IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

REV. DWIGHT COKELY, *et al.*, ***Plaintiffs*,** **v.** **WENDY HONESTY-BEY, *et al.*,** ***Defendants*.**	**Case No.: TDC 25-3363**

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION CONSOLIDATING THE HEARING WITH THE TRIAL ON THE MERITS AND TO STAY THE CANDIDATE QUALIFYING DEADLINE

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INTRODUCTION

"[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). One person, one vote "lies at the very heart of representative democracy." *In re Legislative Districting of State*, 370 Md. 312, 319 (2002). After each decennial census measures population changes, state and local governments must redraw district boundaries to ensure the equal distribution of population across each district. *Id.* at 319–20. The unequal distribution of residents across districts violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, as residents in overpopulated districts suffer diluted voting strength and representation compared to their neighbors residing in underpopulated districts. *Baker v. Carr*, 369 U.S. 186, 207 (1962).

The Prince George's County Redistricting Commission adopted a map in 2021 that deviates excessively from equal population and demonstrates the lack of a good-faith effort to attain population equality, in violation of the constitutional promise of one person, one vote. In addition, the Commission's plan contravened the County Charter's requirements that Council redistricting plans be compact and equal in population. For the forgoing reasons, Plaintiffs, six members of the Prince George's County community whose constitutional rights have been violated, respectfully request that the current district map be declared unlawful and enjoined from use in any future County Council elections.

I. FACTUAL BACKGROUND

Prince George's County is divided into 9 council districts (not including the two at-large districts). Prince George's County, MD, County Charter, Art. III § 304. Under the county charter, the County Council appoints a partisan redistricting commission to draw and propose districts for County Council elections. The Prince George's County Charter provides that the Redistricting

Commission's plan "***shall*** provide for Council districts that are ***compact, contiguous, and equal in population***".[1] *Id.* § 305 (emphasis added). The Council, through resolution, may move to adopt the map proposed by the Redistricting Commission, or may choose to override the Commission's map and adopt a plan of its own. *Id.* In January 2021, the Prince George's County Council appointed three members to the Redistricting Commission: Rev. James Robinson (Chair), David Harrington (now deceased), and Charlene Dukes. Over the summer of 2021, the Commission held public hearings and meetings to assess community needs and concerns during the redistricting process. *See* Exhibit 1, 2021 Redistricting Commission Report, 6–7. The Commission hired Dr. Nathaniel Persily as a consultant expert on redistricting to assist its work. *Id.* at 5. According to projected data relied on by the Commission,[2] the County experienced a 12% increase in population, but the increase was not uniform throughout the County, resulting in a projected total deviation of 17.1%, with District 7 severely underpopulated at -9.4% and District 6 severely overpopulated at +7.7%.[3] *Id*. at 8; *See also*, Exhibit 3, Nathaniel Persily Preliminary Maps (Aug 16, 2021), at 4. To address the malapportionment, the Commission was required to adjust the district boundaries. Although Commissioners purported to focus on five factors, they voted to focus primarily on a ***"least change"*** plan, because "there was no legal challenge to the 2011 Redistricting Plan passed

[1] Compactness can be measured in a number of ways. Two of the most popular methods are called the "Reock" and the "Polsby-Popper" tests. These tests, through different methodologies, measure the ratio of the area of a district to that of a perfect circle, giving a perfectly compact district a score of 1 on a scale between 0 and 1. *See Singleton v. Merrill*, 582 F. Supp. 3d 924, 965, fn. 9 (N.D. Ala. 2022).

[2] The U.S. Census Bureau issued official data was not released until August 16, 2021, due to delays related to the COVID-19 pandemic. The Redistricting Commission used projected data that ultimately underestimated the population increase in the County, but final deviation counts were not significantly different from the projected and actual data.

[3] "The total deviation percentage is calculated by summing the absolute values of the percentage deviations of the least populated district and the most populated district". Exhibit 2, Declaration of William Cooper, at 6, fn. 8.

by the County Council", and used the "existing districts as a starting point to prepare a plan." Ex. 1, 2021 Report, at 1.

A. 2011 Adopted Plan

The 2011 Redistricting Commission—which had the same expert consultant (Dr. Persily) and one of the same commissioners (David Harrington) as the 2021 Redistricting Commission—produced a map that attempted to respect communities of interest, including transit lines, while dismissing precinct splits as a concern.[4] But the Council, appearing to be motivated by concerns over the Commission plan's effects on the incumbents' ability to maintain their current seats on the Council, unanimously chose to adopt its own map. Exhibit 5, County Council Minutes, Nov. 1 2011, at 9 ("Each Council Member discussed the plan as related to his/her respective Councilmanic District."). The Council's map incorporated minimal changes to the 2001 map, akin to a "least change" plan. Ex. 1, 2021 Report, at 10 (description of 2011 changes to the 2001 plan, naming only 11 changes across the county). As a result, all of the incumbents who voted in favor of the Council plan were reelected.[5] Exhibit 6, Official 2014 Election Results for Prince George's County.

B. 2021 Adopted Prince George's County Council Map

The 2021 Redistricting Commission voted in favor of following five guiding principles to draw its plan: "1. A least change plan, 2. Boundaries that are contiguous, 3. Avoid splitting

[4] In its report, the Commission dismissed precinct splits as a concern because the Board of Elections explained that "after the State redistricting process is over, precincts will be reconfigured as necessary and citizens will be informed of change in precincts prior to the 2012 and 2014 elections." Exhibit 4, 2011 Redistricting Commission Report, at 9.

