

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE,
VERMILION PARISH CHAPTER

Plaintiff,

v.

CITY OF ABBEVILLE

Defendant.

No. 6:23-cv-01463-RRS-DJA

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY INJUNCTION

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INTRODUCTION

Unless this Court intervenes, the National Association for the Advancement of Colored People, Vermilion Parish chapter (“Vermilion NAACP”) members residing in District B of the City of Abbeville (“Abbeville”) will suffer further vote dilution in the March 29, 2025, special election by voting in a malapportioned district. By failing to redistrict after the 2020 Census, Abbeville incurred a prima facie violation of the United States Constitution’s One-Person, One-Vote (“OPOV”) principle under the Fourteenth Amendment. *See Brown v. Thomson*, 462 U.S. 835, 836 (1983). Abbeville justifies not redistricting—even though its city council map has a 19.3% total population deviation among its districts—because it believes that the 2020 Census was not “accurate.” *See e.g.*, Pl. Ex. 1, December 6, 2022, Abbeville City Council Meeting Tr. 34:2-7.

Moreover, Abbeville lacks evidence to substantiate its belief: it does not even have “generalized suspicions.” *Fairley v. Hattiesburg, Miss.*, 584 F.3d 660, 674 (5th Cir. 2009). Paradoxically, Abbeville relied on 2020 Census data to ensure it maintained two majority-minority districts. Pl. Ex. 2, Mayor R. White Dep. Tr. 136:8-9, 137:1-8, 140:1-8. Even if Abbeville could justify almost doubling the OPOV prima facie discrimination standard (which it cannot), a 19.3% total deviation surpasses “tolerable limits.” *Mahan v. Howell*, 410 U.S. 315, 329 (1973) (explaining that a 16.4% total deviation “may well approach tolerable limits”).

“[T]he vote of any citizen [must be] approximately equal in weight to that of any other citizen. . . .” *Reynolds v. Sims*, 377 U.S. 533, 579 (1964). For several years, Vermilion NAACP has been advocating on behalf of its members, a majority of whom reside in Abbeville, to have Abbeville redistrict its city council districts to allow for fair representation. *See generally* Pl. Ex. 3, Vermilion NAACP Declaration. Vermilion NAACP even provided Abbeville with two

illustrative maps that cure the malapportionment, one of them being near perfectly proportional.¹ Pl. Ex. 4 at 9, 17, 23, Vermilion NAACP Letters and Illustrative Maps. Due to Abbeville's inaction, Vermilion NAACP was left to file suit to achieve *Reynolds's* guarantee.

Now, Abbeville has called for a special election to be held on March 29, 2025, in District B, the overpopulated district, due to the councilperson vacating their seat on September 30, 2024. Pl. Ex. 5, City of Abbeville Article. However, Abbeville hastily appointed another councilperson to fill this seat in the interim on October 15, 2024. *Id.* Vermilion NAACP, on behalf of its members in District B who will suffer imminent and irreparable injury, requests this Court to enjoin the special election until it may rule on the merits. Abbeville has no legitimate interest in conducting a special election within a prima facie dilutive district, particularly when the seat is occupied. Furthermore, maintaining the status quo and preventing a dilutive election is within the public's interest. All relevant considerations therefore support the issuance of a preliminary injunction, and Vermilion NAACP respectfully requests that the motion be granted.

FACTUAL BACKGROUND

Abbeville is governed by its city council, which is comprised of five members: four elected through single-member districts and the other elected at-large. Abbeville, La. ORDINANCES Part 1 § 2. According to the 2020 Census, Abbeville's population decreased from 12,257 to 11,186.² Pl. Ex. 6, Sellers and Associates 2020 Redistricting Data. The ideal population for each of

¹ Both illustrative maps also create another Black majority district. Abbeville currently only has one Black majority district that contains almost a 70% Black voting-age population. Pl. Ex. 4 at 16.

² See also United States Census Bureau, 2020 Public Law 94-171 Data, Abbeville, Louisiana [https://data.census.gov/table?q=Abbeville+city,+Louisiana&y=2020&d=DEC+Redistricting+Data+\(PL+94-171\)](https://data.census.gov/table?q=Abbeville+city,+Louisiana&y=2020&d=DEC+Redistricting+Data+(PL+94-171)) (last visited on January 27, 2025).

