolute equality, or for which justification is shown.” *Id.* at 730 (quoting *Kirkpatrick v. Preisler*, 394 U.S. 526, 531 (1969)). Any variation from exact population equality must be narrowly justified. *See id.* at 731.

36. As a result of this requirement, when Louisiana’s existing congressional plan was enacted in 2011, the deviation in population among districts was no more than 162 people. Now, as indicated in the table above, the population deviation among the current congressional districts is 88,120 people.

37. In light of the significant population shifts that have occurred since the 2010 Census, and the recent publication of the results of the 2020 Census, the current configuration of Louisiana’s congressional districts—which were drawn based on 2010 Census data—is now unconstitutionally malapportioned. No justification can be offered for the deviation among the congressional districts because any justification would be based on outdated population data.

38. Any future use of Louisiana’s current congressional district plan would violate Plaintiffs’ constitutional right to an undiluted vote.

COUNT II

Violation of Article I, Sections 7 and 9 of the Louisiana Constitution Freedom of Association

39. Plaintiffs reallege and reincorporate by reference all prior paragraphs of this Petition and the paragraphs in the count below as though fully set forth herein.

40. The Louisiana Constitution provides that “[n]o law shall curtail or restrain the freedom of speech” and “[n]o law shall impair the right of any person to assemble peaceably.” La. Const. art. I, §§ 7, 9. “The freedom of association protected by the First and Fourteenth Amendments of the U.S. Constitution is also guaranteed by Article I, Sections 7 and 9 of the Louisiana Constitution of 1974.” *Shane v. Parish of Jefferson*, 209 So. 3d 726, 741 (La. 2015) (citing *La. Republican Party v. Foster*, 674 So. 2d 225, 229 (La. 1996)). “The fundamental right of freedom of association protected by these constitutional provisions includes the right of persons to engage in partisan political organizations,” and any “state action that may have the effect of curtailing the freedom to associate is subject to the closest scrutiny.” *Id.* at 741 & n.11 (citing *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460–61 (1958)).

41. Impeding candidates’ abilities to run for political office—and, consequently, Plaintiffs’ abilities to assess candidate qualifications and positions, organize and advocate for preferred candidates, and associate with like-minded voters—infringes on Plaintiffs’ First Amendment right to association. *See, e.g., Anderson*, 460 U.S. at 787–88 & n.8.

42. Given the deadlock among the political branches in adopting a new congressional district plan, this Court’s intervention is required to ensure that a constitutional map is timely adopted. The failure to do so would deprive Plaintiffs of the ability to associate with others from the same lawfully apportioned congressional districts and, therefore, is likely to significantly, if not severely, burden Plaintiffs’ First Amendment right to association.

43. There is no legitimate, let alone compelling, interest that can justify this burden.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. Declare that the current configuration of Louisiana’s congressional districts, *see* La. Rev. Stat. § 18:1276.1, violates Article I, Section 2 of the U.S. Constitution and Article I, Sections 7 and 9 of the Louisiana Constitution;
- b. Enjoin Defendant, his respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from implementing, enforcing, or giving any effect to Louisiana’s current congressional districting plan;
- c. Establish a schedule that will enable the Court to adopt and implement a new congressional district plan by a date certain;

- d. Implement a new congressional district plan that complies with Article I, Section 2 of the U.S. Constitution and Article I, Sections 7 and 9 of the Louisiana Constitution, if the political branches fail to enact a plan by a date certain set by this Court;
- e. Grant such other and further relief, including but not limited to all costs of these proceedings as well as any attorneys' fees that may be legally proper under applicable law, as the Court deems just and proper.

Dated: March 9, 2022

Respectfully submitted,

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**Pro Hac Vice* application forthcoming

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