[5] The Council members who voted in favor of the plan were Ingrid Turner, Will Campos, Mel Franklin, Andrea Harrison, Mary Lehman, Eric Olson, Obie Patterson, and Karen Toles. District 6 was vacant because Leslie Johnson resigned in July 2011 so was not part of the redistricting process. Ingrid Turner, Will Campos, and Eric Olson did not run in 2014 because they were term limited, but the remaining Council members won their elections in 2014.

precincts, 4. Districts that have no greater than 4.5% population deviation[6], and 5. Consideration of assets or community interests that connect each district." Ex. 1, 2021 Report, at 1. *See also* September 28, 2021, Redistricting Commission Meeting , at timestamp 07:48, accessible at https://pgccouncil.us/303/County. Yet, despite prioritizing "least change," the Commission recognized its problems: "if an existing plan is viewed as defective or undesirable for some reason, then the least change plan replicates those undesirable features." Ex. 1, 2021 Report, at 5. Indeed, the reason the Commission adopted a "least change" plan was because "the problem is when we when we do depart from the existing lines, I think we make it less likely that the council will eventually approve it." June 21, 2021, Redistricting Commission Meeting at timestamp 04:25, accessible at https://pgccouncil.us/303/County-Council-Video. In similar fashion, the Commission wrote off the importance of prioritizing equal population size, despite it being explicitly named in the Charter: "under the one person, one vote rule, local governments . . . are ordinarily allowed to have districts that deviate ±5% from the ideal population of a district." Ex. 1, 2021 Report, at 6. The Report goes further, counseling against strictly adhering to equal districts because it could result in splitting precincts or municipal subdivisions and may cause difficulty in representing communities of interest. *Id.*; *compare* Ex. 4, 2011 Report, at 9 (acknowledging that precinct splits can later be corrected after the districting process is complete). And even though the Commission names contiguity, avoiding precinct splits, and consideration of assets or community interests as additional priorities reviewed by the Commission, the report only mentions these interests in the introduction and conclusion.

[6] The Commission used ±4.5% to account for any discrepancies once official census data was released, not because they sought to lower the deviation. In fact, later in the report, the Commission stated it was legally allowed to have a ±5% deviation per district. *See* Ex. 1, 2021 Report, at 6.

Beginning on June 21, 2021, the Commission issued a series of preliminary plans and engaged with the public in two public hearings in July 2021. Ex. 1, 2021 Report, at 6. The preliminary plans were a mix of plans that minimally changed the 2011 adopted map, to maps that the Commission described as more "disruptive" with overall population deviations of 4.5%, 2%, and 1%. *Id.* at 2. Following the first public hearing, the Commission received negative public feedback on its preliminary plans that had deviations below 2%, and as a result focused its efforts on a plan with the highest deviation. *Id*. The negative feedback focused primarily on the splitting of Bowie, but the Commission did not attempt to address those concerns with another plan that had similarly low deviations. Exhibit 7, Daniel Leaderman, Proposed District Boundaries Keep Prince George's Communities Together, WASHINGTON POST, Aug. 26, 2011 at 3.

On August 23, 2021, the Commission developed a final plan using existing district boundaries with a hyper focus on least change by moving as few precincts as possible, and unanimously voted in favor of the least change plan. The Commission Plan moved only five precincts: two precincts from District 1 to District 2 in the Adelphi area, one precinct from District 3 to District 4 in Glenn Dale, and two precincts from District 6 to District 7 in District Heights. Ex. 1, 2021 Report, at 45.

The 2021 adopted map had a 98.6% core retention rate compared to the 2011 map, making the adopted map nearly identical.[7] Ex. 2, Cooper Decl., Fig. 1a. The resulting map leads to a total population deviation of 6.86%, with District 8 being the most underpopulated, by 4,554 individuals, and District 3 being the most overpopulated, by 2,825 individuals. *Id.* Therefore, there is an overall

[7] On September 1, 2021, per Prince George's County Charter requirements, the Redistricting Commission transmitted its proposed map to the County Council. However, instead of adopting the map the Council attempted to override the map through a resolution with a slim majority but did so in a procedurally defective manner. The Council's map was challenged and struck down in state court, and because the Charter deadline for Council acceptance of the Commission plan had passed, the Maryland Supreme Court ultimately ruled that the Commission's map had taken effect by operation of law as of November 30, 2021. *See Prince George's County v. Thurston*, 477 Md. 629 (2022).

deviation range of 7,379 people from equal population among the adopted plan's districts. Ex. 1, 2021 Report, at 8. Additionally, the 2021 adopted map registered a low composite compactness score of just 45, Reock score of .45, and a Polsby-Popper score of .34. Ex. 2, Cooper Decl. Along with 74 populated VTD splits,[8] when compared to the 2011 Plan, and six municipalities population splits. Ex. 2, Cooper Decl., Fig. 1a. Overall, the 2021 adopted map encompassed slight changes from the 2011 map based on the above referenced community concerns and shifts to account for predicted census population increases.

C. Possible Alternatives

Plaintiffs' mapping expert, William S. Cooper, prepared an "Illustrative Plan" demonstrating that Prince George's County Council districts can achieve population equality to a degree of ±100 people per district and significantly better compactness while adhering to legitimate traditional redistricting principles. Ex. 2, Cooper Decl., Fig. 3. In reaching near-perfect population equality, the Illustrative Plan still managed to retain significant core retention at nearly 71%. Ex. 2, Cooper Decl., Fig. 3. No municipality is divided, correcting the six municipal splits present in the 2021 Plan. *Id.* The plan retains community integrity by keeping populated areas of the same communities of interest together and aligning district cores with recognized neighborhoods inside and outside the Beltway.

