

Nos. 24-109, 24-110

IN THE
Supreme Court of the United States

LOUISIANA,

Appellant,

v.

PHILLIP CALLAIS, *et al.*,

Appellees.

PRESS ROBINSON, *et al.*,

Appellants,

v.

PHILLIP CALLAIS, *et al.*,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA

BRIEF OF *AMICUS CURIAE*
LOUISIANA LEGISLATIVE BLACK CAUCUS
IN SUPPORT OF APPELLANTS

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TABLE OF CONTENTS

| | <i>Page</i> |
|---|-------------|
| TABLE OF CONTENTS..... | i |
| TABLE OF CITED AUTHORITIES | iii |
| STATEMENT OF INTEREST | 1 |
| SUMMARY OF ARGUMENT..... | 2 |
| ARGUMENT..... | 5 |
| I. STRICT SCRUTINY DOES NOT APPLY BECAUSE RACE DID NOT PREDOMINATE IN THE DRAWING OF THE SB8 MAP..... | 5 |
| A. The SB8 Map Was Primarily Driven by Protection of Powerful Incumbents and Retaliation Against a Political Rival..... | 6 |
| 1. SB8 Protected Powerful Incumbent Members of Congress including the Speaker of the House and the Majority Leader..... | 9 |
| 2. SB8 Achieved Governor Landry’s Goal of Punishing A Political Rival, Congressman Graves..... | 10 |
| B. The Legislature’s Rejection of Compact, Demographically Similar Maps Shows Political Considerations Drove the Adoption of SB8 and Not Race | 12 |

Table of Contents

| | <i>Page</i> |
|---|-------------|
| C. The SB8 District Lines Took Account of Communities of Interest | 15 |
| II. EVEN IF STRICT SCRUTINY APPLIES, SB8 SHOULD SURVIVE BECAUSE IT IS NARROWLY TAILORED TO COMPLY WITH THE VOTING RIGHTS ACT..... | 18 |
| A. The Legislature Had a Strong Basis in Evidence to Conclude the VRA Required the Creation of Two Majority-minority Districts | 19 |
| B. SB8 is Narrowly Tailored to Comply with § 2 of the VRA Because It Does Not Subordinate Traditional Districting Principles to Race Substantially More Than Reasonably Necessary While Achieving Governor Landry’s Political Goals | 21 |
| III. THE LEGISLATURE DID ITS JOB BY ENACTING A BIPARTISAN COMPROMISE MAP AND THE COURT SHOULD UPHOLD SB8..... | 25 |
| CONCLUSION | 29 |

TABLE OF CITED AUTHORITIES

| | <i>Page</i> |
|--|-------------------|
| Cases | |
| <i>Abbott v. Perez</i> , 585 U.S. 579 (2018)..... | 3, 4, 5 |
| <i>Alabama Legislative Black Caucus v. Alabama</i> , 575 U.S. 254 (2015)..... | 20 |
| <i>Allen v. Milligan</i> , 599 U.S. 1 (2023)..... | 2, 3, 4, 5, 6, 18 |
| <i>Bethune-Hill v. Virginia State Bd. of Elections</i> , 580 U.S. 178 (2017)..... | 6, 18, 20 |
| <i>Bush v. Vera</i> , 517 U.S. 952 (1996)..... | 3-4, 6, 19, 21 |
| <i>Callais et al. v. Landry</i> , No. 3:24-cv-00122 (W.D. La.) | 11, 13, 26, 27 |
| <i>Chapman v. Meier</i> , 420 U.S. 1 (1975)..... | 25 |
| <i>Cooper v. Harris</i> , 581 U.S. 285 (2017)..... | 2, 5 |
| <i>Johnson v. De Grandy</i> , 512 U.S. 997 (1994)..... | 5 |
| <i>Robinson v. Ardoin</i> , 605 F. Supp. 3d 759 (M.D. La. 2022) | 20 |

Cited Authorities

| | <i>Page</i> |
|---|-------------|
| <i>Robinson v. Ardoin</i> , 86 F.4th 574 (5th Cir. 2023) | 20 |
| <i>Shaw v. Hunt</i> , 517 U.S. 899 (1996) | 19 |
| <i>Shaw v. Reno</i> , 509 U.S. 630 (1993) | 19 |

Other Authorities

| | |
|--|----|
| Mark Ballard, <i>Rep. Garret Graves shuffled out of position advising House speaker</i> , Times-Picayune, Nov. 6, 2023, https://www.nola.com/news/politics/report-rep-garret-graves-shuffled-out-of-advisory-position/article_ad1b59dc-7ce9-11ee-8043-83fdc00143c1.html | 10 |
| Max Cohen, <i>Graves faces headwinds in potential redistricting</i> , Punchbowl News, Oct. 23, 2023, https://punchbowl.news/article/campaigns/garret-graves-redistricting-louisiana/ | 10 |
| Tyler Bridges, <i>A judge is set to redraw Louisiana’s congressional map. It could make or break careers</i> , Times-Picayune, Nov. 5, 2023, https://www.nola.com/news/politics/judge-shelly-dick-is-scheduled-to-redraw-congressional-map/article_70bdf9e0-7a9b-11ee-9ba9-c32ec2f531fc.html | 11 |

STATEMENT OF INTEREST

The Louisiana Legislative Black Caucus (LLBC) is an association of African American members of the Louisiana Legislature.¹ *Amicus* files this brief in support of appellants Press Robinson, et. al. For decades, the LLBC and its members have been deeply involved in the deliberative process, litigation, and legislative debate over Louisiana’s legislative and congressional district maps. For example, in 1983 and 1990, the LLBC successfully passed reapportionment legislation that allowed more African American voters to elect the legislative candidates of their choice. Most recently, *amicus* engaged extensively in the post-2020-census congressional redistricting process.

Prior to the start of the 2022 legislative session, LLBC members and other legislators traveled across the state conducting public hearings called “roadshows.” As LLBC member and then-vice chair of the House and Governmental Affairs committee, Senator Royce Duplessis explained: “people showed up to those roadshows and consistently said that they wanted to see fair maps drawn.” Jurisdictional Statement Appendix of Press Robinson, et al. (JSA) at 91a. “Everything that I gathered from the roadshows was that people wanted to see a map that was compliant . . . with the Voting Rights Act.” *Id.* at 80a. Based on this community input, LLBC members introduced maps in both 2022 and the 2024

1. No counsel for a party authored this brief in whole or in part, and no party or counsel for a party made any monetary contribution intended to fund its preparation or submission. No person other than *amicus* or *amicus*’ counsel made a monetary contribution to the preparation or submission of this brief.

extraordinary session and joined litigation challenging the map passed in 2022.