Abbeville’s four single-member districts is 2,797.³ The actual population and deviation from the ideal of each district, according to the 2020 Census, is displayed below.⁴

District	2020 Population	Deviation Percent
A	2,710	-3.1%
B	3,086	10.3%
C	2,544	-9%
D	2,846	1.8%

Louisiana law directs Abbeville, one year after the release of the Census, to “examine the apportionment plan” of its city council districts “to determine if there exists any substantial variation in the representation of the districts.” La. Stat. Ann. § 33:1371(A)(1), *see also Kishbaugh v. City of Lafayette Gov’t*, 2019-417 (La. App. 3 Cir. 6/21/19), 275 So. 3d 471, 479 (stating that La. Stat. Ann. § 33:1371 requires local governments to “reapportion [their] districts if there exists an inequity or inequality in population evidence by a recent census.”).

Abbeville held a public meeting regarding redistricting on December 7, 2021, where it reviewed a presentation by its redistricting consultants, Sellers and Associates, Inc. (“Sellers”). Pl. Ex. 7, December 7, 2021, Abbeville City Council Ordinance Committee Meeting Tr. 18:24-19:2. Sellers alerted Abbeville that the current districts were malapportioned, or out of appropriate “range,” due to District B being overpopulated, and recommended Abbeville redraw the council

³ $11,186/4 = 2,796.5$. *See Perez v. Abbott*, 250 F. Supp. 3d 123, 183 (W.D. Tex. 2017) (“Ideal population for single-member district plans is the total state population divided by the total number of districts.”). Vermilion NAACP rounded up to avoid an ideal population with a decimal.

⁴ *See also* Pl. Ex. 6.

districts. *See* Pl. Ex. 8, Sellers and Associates Dep. Tr. 144:15-21; *see also* Pl. Ex. 2 at 160:6-11, 184:21-24. Sellers created an illustrative map to address the malapportionment, and Abbeville was set to adopt it at the next meeting.⁵ Pl. Ex. 7 at 19:4-7, 21:6-8.

Ms. Marilyn Mitchell, a Vermilion NAACP representative, was present at this meeting and emphasized that “fair representation” for the community should be the goal in redistricting, and it was essential for there to be public input. *Id.* at 26:1-12. She notified Abbeville that Vermilion NAACP sent a letter to it prompting the city about its redistricting obligations and included an illustrative map with a deviation below 6%. *Id.*; *see also* Pl. Ex. 4 at 1-9.

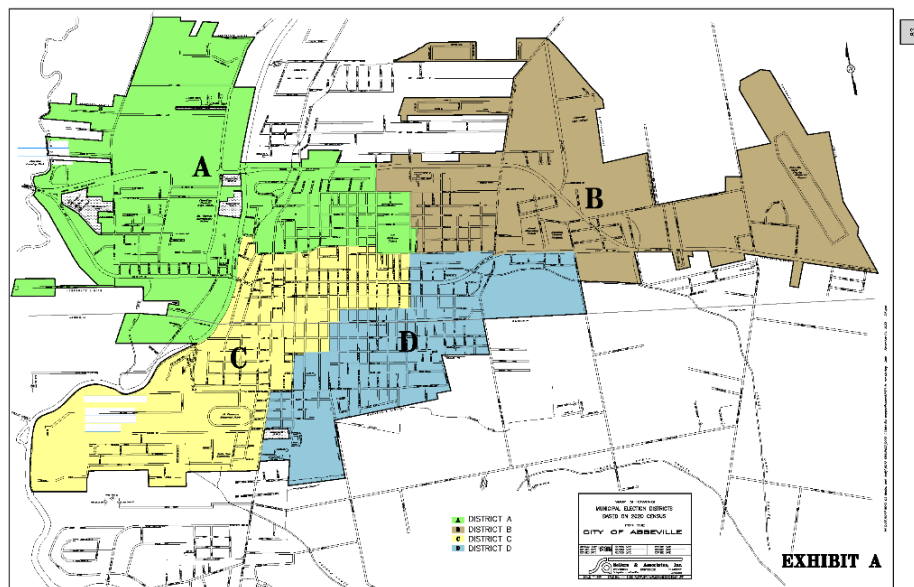
Abbeville, however, did not openly discuss redistricting until a much later date, at a November 15, 2022, ordinance committee meeting. Here, Mayor Roslyn White announced that Abbeville would not redistrict but rather retain its current districts, adopted after the 2010 Census, because she believed the 2020 Census was not “accurate.” Pl. Ex. 10, November 15, 2022, Abbeville City Council Ordinance Committee Meeting Tr. 2:21-3:25. Hearing this, Vermilion NAACP sent another letter to Abbeville urging it to consider the illustrative map that addressed the OPOV violation. Pl. Ex. 4 at 10-17.