Further, the Illustrative Plan significantly improves compactness under every accepted measure. The Illustrative Plan's DRA composite score rises from 45 to 60, its Reock average

[8] Voting Tabulation District, or VTDs, are "precinct proxies defined by the Census Bureau in consultation with local governments in the latter part of a decade before the release of the Decennial Census. They are ephemeral and generally do not line up with precincts as they evolve after the release of the Census." Ex. 2, Cooper Decl., ¶ 5 fn. 6.

increases from .38 to .45, and its Polsby-Popper mean improves from .29 to .34. Core-retention comes to about 71% and the plan pairs no incumbents. *Id.*

D. I-495 Divides the Interests of the Prince George's County Community

1. The County is Divided by Socio-Economic Factors

The I-495 Beltway is a dividing line between different economic realities for County residents, as demonstrated by the County's own findings. The Prince George's County Planning Department issued a report in December 2022 on demographic trends and patterns in the County between 2010 and 2020, which made four key findings: 1. "People of color or low to moderate income households most likely reside within the Capital Beltway or the abutting areas"; 2. People of color or low to moderate income households mostly inhabit near employment hubs or transit stations"; 3. "Multifamily housing is largely within reach of transit lines or stations, a forefront sustainable development concept and practice" and 4. "There has been a rise in the median household income and decline in housing cost burden." Ex. 2, Cooper Decl., Exhibit D, at 40.

The Planning Department's summary findings, as well as the maps based on U.S. Census Bureau American Community Survey data, paint a distinct divide between inner-Beltway communities from outer-Beltway communities, following a "natural" boundary that holds true over a number of data metrics: SNAP assistance, FARM students, renter households, median household income, and mass transit dependency. *See also*, Ex. 2, Cooper Decl. ¶ 41. All of these metrics illustrate a divide between the needs and interests of inner- vs. outer-Beltway communities.

Despite the well-known socioeconomic and demographic differences between inner- and outer-Beltway communities, the Commission completely disregarded the inner-Beltway as a community of interest in its adopted County Council map—even as it acknowledged the importance of keeping communities of interest together. Ex.1, 2021 Report, at 5 (defining

"communities of interest" as a "group of people in a defined geographic area with concerns about common issues (such as religion, political ties, history, tradition, geography, demography, ethnicity, culture, social economic status, trade or other common interest) that would benefit from common representation.").[9] Eight out of 9 districts under the 2021 Commission Plan crack inner-Beltway communities and dilute their voting power, diverting resources and attention away from inner-Beltway needs.

Although the Redistricting Commission mentioned racial data and population growth across the County, it made no effort to meaningfully consider other available data that showcased the stark social and economic differences between inside and outside the Beltway.

2. Unique Community Interests Are Ignored

In addition to the easily recognizable physical boundary that the Beltway creates between major regions in Prince George's County and the known socioeconomic differences between them, the Plaintiffs' own lived experiences highlight and confirm the differences in needs between inner- and outer-Beltway communities.

Plaintiffs Shroder, Carlisle, and Rowe are all concerned with transit options that are specific to areas adjacent to DC, such as bike lanes and trails, bus and Metro transit, and infrastructure to support these modes of transportation. Exhibit 8, Mark Shroder Decl., ¶ 7; Exhibit 9, Michael Andrew Carlisle Decl., ¶ 5–10; Exhibit 10, Ian Rowe Decl., ¶ 9–10. Mr. Rowe, for example, states that "communities should be based and formed around the resources that people need or use the most" such as Metro stations. Ex. 10, Rowe Decl., ¶10. On the other hand, Plaintiff

[9] The Commission report defines "communities of interest" as a "group of people in a defined geographic area with concerns about common issues (such as religion, political ties, history, tradition, geography, demography, ethnicity, culture, social economic status, trade or other common interest) that would benefit from common representation." Ex. 1, 2021 Report, at 5.

McKinney lives in District 6, which lies primarily in the suburban and car-dependent outer-Beltway. Exhibit 11, Erica McKinney Decl., ¶ 5, 14. Outer-Beltway residents generally do not live in areas tied to mass transit, and their neighborhoods may not be as walkable. For example, while Ms. McKinney shares concerns with her inner-Beltway neighbors around the lack of retail options and prevalence of food deserts and quality food options in the County, she also is concerned about interests more common to suburban commuters, such as the County's neglect of highway infrastructure, the failure to conduct adequate traffic studies, and the need for sensible growth restrictions to control suburban sprawl. Ex. 11, McKinney Decl., ¶ 11.

Additionally, as the Commission noted, WMATA Metrorail lines provide critical transit infrastructure that connect communities. *See* May 3, 2021, Redistricting Commission Meeting at timestamp 51:34, accessible at https://pgccouncil.us/303/County-Council-Video. Yet, the 2021 Commission Plan completely ignored these lines because of their hyper focus on least change. There are three Metro line segments that run into Prince George's County: the Northern and Southern Green lines, the Orange Line, and the Blue Line. None of these segments falls within a single district in the adopted plan. The Northern Green Line segment spans Districts 2, 3, and 4, and its southern segment crosses Districts 7 and 8. The Orange Line crosses Districts 5 and 3, and the Blue Line crosses Districts 5, and 6, and 7.

The Blue Line corridor is a regional economic and transportation community of interest and has been identified as such by numerous independent studies. *See* Ex. 12, June 2022, Central Avenue-Metro Blue Line Corridor Sustainable Community Renewal Application (accessed October 31, 2025); Exhibit 13, June 2021, Prince George's County Economic Development Platform - Presentation; Exhibit 14, September 18, 2025, Preliminary Central Avenue-Blue/Silver Line Sector Plan and Proposed Sectional Map Amendment. The Commission did not preserve the

Blue Line, but it was possible to create a plan that not only left municipalities intact, it kept the Blue Line metro intact as a community of interest: Mr. Cooper's Illustrative Plan preserves the Blue, Orange, and Southern Green line segments in single districts while not splitting any municipalities. Ex. 2, Cooper Decl. Fig. 3.