LLBC members thus had front-row seats to the negotiations that produced Senate Bill 8 (SB8) in January 2024. The map was a result of political compromise, as legislators sought to comply with the Voting Rights Act (VRA), protect powerful incumbent members of Congress, and cater to the preferences of Governor Jeff Landry, all while fulfilling their duty to enact a valid map rather than relying on a court to do so. Although the SB8 map was not the first choice of most LLBC members, it is a fair map that provides meaningful congressional representation to constituents who previously lacked it. As such, all of the LLBC members present ultimately voted in favor of SB8's passage. LLBC members are proud to have been a part of this process and to have ensured that their constituents' voices were heard. *See* JSA at 91a–92a. Accordingly, the LLBC and its members have a strong interest in ensuring that the Legislature's validly enacted map remains in effect.

SUMMARY OF ARGUMENT

Strict scrutiny applies only if race is “the predominant factor in drawing district lines.” *Allen v. Milligan*, 599 U.S. 1, 31 (2023) (quoting *Cooper v. Harris*, 581 U.S. 285, 291 (2017)). Because politics was the primary driver of the SB8 district map, more permissive review should be utilized. As the record demonstrates, the contours of the map were motivated by protection of powerful incumbents and retaliation against the Governor's political rival, Congressman Garret Graves. By contrast, the Legislature considered voters' race in a far more limited way and only

to the extent necessary to comply with the VRA. As this Court recognized just two terms ago, such contemplation of race is not just permissible, it is necessary: “Section 2 itself ‘demands consideration of race.’” *Milligan*, 599 U.S. at 31 (quoting *Abbott v. Perez*, 585 U.S. 579, 587 (2018)). Here, race certainly did not predominate in the districting process. As SB8’s sponsor readily acknowledged, politics was the primary influence in how lines were shaped, and race was a “secondary consideration.” JSA at 395a.

Though the contours of the SB8 map may be imperfect, it comports with traditional districting principles by meaningfully taking account of the shared interests of communities. In some instances, oddly shaped districts can serve as evidence that race predominated, but not so here. The record makes clear that any deviations from traditional districting principles in SB8 were driven by politics. LLBC members introduced district map proposals that clearly complied with both traditional districting principles and § 2 of the VRA. The racial demographics of the districts in these proposed maps did not differ meaningfully from those of the SB8 districts. But the majority of legislators rejected these proposals—and opted for SB8—not based on race but because SB8 better achieved the majority’s political objectives.

Even if strict scrutiny did apply, SB8 would still survive because the Legislature had a compelling interest in complying with the VRA and considered race only to the extent necessary to create two majority-minority districts as directed by the federal courts. SB8 is narrowly tailored to comply with the VRA because it does “not subordinate traditional districting principles to race substantially more than is ‘reasonably necessary’ to avoid § 2 liability.” *Bush*

v. Vera, 517 U.S. 952, 979 (1996). To be narrowly tailored, a district need not have “the least possible amount of irregularity in shape.” *Id.* at 977. The Legislature was entitled to massage district boundaries to achieve its political goals, and that is precisely what it did. Having decided to prioritize the Governor’s political goals, the Legislature took account of other traditional districting criteria including communities of interest to the extent possible and considered race only to the extent reasonably necessary to comply with the VRA. In essence, the SB8 map is narrowly tailored to simultaneously achieve the Legislature’s political goals and VRA compliance. No other map under consideration would have achieved both of these imperatives while drawing significantly more compact districts.

Ultimately, the Louisiana Legislature fulfilled its obligations. As this Court has “repeatedly observed, [reapportionment] ‘is primarily the duty and responsibility of the State[s],’ not the federal courts.” *Milligan*, 599 U.S. at 29 (quoting *Abbott*, 585 U.S. at 603). Although few, if any, state legislators believed SB8 was an ideal map, it passed with an overwhelming bipartisan majority because it represented a compromise that achieved the Governor’s political objectives while complying with the VRA, removing the risk that a federal court would draw Louisiana’s districts, and giving meaningful representation to communities that historically lacked it. SB8 is not a perfect map, but this Court does not demand perfection. Because politics drove the placement of the district boundaries, and the Legislature considered race only to the extent necessary to comply with the VRA, this Court should uphold the map enacted by the representatives of the people of Louisiana.

ARGUMENT**I. STRICT SCRUTINY DOES NOT APPLY BECAUSE RACE DID NOT PREDOMINATE IN THE DRAWING OF THE SB8 MAP.**

Politics and not race was the primary driver of the SB8 map. As the bill’s sponsor, Senator Glen Womack, and other supporters of the bill made clear, although the map was consciously drawn to comply with the VRA, politics—specifically incumbent protection—was the primary reason for the placement of district lines. It was also widely understood that Governor Landry selected the SB8 map, and particularly the configuration of District 6, to deprive his political rival, Congressman Garret Graves, of a seat in Congress. In addition to these dominant political considerations, SB8 was informed by an understanding of communities of interest. Indeed, community organizations and an LLBC member had previously proposed a district running along the Red River, much like District 6, for the purpose of combining communities with important shared interests.