Abbeville met on December 6, 2022, where Mayor White reiterated that the city was not redistricting because of the Census’s “[in]accuracy,” Pl. Ex. 11, December 6, 2022, Abbeville City Council Meeting Tr. 34:2-22, and that the current districts already contained two majority-minority districts. Pl. Ex. 2 at 140:1-8; *see also* Pl. Ex. 11 at 36:6-12 (Sellers stating that “[w]e made sure

⁵ As Sellers’s admits, the illustrative map is also a prima facie OPOV violation with a 10.37% deviation. Pl. Ex. 8 at 128:6-15; *see also* Pl. Ex. 9, Sellers Illustrative Map Data.

we have the right amount of minorities in each district.”). Vermilion NAACP members spoke in opposition to the plan to retain the 2010 districts. *See generally* Pl. Ex. 11 at 54:9-14, 55:12-59:12.

On December 20, 2022, Abbeville enacted Ordinance 22-12; declaring that there was not a “substantial variation in the representation of the districts” because the districts were “equitable,” and that Abbeville would retain the 2010 districts. Pl. Ex. 12, Ordinance 22-12. The map is displayed below. Pl. Ex. 13, City of Abbeville Enacted Map.



Vermilion NAACP sent another letter to urge Abbeville to remedy its prima facie violation. Pl. Ex. 4 at 18-23. It also provided a new illustrative map that contains an 0.08% total deviation, the data is displayed below. *Id.* Yet again, Abbeville defied OPOV and did not redistrict. On October 17, 2023, Vermilion NAACP filed suit. Dkt. 1.

District	2020 Population	Deviation Percent
A	2,798	0.04
B	2,796	-0.04
C	2,796	-0.04
D	2,796	-0.04

On September 15, 2024, District B Councilman Francis Touchet announced his intention to resign from his seat effective September 30, 2024. Pl. Ex. 5. On October 15, 2024, Abbeville appointed Rachel Touchet Mouton to fill his seat and voted “to pass a proclamation” to hold a special election for the District B seat on March 29, 2025, with qualifying to occur January 29-31, 2025.⁶

To Vermilion NAACP’s knowledge, per city council meeting records, Abbeville has not yet issued the proclamation to hold a special election. Nevertheless, Vermilion NAACP files this motion, as its only available recourse to protect District B members, ahead of the qualifying dates to ensure that the Court may preserve the status quo until it can rule on the merits.

ARGUMENT

I. Without an injunction, Abbeville will violate Vermilion NAACP District B members’ fundamental right to vote by conducting an election using a malapportioned district.

This Court may issue an injunction if the movant demonstrates: (1) a substantial likelihood of success on the merits, (2) a substantial threat of irreparable injury if the injunction is not issued,

⁶ City of Abbeville, La-City Hall, *October 15, 2024 Regular City Council Meeting*, YouTube (October 15, 2024), <https://www.youtube.com/watch?v=eAeLZS7zL-4> (the discussion occurs from 48:20 to 50:33) (last visited on January 27, 2025).

(3) that the threatened injury if the injunction is denied outweighs any harm that will result if the injunction is granted, and (4) that the grant of an injunction will not disserve the public interest. *Robinson v. Ardoin*, 86 F.4th 574, 587 (5th Cir. 2023). All four factors weigh in favor of Vermilion NAACP.

a. Vermilion NAACP is likely to succeed on the merits because Abbeville cannot legitimately justify a 19% deviation.