The impact on the community of splitting these Metro line corridors is palpable: Plaintiff Leonard Gore Jr., one of the leaders of the Southern Green Line Coalition, describes the disinvestment around the Southern Green Line stations that fall within District 7, while funding and development of federal government buildings were sent to the District 8 Green Line stop, Branch Ave. Exhibit 15, Leonard Gore, Jr., Decl., ¶ 5–8. This is consistent with Mr. Gore's observation that councilmanic districts often compete for resources, leaving the inner-Beltway at a disadvantage. Ex. 15, Gore Decl. ¶ 11–12. This makes it all the more necessary for inner-Beltway districts and their associated Metro lines to have champions on the Council. *Id.*, ¶ 13.

II. LEGAL STANDARD

The purpose of a preliminary injunction is to "prevent irreparable harm during the pendency of a lawsuit ultimately to preserve the court's ability to render a meaningful judgment on the merits." *United States v. South Carolina*, 720 F.3d 518, 524 (4th Cir. 2013) (quotation omitted). A court may enter a preliminary injunction if Plaintiffs establish: (1) a substantial likelihood of success on the merits; (2) irreparable harm absent an injunction; (3) the balance of the equities favors relief; and (4) the injunction would be in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *In re Search Warrant Issued June, 13, 2019*, 942 F.3d 159, 170–71 (4th Cir. 2019).

Federal Rule of Civil Procedure 65(a)(2) permits a court to "order the trial of the action on the merits to be advanced and consolidated with the hearing of the application." *University of*

Texas v. Camenish, 451 U.S. 390, 395 (1981). Under Rule 65(a)(2), the substantial likelihood of success standard under *Winter* is generally understood to fall under a merits standard. *Winter*, 555 U.S. at 20; *see also*, *Univ. of Texas*, 451 U.S. at 395 (requiring notice to be given to the parties if the court proceeds to consolidate merits with preliminary hearings).

III. ARGUMENT

All relevant factors weigh in favor of granting Plaintiff's preliminary injunction motion.

A. Plaintiffs are likely to succeed on the merits.

1. Plaintiffs are likely to succeed in their claims that the redistricting map violates the County Charter.

The Prince George's County, MD., County Charter, Art. III, § 305 states "[t]he plan ***shall*** provide for Council districts that are compact, contiguous, and equal in population" (emphasis added). Principles of statutory interpretation mandate that the Defendants prioritize population equality and compactness interests when forming Council districts under the Prince George's County Charter. The facts demonstrate that Defendants failed to meet the County Charter's express requirements.

Statutory interpretation begins with the text of the statute. *Groff v. DeJoy*, 600 U.S. 447, 468 (2023); *Othi v. Holder*, 734 F.3d 259, 265 (4th Cir. 2013). Under Fourth Circuit precedent, courts generally give undefined terms "[their] ordinary or natural meaning[s]." *HollyFrontier Cheyenne Refining, LLC v. Renewable Fuels Ass'n*, 594 U.S. 382, 388 (2021). The Supreme Court has repeatedly clarified that the word "shall" imposes a mandatory command. *Bufkin v. Collins*, 604 U.S. 369, 379 (2025) (*citing Shapiro v. McManus*, 577 U.S. 39, 43 (2015)). In other words, "shall" means "must." *Kingdomware Techs., Inc. v. United States*, 579 U.S. 162, 171–172 (2016) The Fourth Circuit has similarly made such conclusions of law, finding the word "shall," when used in a statutory context, is generally construed to be mandatory. *Holland v. Pardee Coal Co*.,

269 F.3d 424, 431 (4th Cir. 2001) (citing *United States v. Monsanto,* 491 U.S. 600, 607 (1989)). Leaving no dispute, the Commission was mandated to produce Council districts as described by the subsequent factors, factors that the Commission did not adhere to or prioritize. *See Bowman v. Chambers*, 586 F. Supp. 3d 926, 935 (E.D. Mo. 2022) (acknowledging local charter requirement of 1% population deviation).

2. The districts produced by the 2021 plan are not "equal" in population as required by the County Charter.

In the election context under the Equal Protection clause, the Supreme Court has clarified that "equal" means "[s]tates must draw congressional districts with populations as close to perfect equality as possible." *Evenwel v. Abbott*, 578 U.S. 54, 59 (2016) (*citing Kirkpatrick v. Preisler,* 394 U.S. 526, 530–531 (1969)). Although in state and local districting, population deviations below 10% are presumptively federally constitutional absent a predominance of illegitimate factors under the 14th Amendment, the plain language contained in the County Charter is more express and clearer than comparable provisions of the U.S. Constitution. Here, "equal" connotes a stronger requirement of near zero.[10] That said, the Supreme Court has recognized that even where equality implies near zero deviation, some minor deviations are acceptable under the unique circumstances of state populations and geography. *See Karcher v. Daggett*, 462 U.S. 725, 741-42 (1983) ("Any number of consistently applied legislative policies might justify some variance, including, for instance, making districts compact, respecting municipal boundaries, preserving the cores of prior districts, and avoiding contests between incumbent Representatives. As long as the criteria are nondiscriminatory . . . these are all legitimate objectives that on a proper showing could justify *minor* population deviations." (emphasis added)). An adoption of the ordinary meaning of

[10] According to Merriam-Webster's dictionary, "equal" refers to "of the same measure, quantity, amount, or number as another" and "identical in mathematical value or logical denotation." Exhibit 16, *Equal*, Merriam-Webster, https://www.merriam-webster.com/dictionary/equal (last visited Oct. 27, 2025).

"equal," especially considering the requirements of the Charter, supports an interpretation of as close to zero deviation as possible.