As this Court has explained, the Equal Protection Clause does not prohibit states from considering race when drawing districts. Indeed, “Section 2 itself ‘demands consideration of race.’ The question whether additional majority-minority districts can be drawn, after all, involves a ‘quintessentially race-conscious calculus.’” *Milligan*, 599 U.S. at 30–31 (quoting *Abbott*, 585 U.S. at 587 and *Johnson v. De Grandy*, 512 U.S. 997, 1020 (1994)). “At the same time, however, race may not be ‘the predominant factor in drawing district lines unless [there is] a compelling reason.’” *Id.* at 31 (quoting *Cooper*, 581 U.S. at 291). In *Milligan*, a plurality of this Court rejected the dissent’s

argument that race necessarily predominates where a map is “designed to hit express racial targets—namely, two 50%-plus majority-Black districts.” *Id.* at 32 (internal quotation marks and alterations omitted). Instead, the plurality explained, “the use of an express racial target’ [i]s just one factor among others that [a] court [must] consider as part of ‘[a] holistic analysis.’” *Id.* (quoting *Bethune-Hill v. Virginia State Bd. of Elections*, 580 U.S. 178, 192 (2017)); *see also* *Bush*, 517 U.S. at 958 (“Strict scrutiny does not apply merely because redistricting is performed with consciousness of race. Nor does it apply to all cases of intentional creation of majority-minority districts.”) (internal citation omitted). Here, although SB8 did contain “two 50%-plus majority-Black districts” in order to comply with the VRA, a holistic analysis shows that politics and other nonracial factors predominated in the Legislature’s process of creating district boundaries.

A. The SB8 Map Was Primarily Driven by Protection of Powerful Incumbents and Retaliation Against a Political Rival.

In January 2024, Governor Landry issued a call for the 2024 First Extraordinary Session of the Louisiana Legislature. On the first day of the session, the Governor addressed the joint chambers. He acknowledged the district court’s and Fifth Circuit’s repeated rejection of the existing map: “We have exhausted all legal remedies and we have labored with this issue for far too long.” JSA at 561a. The Governor then called on the Legislature to enact a new map in order to avoid the imposition of a court-drawn map: “[I]t’s time that we put this to bed. Let us make the necessary adjustments to heed the instructions of the court. Take the pen out of the hand of a non-elected judge and place it in your hands. In the hands of the people.” *Id.* It was widely understood

by LLBC members and other legislators that Governor Landry wished to avoid a court-drawn map that might not achieve his political goals, namely protecting powerful incumbent members of Congress and punishing his rival, Congressman Graves. As Representative Mandie Landry testified at trial, “Republicans were afraid that if they didn’t [pass a new map], that the Court would draw one that wouldn’t be as politically advantageous for them. They kind of wanted to put this to rest and the Governor wanted Congressman Graves out.” *Id.* at 60a.²

When Senator Womack introduced SB8, it quickly became apparent to legislators, including LLBC members, that the bill had Governor Landry’s support and would be likely to pass.³ In introducing the bill, Senator Womack described at length the bill’s objectives:

2. *See also* JSA at 507a (House and Governmental Affairs Chair Gerald (“Beau”) Beaulieu: “The Fifth Circuit sent it back to the federal judge and basically held us hostage. . . . [W]e would prefer to have the lines drawn in this committee than have some Obama-appointed judge drawing the lines for us.”); *id.* at 429a (Senator Jeremy Stine: “[U]nfortunately, we must pass this map before us instead of giving the pen to a heavy-handed, Obama-appointed federal judge.”).

3. *See* JSA at 60a (Question. “At some point during the special session, did you have a sense of which bill the Governor preferred?” Representative Landry: “We all knew from the beginning that the bill that was going to be passed was Senate Bill 8.”); *id.* at 87a (Senator Duplessis: “[Governor Landry] clearly expressed that he was going to support a map to resolve the litigation. And then Senator Womack filed a map and . . . it became clear that that was the map that Governor Landry would support and that the majority . . . of the Legislature would also support.”). Senator Duplessis further testified that as a newly elected governor whose party controlled two-thirds of legislative seats, Governor Landry wielded significant influence over what bills the Legislature passed. *Id.*

First, . . . [t]he boundaries in the bill I'm proposing ensure that Congresswoman Letlow remains both unpaired with any other incumbents, and in a congressional district that should continue to elect a Republican to Congress for the remainder of this decade. . . .

Second[,] Louisiana has six congressional districts. The map . . . ensures that four are safe Republican seats. Louisiana Republican presence in the United States [Congress] has contributed tremendously to the national discourse, and I'm very proud that both Speaker of the US House of Representatives, Mike Johnson, and US House Majority Leader Steve Scalise are both from our great state. This map ensures that [the] two of them will have solidly Republican districts. . . .

Third[,] the corridor that you see on the map . . . runs up [the] Red River, which is [used for] barge traffic, commerce. It also has I-49, which . . . goes from Lafayette to Shreveport, which is also a corridor for our state that is very important to our commerce. . . . We have education along that corridor. We have . . . row crop[s], as well as our cattle industry all up along Red River in those parishes. A lot of people from that area, the Natchitoches Parish, as well as Alexandria, use Alexandria for . . . their healthcare, their hospitals, and so forth. . . .

[F]inally, the . . . proposed bill responds appropriate[ly] to the ongoing Federal Voting Rights Act [litigation] in the Middle District of Louisiana.

JSA at 420a–21a.

1. SB8 Protected Powerful Incumbent Members of Congress including the Speaker of the House and the Majority Leader.

Senator Womack made clear on numerous occasions that his primary goal was to protect Speaker Johnson, Majority Leader Scalise,⁴ and Congresswoman Letlow. *See, e.g.*, JSA at 392a–96a, 420a–21a, 441a, 443a, 456a. Most Republican Legislators shared that goal. For example, Senator Thomas Pressly testified: “We certainly wanted to protect Speaker Johnson. . . . [W]e wanted to make sure that we protected[] Steve Scalise. Julia Letlow is on Appropriations. That was also very important that we tried to keep her seat as well.” *Id.* at 43a. Similarly, Senator Alan Seabaugh testified at trial that it is “kind of a big deal” that the Speaker and the Majority Leader of the U.S. House of Representatives—key positions on the national stage—are from Louisiana. He agreed that protecting Speaker Johnson, Majority Leader Scalise, and Representative Letlow was “an important consideration when drawing a congressional map.” *Id.* at 38a–39a. Initially, some

4. Congressmen Johnson and Scalise are the first concurrently serving Speaker and Majority Leader to hail from the same state since the office of Majority Leader was created in 1899.

LLBC members questioned whether the SB8 map focused too heavily on achieving the Governor’s political objective and too little on complying with the VRA,⁵ but all members ultimately concluded that the map was VRA-compliant.