Under the Fourteenth Amendment’s OPOV principle, a jurisdiction must “make an honest and good faith effort to construct districts . . . as nearly of equal population as is practicable.” *Reynolds*, 377 U.S. at 577. While cities like Abbeville are not subject to the “mathematical precision” equality standard used in congressional redistricting, *see e.g., Mahan*, 410 U.S. at 322, the OPOV principle still applies. *See Avery v. Midland Cnty., Tex.*, 390 U.S. 474, 480 (1968). The Supreme Court established that a “prima facie” OPOV violation occurs when a jurisdiction adopts a map that has or exceeds a 10% total deviation.⁷ *Brown*, 462 U.S. at 835–36. According to the 2020 Census, Abbeville has a 19.3% total deviation. *See* Pl. Ex. 6 (adding District B’s deviation of 10.3% to District C’s deviation of -9%).⁸

Because Abbeville enacted a prima face violation, it has the burden of demonstrating that a 19.3% total deviation is necessary because of “legitimate considerations incident to the

⁷ A map with less than a 10% total deviation should not be construed as a “safe harbor.” *Larios v. Cox*, 300 F. Supp. 2d 1320, 1340-41 (N.D. Ga. 2004) (three-judge court), *aff’d*, 542 U.S. 947 (2004).

⁸ *See, e.g., Gaffney v. Cummings*, 412 U.S. 735, 737 (1973) (finding the total deviation of “1.81%” by adding “0.88%” and “-0.93%”); *Perez v. Abbott*, 250 F. Supp. 3d 123, 183 n.68 (W.D. Tex. 2017) (“The difference between -4.90% and 5.02% is the total deviation—9.92%.”).

effectuation of a rational state policy,” *Reynolds*, 377 U.S. at 579, and even if justified, that the deviation is within “tolerable limits.” *Mahan*, 410 U.S. at 329. Abbeville cannot satisfy either of these requirements.

i. Abbeville is required to use the Census when redistricting.

Abbeville’s primary reason for enacting the malapportioned map was because of its *belief* that the 2020 Census was inaccurate due to not seeing Census takers conducting the survey. *See* Pl. Ex. 10 at 3:7-15 (“I have some real doubts about whether or not the Census data from 2020 was 100 percent accurate because I know I walked the streets quite a bit at that time, and I didn’t see anybody. . . .”); Pl. Ex. 11 at 34:2-9 (“[W]e feel that probably the 2020 census data was not that accurate. . . .”).

But “the Census is presumptively correct and typically must be rebutted with clear and convincing evidence.” *Fairley*, 584 F.3d at 674; *see also Valdespino v. Alamo Heights Indep. Sch. Dist.*, 168 F.3d 848, 853 (5th Cir. 1999) (“Census figures are presumed accurate until proven otherwise.”). “[G]eneralized suspicions” are insufficient to rebut the Census, and in the “absence of **data** contradicting the Census, district courts have no reasonable alternative but to rely on it. . . .” *Fairley*, 584 F.3d at 674 (emphasis added).

Abbeville has less than “generalized suspicions.” *Id.* For at least in *Fairley*, the party challenging the Census provided “scholarly authority” and other sources to rebut it. *Id.* at 677. Here, Abbeville’s lone belief is founded on not seeing Census takers in Abbeville. Yet, Mayor White admitted that the Census may be completed in ways other than in person through a Census taker. *See* Pl. Ex. 2 at 287:6-20, 288:5-10. And Abbeville never alerted the Louisiana Secretary of State about this belief or the United States Census Bureau—who they have been in contact with since 2019. *See id.* at 290:7-13, 94:22-95:3. Nor did Abbeville follow the process prescribed by

regulation for challenging census population estimates. *Id.* at 102:4-10, 404:11-25; *see* 15 CFR § 90.1-90.9 (explaining the process to challenge Census’s results).

Yet, Abbeville admitted that it relies on the 2020 Census results for other purposes. Mayor White explained that she uses 2020 Census data in her grant submissions to procure funds for Abbeville. Pl. Ex. 2 at 44:19-52:22 (“When we do write grants . . . [we] use census data.”). And Mayor White detailed how Abbeville relied on 2020 Census racial data to ensure that the city would still contain two majority-minority districts under Ordinance 22-12. *Id.* at 135:7-19; 136:4-137:9 (“[T]he total number came from the census.”); 140:1-8 (“I looked to make sure that we had two (2) minority-majority districts.”).