According to the Commission's own findings, the plan adopted in 2021 deviates significantly from "equal in population." The adopted map resulted in population deviation, based on the adjusted 2020 P.L. 94-171 data, of 6.86% from the ideal district. Ex. 1, 2021 Report, at 34. Between the most overpopulated and most underpopulated districts, that deviation amounts to 7,379 people. *See id.* at 8. Additionally, over 20,000 people across the county were placed outside the range of ideal population. *See* Ex. 2, Cooper Decl. Fig. 2. This is notable not only because it indisputably establishes the districts were not "equal in population," but it also demonstrates that the Commission rejected plans before it that would have resulted in significantly greater equality. Specifically, Dr. Persily produced two maps to the Commission with maximum district deviation standards of ≤ 2% and ≤ 1%. Ex. 3 at 11–17; *see also* June 21, 2021, Redistricting Commission Meeting at timestamp 33:34-43:02, accessible at https://pgccouncil.us/303/County-Council-Video. Rather than propose a plan with significantly lower deviations, the Commission advanced a plan that would protect incumbents, at the cost of significantly greater deviation. Further, the Commission could have considered additional alternative maps that would have also achieved greater population equality. *See e.g.* Ex. 2, Cooper Decl., Fig. 3.

The Commission adoption of a plan with greater population deviation than alternatives directly contradicts the express requirements established by the County Charter. The population deviation adopted by the Commission was not necessary, especially in light of the possibilities shown in Mr. Cooper's Illustrative map. The record supports that Plaintiffs are likely to succeed on their claims that Defendants unlawfully violated the County Charter.

3. The districts produced by the 2021 plan are not "compact" as required by the County Charter.

Courts have typically defined compactness [11] through a mathematical standard that measures the degree a map-drawing is not centralized. *Bush v. Vera*, 517 U.S. 952, 960 (1996). Courts across the country have relied on mathematical scores from Reock and Polsby-Popper to evaluate compactness in election cases. *E.g.*, *Nairne v. Ardion*, 715 F. Supp.3d 808, 850 (2024) (finding Reock and Polsby-Popper test to be the "gold standard" for evaluating compactness in the context of redistricting); *see also Nairne v. Landry*, 151 F.4th 666, 688-89 (5th Cir. 2025); *Alpha Phi Alpha Fraternity Inc. v. Raffensperger*, 700 F. Supp. 3d 1136, 1317 (N.D. Ga. 2023); and *GRACE, Inc. v. City of Miami*, 684 F. Supp. 3d 1285, 1319-20 (S.D. Fla. 2023), appeal dismissed, No. 23-12472, 2024 WL 5358479 (11th Cir. Aug. 1, 2024).

Defendants cannot claim that their 2021 plan was adhering to the compactness requirement of the Charter. Specifically, the Reock and Polsby-Popper compactness scores for Districts 3, 4, 7, and 8 are relatively low in the 2021 Plan, and are significantly improved under Mr. Cooper's Illustrative Plan. Ex. 2, Cooper Decl. ¶ 57:

2021 Plan:

District	Reock	Polsby-Popper
3	0.34	0.20
4	0.35	0.19
7	0.37	0.25
8	0.28	0.25

Illustrative Plan:

District	Reock	Polsby-Popper
3	0.61	0.34
4	0.40	0.31
7	0.57	0.51
8	0.45	0.40

[11] According to Merriam-Webster's dictionary, "compact" refers to "closely united or packed." Exhibit 17, Compact, Merriam-Webster, https://www.merriam-webster.com/dictionary/compact (last visited Oct. 27, 2025).

Ex. 2, Cooper Decl. ¶ 57; *id.* at K-5.

Compactness also improves significantly under every accepted measure when looking at the county as a whole. The Illustrative Plan's DRA composite score rises from 45 to 60, its Reock average increases from .38 to .45, and its Polsby-Popper mean improves from .29 to .34, demonstrating that strict population equality can coexist with more regular, compact shapes.

The Defendants once again violate the express requirements laid out by the County Charter because the 2021 adopted plan did not consider compactness in the creation of the plan.[12]

B. Plaintiffs are likely to succeed in their claim that being drawn into an overpopulated County Council district violates their rights to equal protection under the Fourteenth Amendment to the U.S. Constitution.

1. The Commission's motivation to produce a "least change" map constituted a predominant reliance on an illegitimate reapportionment factor in violation of the Equal Protection Clause.

Governments must "make an honest and good faith effort" to construct districts as close to equal population "as is practicable." *Raleigh Wake Citizens Ass'n v. Wake Cnty. Bd. of Elections*, 827 F.3d 333, 340–41 (4th Cir. 2016) (citing *Reynolds*, 377 U.S. at 576). While a "maximum population deviation between the largest and smallest district is less than 10%... *presumptively* complies with the one-person, one-vote rule." *Evenwel*, 578 U.S. at 60 (emphasis added), there is no "safe harbor" threshold of validity below 10%. *Larios v Cox*, 300 F. Supp. 2d 1320, 1340–41 (2004) *(aff'd*, 542 U.S. 947 (2004)). Where illegitimate, arbitrary, or discriminatory factors predominate over legitimate redistricting considerations and result in greater than necessary population deviations, a plan does not comply with "one person, one vote." *Harris v. Arizona Indep. Redistricting Comm'n*, 578 U.S. 253, 258–59 (2016); *Raleigh Wake Citizens Ass'n*, 827 F.3d at 341–42; *Wright v. North Carolina*, 787 F.3d 256, 264

[12] Underscoring the lack of consideration for district compactness, the Commission did not even mention district compactness in its report. Ex. 1, 2021 Report.

(2015). The Fourth Circuit has clarified that in order to be successful, plaintiffs in one person, one vote cases with deviations below 10% "must show by a preponderance of the evidence that *improper considerations predominate* in explaining the deviations." *Raleigh Wake Citizens Ass'n*, 827 F.3d at 342 (emphasis added).