2. SB8 Achieved Governor Landry’s Goal of Punishing A Political Rival, Congressman Graves.

The animosity between Governor Landry and Congressman Graves was no secret. News articles published several months before the January extraordinary session speculated that Congressman Graves would lose his seat due to his decision to back Governor Landry’s primary opponent, Stephen Waguespack, and his failure to support Majority Leader Scalise’s unsuccessful bid to become Speaker of the U.S. House of Representatives.⁶ In

5. See JSA at 457a (Representative Ed Larvadain: “I don’t know if you’ve [drawn two majority-minority districts]—you’ve made a[n] effort at it, but . . . this is more of a political map.”).

6. Max Cohen, *Graves faces headwinds in potential redistricting*, Punchbowl News, Oct. 23, 2023, <https://punchbowl.news/article/campaigns/garret-graves-redistricting-louisiana/>; see also Mark Ballard, *Rep. Garret Graves shuffled out of position advising House speaker*, Times-Picayune, Nov. 6, 2023, https://www.nola.com/news/politics/report-rep-garret-graves-shuffled-out-of-advisory-position/article_ad1b59dc-7ce9-11ee-8043-83fdc00143e1.html (“Political insiders say incoming Gov. Jeff Landry would like legislators to redraw Graves’ congressional district lines in a way that could hurt Graves’ ability to get re-elected. Landry had no comment. After Graves flirted with running for governor last year, he endorsed Stephen Waguespack, a longtime friend who came in a distant third, over Landry.”).

November 2023, one Republican described the Governor and Majority Leader Scalise’s priorities: “They want to protect Julia [Letlow], but that’s secondary to screwing Garret [Graves].”⁷ As Representative Landry explained at trial, the 144 members of the Legislature had “hundreds, if not more” conversations about the political dynamic between Governor Landry and Congressman Graves. Trial Tr. Day 2 at 371, *Callais et al. v. Landry*, No. 3:24-cv-00122 (W.D. La.), ECF No. 85 [hereinafter Trial Tr. Day 2]. LLBC members participated in many of these conversations. Indeed, the Governor’s effort to undercut Congressman Graves’ political future using SB8 so permeated the conversation among legislators and the media that it was the subject of a skit by members of the Capital Correspondents Association at their annual Gridiron Dinner. JSA at 116a. Several members of Louisiana’s political elite attended the event including Congressman Graves himself, who nodded his head and laughed in reaction. *Id.* at 117a.

Public Service Commissioner Davante Lewis summarized the Governor’s approach at trial: “[T]his

7. Tyler Bridges, *A judge is set to redraw Louisiana’s congressional map. It could make or break careers*, Times-Picayune, Nov. 5, 2023, https://www.nola.com/news/politics/judge-shelly-dick-is-scheduled-to-redraw-congressional-map/article_70bdf9e0-7a9b-11ee-9ba9-c32ec2f531fc.html. *See also id.* (“Landry hasn’t said anything publicly about Graves . . . [b]ut he has a reputation for wanting to punish political rivals. Graves is thought to have angered Landry by not endorsing him in the race for governor. . . . Gutting Graves’ district would also potentially deny him a perch from which he could run against Landry when the governor is up for reelection in four years, political insiders note. Politicos close to Scalise say Graves angered Scalise by working against him last month when he was seeking to become House speaker.”).

just seemed to be a traditional Louisiana tactic that once you got some power you went after your enemies.” *Id.* at 109a. Louisiana has a long history of similar tactics and politicians who have been willing to aid the opposing political party in order to retaliate against an intraparty rival. *See, e.g., id.* at 109a–10a (describing several examples including the 2015 decision of the sitting Republican Lieutenant Governor and Secretary of State to endorse Democratic Governor John Bel Edwards over their own party’s nominee, Senator David Vitter, in response to Senator Vitter’s aggressive targeting of rival Republicans with his political PAC). Thus, to followers of Louisiana politics, including LLBC members, it came as no surprise that Governor Landry chose to prioritize retaliating against Congressman Graves in drawing the SB8 map.

B. The Legislature’s Rejection of Compact, Demographically Similar Maps Shows Political Considerations Drove the Adoption of SB8 and Not Race.

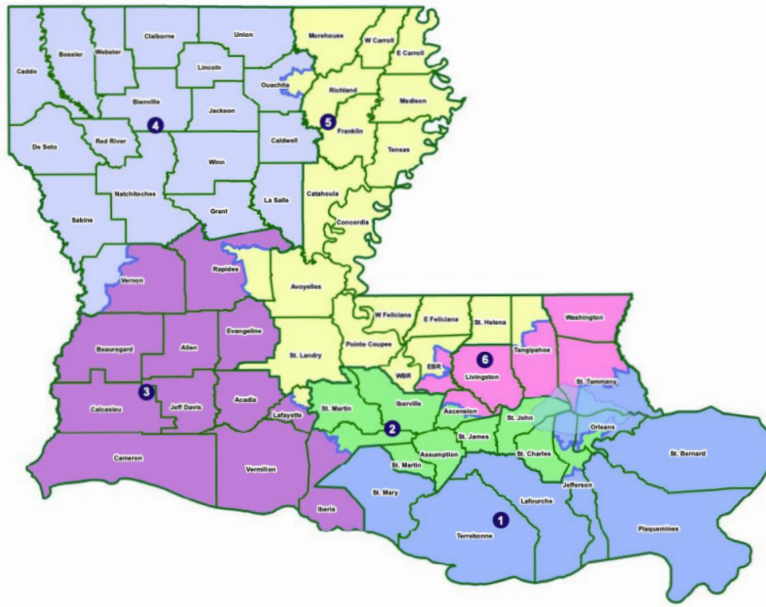
Because of the political considerations, the Legislature’s majority set out to draw District 6 such that it would deprive Congressman Graves of his seat without harming Congresswoman Letlow’s reelection prospects in District 5. To see how these imperatives shaped the SB8 map, it is helpful to compare SB8 against other maps proposed during the extraordinary session, particularly Senate Bill 4 (SB4)—a map introduced by LLBC members Senator Duplessis and Senator Ed Price and favored by most LLBC members.⁸ A side-by-side comparison of the

8. LLBC member Representative Denise Marcelle introduced an identical map, House Bill 5, in the Louisiana House of Representatives.