Indeed, Abbeville knew it had to redistrict and initially intended on redistricting notwithstanding its reservations about the 2020 Census. In 2021, Mayor Mark Piazza stated that District B was overpopulated and that the city intended on adopting Seller’s illustrative map that would reduce the total deviation from 19.3% to 10.37%. *See* Pl. Ex. 7 at 21:6-8 (stating that Sellers’s illustrative map “will be adopted in two weeks”); 22:19-24 (stating that District B “has to give up some voters”); 23:22-25:22 (explaining that COVID-19 may have impacted the results but the “numbers are the numbers” and “that’s what [Abbeville has to] live with for the next ten years.”). Mayor White was present as a councilwoman during this time. *See e.g.*, Pl. Ex. 2 at 203:3-204:19. Thus, Abbeville’s selective rejection of the Census numbers—but only when it comes to its OPOV obligation—collapses with even a cursory review. *See Swann v. Adams*, 385 U.S. 440, 445 (1967) (finding an OPOV violation due to the state’s failure to provide legitimate evidence to justify the deviation). Coupled with Abbeville’s failure to follow the lawful process to challenge the Census numbers if it truly believed them to be erroneous, these actions are not reflective of a good-faith effort to redistrict.

Abbeville may also argue that a 19.3% deviation is justifiable because the city council is composed of a “fair cross section” of the community. *See e.g.*, Pl. Ex. 1 at 34:8-14. But this is not applicable to the OPOV analysis because District B voters are injured regardless of who is on the council. *See Chapman v. Meier*, 420 U.S. 1, 24, (1975) (“All citizens are affected when an apportionment plan provides disproportionate voting strength, and citizens in districts that are underrepresented lose something even if they do not belong to a specific minority group.”).

ii. Abbeville’s 19.3% total deviation transcends tolerable limits.

Even if Abbeville could produce a justification, “the divergences still must be within ‘tolerable limits.’” *Coleman v. Winbigler*, 615 F. Supp. 3d 563, 573 (E.D. Ky. 2022) (quoting *Mahan*, 410 U.S. at 326). In *Mahan*, the Supreme Court explained that a “policy urged in justification of disparity in district population, however rational, cannot constitutionally be permitted to emasculate the goal of substantial equity.” 410 U.S. at 326. And that a total deviation of 16.4% “may well approach tolerable limits.” *Id.* at 329. Here, Abbeville’s total deviation of “19.3% . . . substantially exceed[s]” *Mahan*’s warning. *See Connor v. Finch*, 431 U.S. 407, 418 (1977) (denying a map created by the lower court that contained the same total deviation as Abbeville).

Abbeville may attempt to seek refuge by relying on *Toerner v. Cameron Par. Police Jury*, 2011 WL 3584786, at *1 (W.D. La. Aug. 15, 2011). Not only is *Toerner* distinguishable and may conflict with Supreme Court precedent, but the ultimate holding supports the Vermilion NAACP because this Court required the jurisdiction to redistrict. *Id.* In *Toerner*, the plaintiff alleged an OPOV violation against the parish police jury for adopting a map with a 44% total deviation. *Id.* at *3. The police jury was comprised of seven members elected from seven single-member districts. *Id.* at *2. The police jury argued that its “compelling justification” for the deviation was

due in part to “questionable Census figures” and cited three reasons in support. *Id.* at *6. The police jury used voter registration data that “directly conflict[ed]” with the Census; demonstrated that it had “one of the worst [Census] mail-in participation levels” in Louisiana; and that Hurricane Ike displaced residents from the parish. *Id.* The Court explained this was sufficient to rebut the “prima facie case of invidious discrimination.” *Id.*

While it is suspect whether voter registration data can be used to rebut the OPOV burden, see *Evenwel v. Abbott*, 578 U.S. 54, 73 (2016) (holding that OPOV is evaluated on “total population alone”) (citing to *Gaffney*, 412 U.S. at 748, 750), the Court need not wrestle with this issue because—unlike Abbeville—the police jury at least put forth tangible evidence to justify the deviation.⁹ Furthermore, the Court only upheld the deviation for an upcoming election and ordered the newly elected police jury “to work with a special master . . . to **further reduce malapportionment.**” *Toerner*, 2011 WL 3584786, at *9 (emphasis added). Notably, the Court also stated that in “assessing the constitutionality of malapportionment,” a jurisdiction is “seriously malapportioned” if “there are four districts in the electoral unit, and the largest and the smallest have very different populations.” *Id.* at *6 (quoting *Frank v. Forest County*, 336 F.3d 570, 574 (7th Cir. 2003)). The plaintiff appealed the decision to the Fifth Circuit, but later settled with the police jury to redistrict. See Pl. Ex. 14, *Toerner* Joint Motion to Dismiss Appeal.