The facts of this case demonstrate a single illegitimate factor predominated the Commission's 2021 Council redistricting plan: "least change." From the outset, the Commission determined that its primary goal would be to arrive at a "least change plan," *i.e.*, "one that moves the fewest number of people as necessary to ensure compliance with one person, one vote," which they interpreted as allowing anything that resulted in a maximum population deviation of less than 10%, or a maximum individual district.[13] Ex. 1, 2021 Report, at 5. The Commission reiterated its priority in its final report, with the stated goal of the least change approach "to keep districts as stable as possible and do what is minimally necessary to comply with applicable law," and that the advantage of that approach, in Dr. Persily's estimation, is that it "is least disruptive to the incumbents, voters, and the electoral system as a whole." *Id*. This prioritization by the Commission to perform the minimum to maintain the status quo directly led to the production of a map with greater than necessary population deviations, a plan that does not comply with "one person, one vote."

[13] In addition to (1) "least change plan" and (2) maximum individual district deviation, the Commission adopted three other redistricting principles: (3) avoiding splits of precincts; (4) keeping districts contiguous; and (5) considering physical assets or infrastructure that connect districts, such as Metro stations, colleges and universities, schools, community centers, churches, economic development areas, and major employment sites. The Commission members discussed and unanimously agreed upon these five redistricting criteria at the Commission's May 3, 2021, meeting. Exhibit 18, Redistricting Commission Minutes May, 3, 2021.

i. **The Commission failed to make a good faith effort to achieve as near population equality as practicable when considering traditional redistricting factors.**

When analyzing the constitutionality of local redistricting maps, several courts have found it necessary to consider the factors and limitations imposed by the local jurisdiction's authorities. *E.g. Bowman v. Chambers*, 586 F. Supp. 3d 926, 935 (E.D. Mo. 2022) (applying the state requirement that local electoral districts deviate no more than 1% to the court's federal constitutional analysis). *See generally*, *Crawford v. Bd. of Educ. of Los Angeles*, 458 U.S. 527, 542 (1982) (states are permitted to be more protective than what is required under federal constitutional protections). Here, the County Charter has expressed a prioritization of three factors in the crafting of electoral lines: that districts must be "compact, contiguous, and equal in population." Prince George's County, MD., County Charter, Art. III, § 305.

While courts have recognized that "[m]athematical exactness or precision is hardly a workable constitutional requirement," governments must make an "honest and good faith effort" to construct districts as close to equal population "as is practicable." *Reynolds*, 377 U.S. at 577. And even though courts have allowed flexibility for some population deviation for "legitimate considerations," governments are expected to justify deviations. *Karcher*, 462 U.S. at 741 (in the congressional context, these deviations could be explained by "the importance of the State's interests, the consistency with which the plan as a whole reflects those interests, and the availability of alternatives that might substantially vindicate those interests yet approximate population equality more closely"). Here, the deviations the Commission's plan adopted, cannot be justified with "least change" as the primary motivator. To be sure, preserving the cores of the prior

districts[14] may be a legitimate reason to justify some deviation from perfect population equality among districts. But an outsized focus on changing as little as possible from a decades-old map cannot legitimize the vote dilution suffered by residents of overpopulated districts, especially where "least change" also comes at the expense of local charter requirements and widely accepted traditional redistricting principles such as preserving communities of interest and avoiding municipal splits. Not only were Equal Protection requirements cast aside, there was no adherence to traditional redistricting principles--including preserving municipalities (of which there were 6 splits) and communities of interest in a single district--to justify the population deviation here.

To find a constitutional violation, "the proper judicial approach" to a one person, one vote claim is "to ascertain whether . . . there has been a faithful adherence to a plan of population-based representation, with such minor deviations only as may occur in recognizing certain factors that are free from the taint of arbitrariness or discrimination." *Roman v. Sincock* 377 U.S. 695, 710 (1964); *Brown v. Thomson*, 462 U.S. 835, 843 (1983) (citations and quotation marks omitted) (alteration in original) (stating the "ultimate inquiry" in major deviation cases is "whether the legislature's plan may reasonably be said to advance [a] rational state policy and, if so, whether the population disparities among the districts that have resulted from the pursuit of this plan exceed constitutional limits"). In cases with deviations under 10%, *Larios*, 300 F. Supp. 2d at 1341 is instructive.

In *Larios*, the district court analyzed the extent the redistricting plan made a "good faith effort" to achieve as near population equality as practicable considering the claimed legitimate

[14] Core retention or core preservation is defined as "maintaining the cores of previous districts to the extent possible." See *Redistricting Criteria*, National Conference of State Legislatures, (Updated Sept. 3, 2025), https://www.ncsl.org/elections-and-campaigns/redistricting-criteria. However, Mr. Cooper states that "meeting a certain core retention metric for a plan that has been in effect for the previous decade is not a traditional redistricting principle. Otherwise, problematic redistricting plans could become perpetual until successfully challenged." Ex. 2, Cooper Decl., ¶ 16. Likewise, even Dr. Persily has said the same. *See* Ex. 3, Preliminary Map Report, Aug. 16, 2021.

factors of the drafters.[15] *Id*. However, the court found that "no effort" was made by the drafters to "make the districts as nearly of equal population as was practicable" operating under the false assumption that ± 5% was a safe harbor. *Id*. Indeed, making an "honest and good faith effort to construct districts. . . as nearly of equal population as is practicable" is required under the Equal Protection Clause. *Id*. at 1339 (citing *Reynolds*, 377 U.S. at 577). The *Larios* Court went on to find that the population deviations of nearly 10% resulted from the application of illegitimate factors at the expense of traditional redistricting factors: and the case was not "free from any taint of arbitrariness or discrimination." *Id.* at 1341–42 (citing *Roman v. Sincock*, 377 U.S. 695, 710 (1964)). In *Larios*, regional interests and discriminatory incumbent protection were invalid bases for the violative maps.