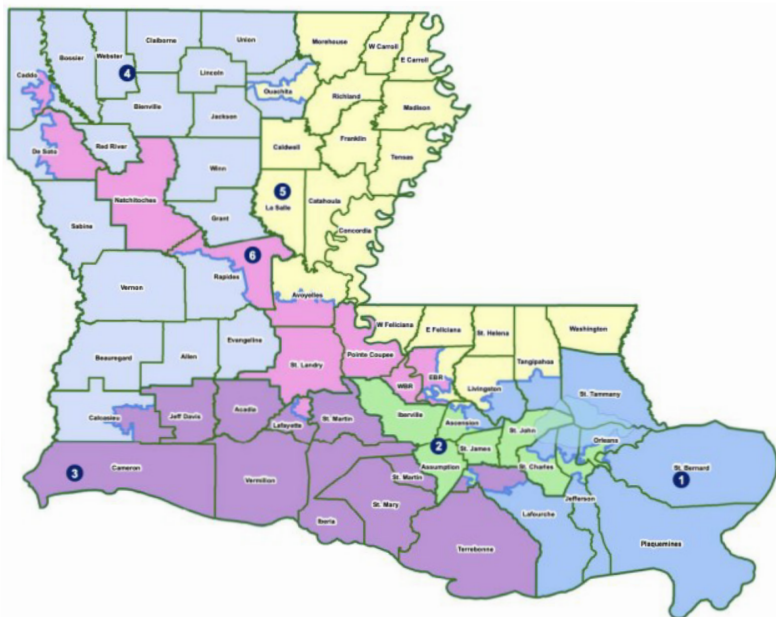
two maps makes clear that SB4’s proposed districts were far less irregular than those in SB8 and more respectful of parish boundaries (SB4 split 11 parishes while SB8 split 16).⁹ The racial compositions of the majority-minority districts in the two maps were nearly identical, with Black voting-age populations of 51.397% and 52.027% under the SB4 map and 51.007% and 53.990% under the SB8 map. As Senator Duplessis testified at trial, the “geographic design” was the main distinction between his map and SB8. The “numbers,” by contrast, including the “information on parishes, precincts, race, gender, [and] party registration” were “very similar.” JSA at 86a–87a.

9. Indeed, SB4 “perform[ed] equal to or better than the state[']s enacted maps from both 2022 and 2011 in adhering to traditional and state redistricting criteria,” including “fewer [parish] splits than the [2022] map, with only 11 compared to 15” and “better scores on three quantitative measures of compactness, most accepted by the courts, Reock, Convex Hull, [and] Polsby-Popper.” *Callais et al. v. Landry*, No. 3:24-cv-00122 (W.D. La.), ECF No. 181-9 at 6.

SB4



SB8



The Legislature did not choose SB8 and its more irregular districts over SB4 for racial reasons. It did so for political reasons. SB4 did not achieve the majority's political goals because it drew Congresswoman Letlow into a Democratic-leaning district and gave Congressman Graves the possibility of remaining in Congress by running in a Republican-leaning district that would have encompassed part of his home parish of East Baton Rouge. Several LLBC members questioned Senator Womack about why he preferred SB8 to SB4, and he responded in no uncertain terms: “[I]t was strictly politics [that] drove this map because of . . . Speaker Johnson, Majority Leader Scalise, and my congresswoman, Julia Letlow.” *Id.* at 395a. In drawing District 6, he added, race “[wa]s not the predominant factor. It [was] a secondary consideration.” *Id.* In Senator Womack's view, SB8 was the only map that “accomplishe[d] the political goals” he found important. *Id.* at 394a.

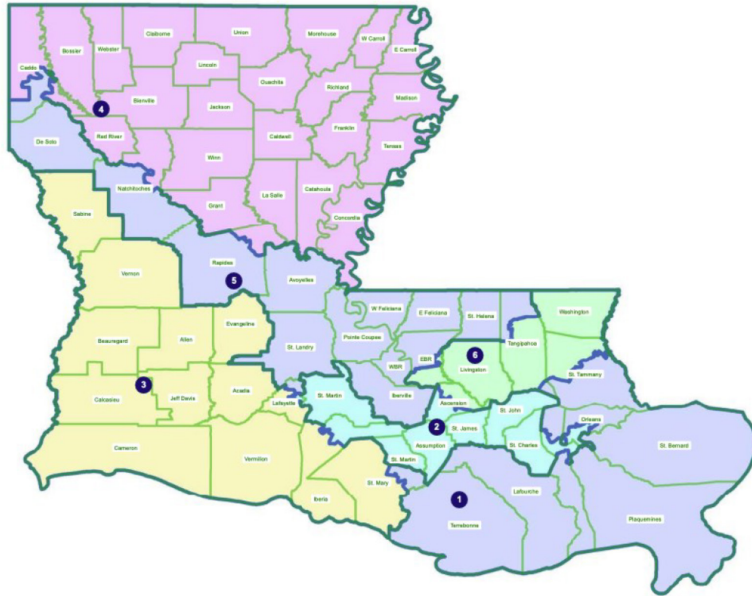
C. The SB8 District Lines Took Account of Communities of Interest.

Senator Womack acknowledged that in drawing the SB8 map, political considerations took precedence over all other factors.¹⁰ *See, e.g.*, JSA at 395a. Nonetheless, SB8, and particularly District 6, united communities with important shared interests. Senator Womack explained in introducing SB8 that District 6 combines communities with shared transportation, commercial, agricultural, educational, and

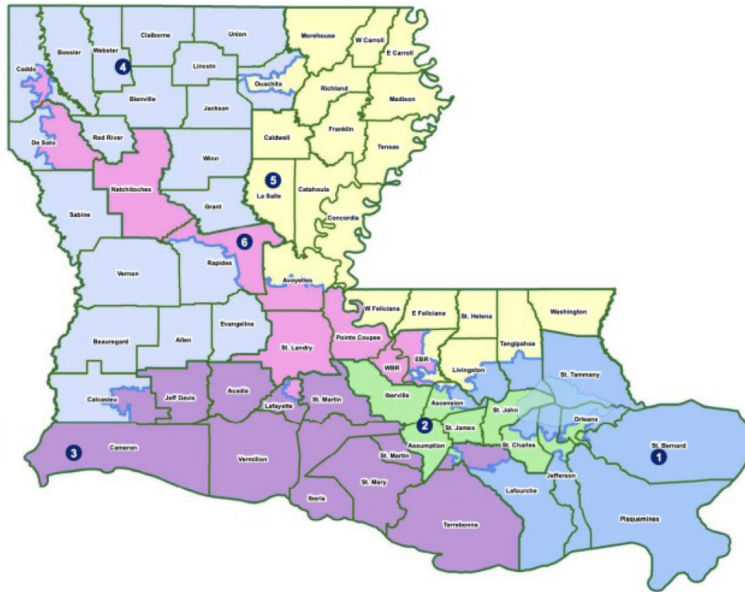
10. JSA at 447a (“It—it was hard to—to create communities of interest with this map . . . and still achieve some of the goals that we were trying to achieve from the congressional, political standpoint.”).