⁹ While Abbeville has not produced any other applicable redistricting data source to use, as mandated by the Fourteenth Amendment and La. Stat. Ann. § 33:1371(A)(1), courts have rejected other sources. See *McConchie v. Scholz*, 567 F. Supp. 3d 861, 869 (N.D. Ill. 2021) (denying the use of the American Community Survey population estimate in an OPOV matter); see also *Missouri State Conf. of the Nat'l Ass'n for the Advancement of Colored People v. Ferguson-Florissant Sch. Dist.*, 894 F.3d 924, 932–33 (8th Cir. 2018) (declining to use the same survey in a Voting Rights Act matter); *Perry v. City of Opelousas*, 375 F. Supp. 1170, 1171 (W.D. La. 1974), *aff'd*, 515 F.2d 639 (5th Cir. 1975) (rejecting the city’s own “independent census” but for the limited use in districts where it was “the only accurate figures available. . .”).

Recent decisions in other circuits reinforce Vermilion NAACP's motion. *See e.g., Coleman*, 615 F. Supp. 3d at 563 (E.D. Ky. 2022) (granting an injunction); *McConchie v. Scholz*, 567 F. Supp. 3d 861, 869 (N.D. Ill. 2021) (granting a motion for summary judgment). For example, in *Navajo Nation v. San Juan Cnty.*, the Tenth Circuit upheld an OPOV violation. 929 F.3d 1270 (10th Cir. 2019). Like Abbeville, the defendant in *Navajo Nation* did not redistrict and maintained a map with a 38% total deviation. *Id.* at 1276. And like Abbeville, the defendant was obligated under state law to create districts with "substantially equal population." *Id.* at 1284. The Tenth Circuit relied in part on the state law to reject the defendant's justification. *Id.* at 1285.

The weight of binding and persuasive authority leads to the inescapable conclusion; Abbeville ran afoul of the OPOV principle by adopting Ordinance 22-12. As the Supreme stated in *Reynolds*: "The conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing—one person, one vote." 377 U.S. at 558. Abbeville may not evade this mandate.

b. Vermilion NAACP District B members will suffer irreparable harm if the special election were to occur.

Vermilion NAACP District B members are "likely to suffer irreparable harm" absent an injunction. *See Daniels Health Scis. v. L.L.C.*, 710 F.3d 579, 585 (5th Cir. 2013). Irreparable harm refers to harm for which there is no adequate remedy at law. *Id.* "The right to vote and have one's vote counted is undeniably a fundamental constitutional right, the violation of which cannot be adequately remedied at law or after the violation occurred." *Mi Familia Vota v. Abbott*, 497 F. Supp. 3d 195, 219 (W.D. Tex. 2020) (citing *Reynolds*, 377 U.S. at 554); *see also League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014) "[O]nce the election occurs,

there can be no do-over and no redress. The injury to these voters is real and completely irreparable if nothing is done to enjoin the law.” Where “an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.” *Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012); *see also De Leon v. Perry*, 975 F. Supp. 2d 632, 663 (W.D. Tex. 2014), *aff’d sub nom. De Leon v. Abbott*, 791 F.3d 619 (5th Cir. 2015).

Here, absent the entry of a preliminary injunction, Vermilion NAACP members in District B—the overpopulated district—will be forced to vote in an election within a presumptively unconstitutional and dilutive district. *See Dunn v. Blumstein*, 405 U.S. 330, 336 (1972) (“[T]his Court has made clear that a citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction.”); *see also Coleman*, 615 F. Supp. 3d at 575 (finding that the voters in the overpopulated district would “undoubtedly suffer irreparable harm”). The “restriction on [this] fundamental right to vote therefore constitutes irreparable injury.” *Michigan State A. Philip Randolph Inst. v. Johnson*, 833 F.3d 656, 669 (6th Cir. 2016).

c. The public interest and the balance of the equities favor granting the injunction.