Here, the Commission arbitrarily prioritized a "least change" approach under the mistaken belief that any population deviation less than 10% falls within a constitutional safe harbor, and therefore moved the fewest number of people necessary to fall within that deviation range. Ex. 1, 2021 Report at 6. The priority of the Commission's plan was expressly stated at its June 21, 2021, meeting, where Dr. Persily explained the goal of the least change approach was "to keep districts as stable as possible and do what is minimally necessary to comply with applicable law." *Id.* at 5; *see also* June 21, 2021, Redistricting Commission Meeting at timestamp 104:25, accessible at https://pgccouncil.us/303/County-. This approach was further illustrated by the fact that prior to the plan's adoption, Dr. Persily produced two maps to the Commission with maximum district deviation standards of ≤ 2% and ≤ 1%. Exhibit 2 at 11-17; *see also* June 21, 2021, Redistricting Commission Meeting at timestamp 33:34-43:02, accessible at https://pgccouncil.us/303/County-

[15] In *Larios*, the drafters claimed to be motivated by (1) 5% of the "ideal" district, so that the total deviation did not exceed 10%, (2) compactness, and (3) contiguity. *Id*. at 1323.

Council-Video. Rather than accept that significantly lower deviation plans were possible, and explore those possibilities, the Commission advanced a plan with a several times higher deviation so it could minimize changes to the 2011 plan. Prioritizing "least change" over every other factor, including constitutional and charter requirements of equal population is the kind of arbitrary approach and rejection of alternatives that were found to lack good faith in *Larios*. 300 F. Supp. 2d 1320, 1348 (2004) *(aff'd*, 542 U.S. 947 (2004)).

The Commission's arbitrary prioritization of "least change" caused a deviation of 7,379 people, or 6.86% of the ideal district. This is particularly problematic considering the presentation of other maps from Dr. Persily of lower population deviations. Ex. 3, Persily Preliminary Maps, at 11–17. Additionally, Mr. Cooper's Illustrative Map provides an example where not only would the deviation be near zero, but it would have no municipal splits, no incumbents paired, and result in only 51 VTD splits. Ex. 2, Cooper Decl. Fig. 3. The Illustrative map would result in a deviation of only .13% from ideal and an improved compactness score of 60. *Id*. The existence of this map demonstrates how a reliance on "least change" and acceptance of 10% deviation ceiling effectively shows that the 2021 Commission did not act in an "honest and good faith effort" to construct districts as close to equal population "as is practicable." *See Reynolds*, 377 U.S. at 577; *Larios* 300 F. Supp. 2d at 1348.

Under 60 years of Supreme Court precedent, governments have been required to justify the size of deviations from equal population among districts through their reliance on legitimate factors. *See Karcher*, 462 U.S. at 741 (1983); *Reynolds*, 377 U.S. at 577; *Roman*, 377 U.S. at 710; and *Cox v. Larios,* 542 U.S. 947 (2004). Alternative maps produced by plaintiffs demonstrating those interests could be satisfied while more closely approximating population equality have successfully undercut those claims to legitimacy. *See, e.g., Raleigh Wake Citizens Ass'n*, 827 F.3d

at 350-51 (4th Cir. 2016). Here, the Defendants are unable to justify their predominant reliance on "least change" when alternative maps demonstrate that legitimate, traditional redistricting principles can be achieved through maps with reduced population deviations. The reality is that the Defendants' arbitrary reliance on "least change" demonstrates the Commission failed to make an honest and good faith effort toward achieving as close to equal population among the districts "as is practical," *Reynolds*, 377 U.S. at 577, especially when considering the priority placed on "equal in population" by the County's Charter. For the foregoing reasons, the Defendants cannot adequately justify its arbitrary predominant reliance on "least change" for the population deviations in the County Council districting map.

ii. **"Least change" was an arbitrary or illegitimate pretext for appeasing the Counsel.**

The record reveals that the Commission's "least change" approach was not based on traditional redistricting factors, but rather a deliberate effort to appease the County Councilmembers by preserving the political status quo. From the outset, commissioners and their consultant openly acknowledged that plans deviating too far from the existing 2011 districts risked rejection by the Council. March 23, 2021, Redistricting Commission Meeting at timestamp 19:41-20:38, accessible at https://pgccouncil.us/303/County-Council-Video. Recalling the prior rejection of the 2011 Commission's reform-oriented map focused on traditional redistricting principles like preserving communities of interest, the 2021 Commission designed its proposal to minimize disruption to incumbents' electoral bases. This choice to subordinate traditional factors, like population equality and compactness because of the fear that the Council would not accept a plan that did not preserve their core constituencies, demonstrates that "least change" was likely a pretext for incumbent protection. The resulting plan thus embodies precisely the kind of impermissible incumbent-protection-driven deviation the Supreme Court and Fourth Circuit have condemned.