healthcare interests. *Id.* at 421a. As the LLBC members representing many of these communities can attest, the shared interests run even deeper. Representative Ed Larvadain, an LLBC member from Alexandria, explained these common interests during the special session, noting common employers in lumber and timber products; common education networks such as students and alumni of Northwestern State University; historic communities like the Creole Nation along the Red River tributaries; and a shared reliance on medium-sized hospitals across the I-49 Corridor. *Id.* at 453a–54a. Moreover, in 2022, Representative Marcus Bryant, an LLBC member, introduced House Bill 12 (HB12), a redistricting proposal that would have combined communities of interest along the Red River in a district similar to SB8’s District 6.

HB12 (2022)



SB8



SB8 created more irregular districts than Representative Bryant's 2022 proposal and split more parishes, but again these differences were driven by politics: the 2022 proposals would have drawn Speaker Johnson and Congresswoman Letlow into a single district. Nonetheless, despite its politically motivated massaging of district boundaries, SB8 respects and gives voice to the shared interests of communities along the Red River.

* * *

Considering each of the Legislature's goals and motivations as part of a "holistic analysis," *Bethune-Hill*, 580 U.S. at 192, there can be no question that race did not predominate in the drawing of the SB8 map. Although the Legislature did consider race to the extent required to ensure compliance with the Middle District and Fifth Circuit's VRA rulings, politics, not race, was "the overriding reason for choosing one map over others." *Id.* at 190. "While the line between racial predominance and racial consciousness can be difficult to discern," *Milligan*, 599 U.S. at 31, it is not so here. Politics alone predominated in the drawing of the SB8 map, and when combined with traditional districting criteria including uniting communities of interest, these factors far outweighed the consideration of race.

II. EVEN IF STRICT SCRUTINY APPLIES, SB8 SHOULD SURVIVE BECAUSE IT IS NARROWLY TAILORED TO COMPLY WITH THE VOTING RIGHTS ACT.

Even if the Court were to apply strict scrutiny, the SB8 map should survive because it is narrowly tailored to

comply with the VRA. The Court has consistently assumed that states have a compelling interest in complying with § 2 of the VRA. *See Bush*, 517 U.S. at 977 (collecting cases). It has also explained that “[i]f the State has a ‘strong basis in evidence’ for concluding that creation of a majority-minority district is reasonably necessary to comply with § 2, and the districting that is based on race ‘substantially addresses the § 2 violation,’ it satisfies strict scrutiny.” *Id.* (quoting *Shaw v. Reno*, 509 U.S. 630, 656 (1993) and *Shaw v. Hunt*, 517 U.S. 899, 918 (1996)). Thus, “the ‘narrow tailoring’ requirement of strict scrutiny allows the States a limited degree of leeway in” complying with § 2 lest states become “trapped between the competing hazards of liability.” *Id.*

A. The Legislature Had a Strong Basis in Evidence to Conclude the VRA Required the Creation of Two Majority-minority Districts.

Given their active involvement in the redistricting process, members of the LLBC have long been aware that Louisiana requires a second majority-minority district to comply with the VRA. In 2022, LLBC members condemned the passage of House Bill 1 (HB1) because it continued Louisiana’s history of disenfranchising and depriving Black voters of political power and—by failing to create a second majority-minority district—violated the VRA. After the Legislature overrode then Governor Edwards’ veto, the LLBC had no alternative but to intervene in the *Robinson* litigation to again argue that the VRA required a second majority-minority district.

The Middle District of Louisiana agreed, finding it likely that the HB1 map violated the VRA and enjoining

its use. *Robinson v. Ardoin*, 605 F. Supp. 3d 759, 766 (M.D. La. 2022). In doing so, the court made detailed findings regarding the *Gingles* factors and concluded that the plaintiffs were substantially likely to prove that (1) Black voters comprise a sufficiently large and geographically compact population to enable the creation of a second majority-minority district; (2) Black voters are “politically cohesive”; and (3) White voters vote “sufficiently as a block to usually defeat [Black voters’] preferred candidate.” *Id.* at 820–44. The court also found the plaintiffs substantially likely to prevail in showing that the totality of the circumstances weighed in their favor. *Id.* at 844–51. The Fifth Circuit affirmed. *Robinson v. Ardoin*, 86 F.4th 574, 601 (5th Cir. 2023).

These court decisions, and the overwhelming evidence that supported them, provided the Legislature a strong basis in evidence to conclude that the *Gingles* preconditions were met, and the VRA required the creation of two majority-minority districts. Indeed, to conclude otherwise would have required ignoring a decision issued by a federal district judge and affirmed by the Fifth Circuit.¹¹ As such,

11. As this Court has explained, “[w]hen a State justifies the predominant use of race in redistricting on the basis of the need to comply with the Voting Rights Act, ‘the narrow tailoring requirement insists only that the legislature have a strong basis in evidence in support of the (race-based) choice that it has made.’” *Bethune-Hill*, 580 U.S. at 193 (quoting *Alabama Legislative Black Caucus v. Alabama*, 575 U.S. 254, 278 (2015)). “That standard does not require the State to show that its action was ‘actually . . . necessary’ to avoid a statutory violation, so that, but for its use of race, the State would have lost in court.” *Id.* at 194 (quoting *Alabama*, 575 U.S. at 278). But here, the redistricting likely was “actually necessary” to avoid a statutory violation, as the federal

the only remaining question is whether the SB8 map is narrowly tailored to comply with the VRA.

B. SB8 is Narrowly Tailored to Comply with § 2 of the VRA Because It Does Not Subordinate Traditional Districting Principles to Race Substantially More Than Reasonably Necessary While Achieving Governor Landry’s Political Goals.