The public interest and the balance of the equities “merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). An injunction ensures that District B voters may exercise their fundamental right to vote without it being diluted. *Obama for Am. v. Husted*, 697 F.3d 423, 437 (6th Cir. 2012) (holding that public interest favors “permitting as many qualified voters to vote as possible”); *League of Women Voters of Fla., Inc., v. Detzner*, 314 F. Supp. 3d 1205, 1224 (N.D. Fla. 2018) (“Quite simply, allowing for easier and more accessible voting for all segments of society serves the public interest.”).

“The fundamental right to vote is one of the cornerstones of our democratic society . . . [t]he threatened deprivation of this fundamental right can never be tolerated.” *Murphree v. Winter*, 589 F. Supp. 374, 382 (S.D. Miss. 1984) (finding that granting a preliminary injunction requiring access to absentee ballot would “[c]learly . . . not disserve the public interest.”); *see also Ingebretsen on behalf of Ingebretsen v. Jackson Public Sch. Dist.*, 88 F.3d 274, 280 (5th Cir. 1996) (holding that where an enactment is unconstitutional, “the public interest [is] not disserved by an injunction preventing its implementation”).

On balance, Abbeville has no legitimate interest in defending a provision that violates the Constitution. *See United States v. Alabama*, 691 F.3d 1269, 1301 (11th Cir. 2012). Councilwoman Mouton is currently serving in the District B seat. Thus, there is nothing necessitating Abbeville to hold a special election. This injunction will simply preserve the status quo until the Court may adjudicate the merits. *See e.g., Feldman v. Arizona Sec’y of State’s Off.*, 843 F.3d 366, 368-69 (9th Cir. 2016).

II. Vermilion NAACP has associational standing to seek a preliminary injunction.

Like other NAACP chapters, Vermilion NAACP has associational standing on behalf of its members residing in the challenged district. A membership organization establishes Article III standing when it brings a suit on behalf of “(1) its members [who] would otherwise have standing to sue in their own right; (2) the interests it seeks to protect are germane to the organization's purpose; and (3) neither the claim asserted nor the relief requested requires the participation in the lawsuit of each of the individual members.” *Hunt v. Wash. State Apple Advertising Comm’n*, 432 U.S. 333, 343 (1977).

An individual has standing to bring an OPOV claim when they reside in the overpopulated district. *Fairley v. Patterson*, 493 F.2d 598, 603 (5th Cir.1974); *see also Hancock Cnty. Bd. of*

Sup'rs v. Ruhr, 487 F. App'x 189, 196 (5th Cir. 2012) (“It is settled . . . that a voter from a district that is overpopulated and under-represented suffers an injury-in-fact.”). Vermilion NAACP has multiple members in District B, which establish standing in this matter, and have identified one to Abbeville. *See* Pl. Ex. 3 at 2-4; *see also e.g.*, Pl. Ex. 15, Vermilion NAACP Dep. Tr. 73:21-74:12.

Regarding the other two requirements, the Fifth Circuit and other district courts have found associational standing when NAACP chapters bring redistricting suits because protecting members’ voting strength is germane to its purpose. *See Hancock*, 487 F. App'x at 197 (5th Cir. 2012) (“Maintaining proportional districts, protecting the strength of votes, and safeguarding the fairness of elections are surely germane to the NAACP's expansive mission.”); *Nairne v. Ardoin*, 715 F. Supp. 3d 808, 828-29 (M.D. La. 2024) (granting associational standing to the NAACP in a redistricting matter).

As an “affiliate of the National and Louisiana NAACP,” Vermilion NAACP’s mission is to ensure “political, educational, social, and economic equality of rights of all persons, and to eliminate race-based discrimination.” Pl. Ex. 3 at ¶¶ 4-5. Vermilion NAACP does this by conducting “numerous civic engagement and voter engagement events” in Abbeville. *Id.* at ¶ 6; *see also e.g.*, Pl. Ex. 15 at 32:24-33:10. Mayor White admitted that she is aware of Vermilion NAACP’s civic engagement. *See* Pl. Ex. 2 at 353:22-355:18. And because Vermilion NAACP is seeking an injunction, participation of individual members is not required. *Hunt*, 432 U.S. at 344; *Nairne*, 715 F. Supp. 3d at 829. Thus, Vermilion NAACP has standing to bring this motion.

CONCLUSION

For the foregoing reasons, Vermilion NAACP respectfully requests that the Court grant its Motion for Preliminary Injunction.

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Respectfully submitted,

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