To be narrowly tailored, a “district drawn in order to satisfy § 2 must not subordinate traditional districting principles to race substantially more than is ‘reasonably necessary’ to avoid § 2 liability.” *Bush*, 517 U.S. at 979. Here, Governor Landry and his allies—who dominated the legislative process with a Republican supermajority across chambers—would have preferred not to consider race at all. Their priorities were to protect powerful incumbents (a traditional districting principle) and to punish Congressman Graves. As shown above, the Legislature could have drawn a VRA-compliant map without the risk of compromising traditional districting principles, but opted for the more irregularly shaped districts in the SB8 map for purely political reasons. To the extent the Legislature subordinated traditional districting principles at all, it did so to achieve these political goals, not any racial goals.¹²

district court and Fifth Circuit had indicated that the *Robinson* plaintiffs were likely to succeed on the merits.

12. A holding that the Legislature is not permitted to, for purely political reasons, select a less compact VRA-compliant map over a more compact VRA-compliant map would amount to a *de facto* ban on political gerrymandering with regard to districts drawn to comply with § 2.

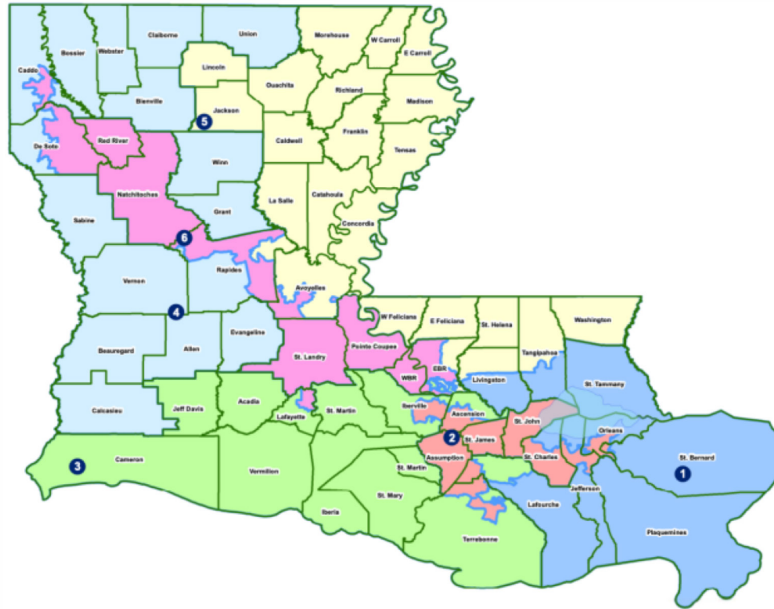
Put another way, the Legislature prioritized political goals first, and adhered to traditional districting principles as well as possible while also ensuring § 2 compliance. For example, SB8 upheld an important traditional districting principle by uniting communities of interest. As discussed above, communities along the Red River share important interests that led LLBC member Representative Bryant to propose a district similar to District 6 in 2022. *See* JSA at 65a–67a (Shreveport Mayor testifying that he considered introducing a similar map and describing the shared interests of communities in District 6). Representative Bryant’s proposed Red River district would have uplifted communities with shared throughlines that demand representation: poor access to healthcare, high levels of poverty, distinct religious beliefs, and unique infrastructure needs. *See* JSA at 72a, 76a, 117a; Trial Tr. Day 2 at 467–68. The people of this region are connected by institutions and culture—through colleges and churches, common industries, shared civic organizations—as well as by food and music. *See* Trial Tr. Day 2 at 467–68 (Pastor Steven Harris describing the “bottom baseline” that features prominently in the music of communities along the Red River and noting that these communities “do more brown gravy” in contrast to the focus on cayenne pepper in New Orleans cuisine). District 6 provides meaningful representation to these communities whose voices and shared interests have been too often ignored. *See, e.g.*, JSA at 72a; Trial Tr. Day 2 at 372 (“[T]his is the South. There is a long history of oppression here. To have [District 6] means a lot of minority communities, not just racial minorit[ies], but rural areas, poor areas, will have better representation in congress.”).

Further evidence that the Legislature prioritized traditional districting principles over racial considerations

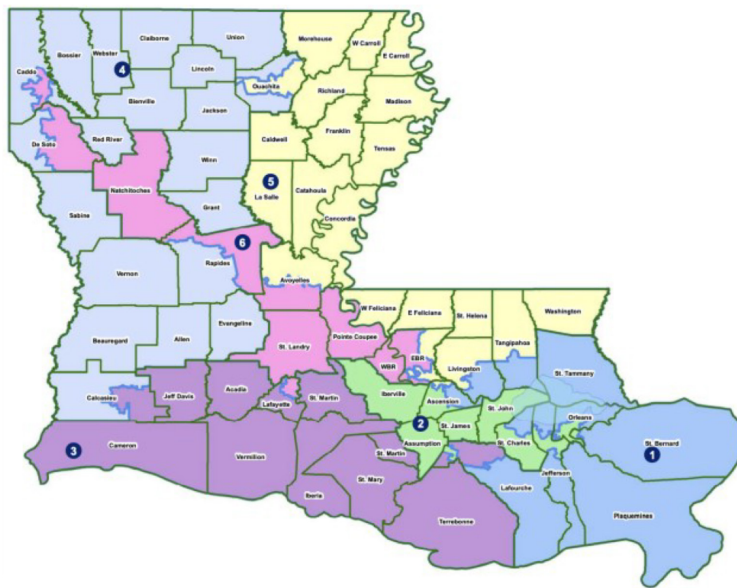
wherever possible can be found in the Legislature's response to amendments offered by Democratic Senator Gary Carter and Republican Representative Les Farnum. Senator Carter's amendment, offered in the Senate and Governmental Affairs Committee, would have swapped four precincts between District 2 and District 6, increasing the number of parish splits, with an explicit goal of increasing the percentage of registered African American voters in District 2. *Id.* at 407a. In the committee's discussion of the proposed amendment, Senator Cleo Fields stressed that race could not be the predominant factor in drawing the map and questioned whether there was any reason aside from race to justify the proposal. *Id.* at 414a. The committee subsequently tabled the amendment and passed SB8 without it.

Two days later, in the House and Governmental Affairs Committee, Representative Farnum introduced an amendment designed to remove a split in Calcasieu Parish. *Id.* at 460a. The amendment represented a marriage of convenience, and also added Black voters to both District 2 and District 6 based on input from Senator Carter. *See id.* at 111a–12a, 461a, 469a–70a. To achieve these goals, the amendment flouted traditional districting principles, splitting East Baton Rouge Parish into three congressional districts, splitting additional municipalities, and decreasing the compactness of several districts while barely maintaining contiguity. In fact, several of the corridors connecting the proposed District 3 are so small they are not visible on the rendered map.

Amendment No. 74



SB 8



The committee adopted Representative Farnum’s amendment, but this decision prompted pushback from LLBC members, other public officials, and residents of East Baton Rouge Parish. At trial, Commissioner Lewis testified that he objected to the map both because of the way it split East Baton Rouge Parish and because he “didn’t see any strong justifications for this amendment.” JSA at 113a. He characterized it “as a direct push by some to make both [majority-minority] districts blacker.” *Id.* Commissioner Lewis and others successfully lobbied legislators and Governor Landry to reject the amendment. *See id.* at 113a–14a. On the House floor, Representative Beaulieu introduced an amendment to remove Representative Farnum’s amendment from the bill, thereby decreasing the Black population of the two majority-minority districts.

The full House voted to adopt Representative Beaulieu’s removal amendment by an overwhelming 86 to 15 margin. Thus, when asked to choose between traditional districting principles and unnecessary concentration of voters based on race, the Legislature voted resoundingly to prioritize traditional districting principles.

III. THE LEGISLATURE DID ITS JOB BY ENACTING A BIPARTISAN COMPROMISE MAP AND THE COURT SHOULD UPHOLD SB8.

As this Court has long recognized, “reapportionment is primarily the duty and responsibility of the State through its legislature or other body.” *Chapman v. Meier*, 420 U.S. 1, 27 (1975). LLBC members take seriously this duty and their responsibility to give voice to the Louisianans they represent. They also understand the value of the legislative process where—in contrast to

the courts—the public can connect with their legislators before session, speak up during session, and hear their representatives fight for their interests *even when the political writing is on the wall*. LLBC members carried out their duties by listening deeply, speaking up for their constituents, bringing suit when communities were silenced, and finally, compromising where necessary to get the job done. No member of the LLBC, and likely no member of the Legislature, was entirely satisfied with SB8, but more than two years of listening, litigating, and negotiating culminated in an acceptable map that achieves the Governor’s political goals, combines communities of interest, and complies with the VRA. The Court should not disrupt this hard-fought outcome.

Amicus and its members brought with them years of listening when they participated in debates over the congressional map. In preparation for the redistricting process in 2022, members of the LLBC traveled throughout the state to hear from Louisianians about what they wanted from the redistricting process. *See* JSA at 79a–80a. They received a consistent demand: Draw us a fair map. They heard that vote dilution in existing maps meant that vital needs of communities were ignored and not represented in the democratic process. Community members shared that they had experienced years of neglect by their representatives. *See* Trial Tr. Day 3 at 539, *Callais et al. v. Landry*, No. 3:24-cv-00122 (W.D. La.), ECF No. 86 [hereinafter Trial Tr. Day 3] (“[Constituent] felt like the congressperson never even knew he existed. He . . . felt like he didn’t matter.”). LLBC members heard repeatedly that the specific interests of communities—including economic needs and interests relating to healthcare, education, and infrastructure—required

better representation. *See id.* at 529–30 (“They wanted to see maps that they felt they could elect somebody that shared their values, that shared their . . . interests on a multitude of issues.”).

The 2022 roadshows were not a revelation for LLBC members. Many have been fighting for fair representation for their constituents for decades. The compromise achieved in the January 2024 extraordinary session finally brought these needs to the fore. Trial Tr. Day 2 at 483 (describing how SB8 united communities that are “living in poverty, have poor health outcomes, [and] lack of access to economic opportunity” and created an “opportunity to really center these communities in a way that they have not had the attention in the current districts that they exist within.”). Hearing this drumbeat that the prior maps failed to represent their constituents motivated *amicus* and its members to engage in litigation and ultimately to support the SB8 map in the extraordinary legislative session.

The SB8 map was the result of a transparent and participatory process in the Legislature (spurred on by litigation), and should be upheld. Despite the last-minute nature of the extraordinary session, LLBC members witnessed a lively and engaged showing of public interest regarding which map to enact. Advocates sent letters and had individual conversations with members of the LLBC. *See* JSA at 91a–92a; Trial Tr. Day 3 at 554–59. The public arrived at the state house and gave public comment. Members of the LLBC and dozens of advocates braved an ice storm over Martin Luther King, Jr. weekend to encourage legislators to pass a fair map. JSA at 102a–03a (“[F]or a day where all State buildings

were closed, it was a pretty packed committee hearing. About 50 to 60 people. There were advocates from across the State that had been present that I knew of.”). LLBC members brought hundreds of conversations with their constituents from roadshows and their own outreach to the table. In addition to hearing public testimony, they received hundreds of cards from citizens across the state signaling their support for a fairer map. Trial Tr. Day 2 at 479–80. LLBC members incorporated and acknowledged these efforts within their considerations and floor debates, bringing to life the promise of representative democracy. *Id.* Overturning the current map would dishonor this participatory democratic process.

SB8 was not the map most LLBC members began the legislative session supporting. However, they understood that as legislators, it was their job to reach bipartisan compromises and honor the will of their constituents. After years of litigation, although disagreements remained, legislators coalesced around a map that could put an end to the protracted battle. *See* JSA at 83a. As Governor Landry implored the Legislature on the first day of the extraordinary session: “You are the voice of the people, and it is time that you use that voice. The people have sent us here to solve problems, not to exacerbate them, to heal divisions, not to widen them. To be fair and to be reasonable. . . .” *Id.* at 560a. In a rare occurrence in today’s fractured political climate, the Legislature fulfilled its duty and responsibility. Through the hard work, compromise, and commitment of *amicus* members and their colleagues, the Legislature enacted a congressional map that represents the voices and concerns of the people of Louisiana.

CONCLUSION

For the foregoing reasons, the Court should reverse the district court's ruling and uphold the SB8 map.

Respectfully submitted,

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