The Fourth Circuit has adopted the reasoning of the district court in *Larios,* affirmed by the Supreme Court. *Raleigh Wake Citizens Ass'n*, 827 F.3d at 341 (4th Cir. 2016) (*citing,* 300 F.Supp.2d 1320 (N.D. Ga.), *aff'd*, 542 U.S. 947 (2004)). *Larios* is clear that "[t] he Supreme Court has said only that an interest in avoiding contests between incumbents may justify deviations from exact population equality, not that general protection of incumbents may also justify deviations." *Id.* at 1348 (citations and quotation marks omitted). Further, many courts have recognized that protections to avoid pairing incumbents in the same district are legitimate. *See*, *e.g.*, *Marylanders for Fair Representation, Inc. v Schaefer*, 849 F. Supp. 1022, 1036 (1994) (listing "avoiding contests between incumbent representatives" as one of several legitimate state); *Gonzalez v. Monterey County*, 808 F. Supp. 727, 735 (N.D.Cal.1992) (noting that "[t]he Supreme Court regards state policies favoring the avoidance of contests between incumbent legislators as a legitimate justification for minor population deviations"); *Wesch v. Hunt*, 785 F.Supp. 1491, 1499 (S.D.Ala.1992)(*aff'd, Camp v. Wesch*, 504 U.S. 902 (1992). However, beyond pairing incumbents in the same district, drawing maps to protect incumbents is illegitimate. *Larios*, 300 F.Supp.2d 1320, 1348 (N.D. Ga.), *aff'd*, 542 U.S. 947 (2004)) ("The Supreme Court has said only that an interest in avoiding contests between incumbents may justify deviations from exact population equality, not that general protection of incumbents may also justify deviations.").

The record shows that incumbent protection was not an unforeseen effect of the Commission's 2021 redistricting process.[16] As the Commission's consultant, Dr. Persily, has

[16] In their final report, the Commission claims not to have considered incumbent protections as part of their map proposal. Ex. 1, 2021 Report, at 5. However, the Commission is appointed entirely by the County Council that benefits from its recommendations. The same Council that would later approve or reject the plan also selected every commissioner and controlled the consultant's appointment. Against that backdrop, acknowledging that incumbent protection influenced the Commission's work would have been politically untenable. By invoking "least change" as a neutral-sounding principle and denying that incumbency played any role, the Commission shielded a politically motivated choice. But even if incumbency protection were not the Commission's ultimate goal, its clearly expressed desire either to divine the will or receive the blessing of the Council by disturbing the 2011 map as little as possible,

acknowledged in his academic work, operating under a "least-change" principle helps incumbents get re-elected as it provides an incumbent advantage through consistency among their constituency and requires fewer resources dedication for the education of new voters. Exhibit 19, Nathaniel Persily, *In Defense of Foxes Guarding Henhouses: The Case for Judicial Acquiescence to Incumbent-Protecting Gerrymanders*, at 15 (Nov. 17, 2002) Available at SSRN: https://ssrn.com/abstract=347362. The Commission's adoption of a "least change" framework cannot be understood apart from the County Council's prior rejection of the Commission's 2011 plan. In 2011, the Council "summarily rejected" the Commission's proposed map, despite its strong community support and adherence to traditional redistricting factors, and instead adopted its own plan after "each Council Member discussed the plan as related to his/her respective Councilmanic District." Ex. 5, Minutes, at 9. The result was immediate: *every incumbent councilmember who voted in favor of that plan won reelection in 2014*. Ex. 6, 2014 Election Results. The Commission expressly referenced this history in 2021, noting that the 2011 plan had faced no legal challenge and that the Commission therefore used the "existing districts as a starting point." Ex. 1, 2021 Report, at 2. In fact, Dr, Persily expressed this reality when he said, "the problem is when we do depart from the existing lines, I think we make it less likely that the council will eventually approve it." June 21, 2021, Redistricting Commission Meeting at timestamp 4:25, accessible at https://pgccouncil.us/303/County-Council-Video.

Repeatedly, those working on the 2021 adopted plan cited gaining Council approval as a restriction for changes to their plans. *See* March 23, 2021, Redistricting Commission Meeting at timestamp 18:19, accessible at https://pgccouncil.us/303/County-Council-Video ("[T]his is a political process because to the extent you start moving around precincts, people might feel like

and thus abandon its independent role in the redistricting process as provided in the Charter, is equally as illegitimate and arbitrary on its face.

that you're weakening sort of their, their presence in areas where they may be popular and vice versa. So that that's where the council came in."); *Id*. at timestamp 27:38 ("[I]t's useful to think of it that way, in how the Commission's plan might be most effective in addressing the various concerns that the Council might raise, but also recognizing that in a sense, this is bargaining in the shadow of whatever the Council might do."); and June 21, 2021, Redistricting Commission Meeting at timestamp 104:25, accessible at https://pgccouncil.us/303/County-Council-Video, "[F]rankly, that's what we did 10 years ago, right, which is that we went through and we, we called, but we didn't pay attention as much to the existing districts and then put many, you know, tried to define the communities and the like. And then that that led the council to disregard it.").

By choosing to largely preserve the 2011 Council map, the 2021 Commission was responding directly to the Council's demonstrated political preferences. The record confirms that commissioners were aware that the Council had rejected a more disruptive proposal in 2011 because it threatened the incumbents' existing electoral bases. When the Commission's early 2021 "1%" and "2%" deviation plans were labeled as "creat[ing] too disruptive," the Commission pivoted to a plan that moved as few precincts as possible, explicitly characterizing this "least change" design as one that would be "least disruptive to the incumbents, voters, and the electoral system as a whole." August 23, 2021, Redistricting Commission Meeting at timestamp 25:35, accessible at https://pgccouncil.us/303/County-Council-Video; Ex. 1, 2021 Report, at 5.

While the Supreme Court has said a legitimate interest exists in avoiding contests between incumbents, the Court has been clear that no general protection of incumbents may justify deviations. *See, e.g., Vera,* 517 U.S. at 964 (recognizing "incumbency protection, at least in the limited form of avoiding contests between incumbent[s]," as a legitimate state interest in defending against a racial gerrymandering claim (citations and quotation marks omitted)); *Karcher,* 462 U.S.

at 740 (including "avoiding contests between incumbent Representatives" in a non-inclusive list of legislative policies that might justify minor population deviations in congressional reapportionment plans); *Burns v. Richardson,* 384 U.S. 73, 89 n.16 (1966) (stating as a general matter, without respect to population deviations, "[t]he fact that district boundaries may have been drawn in a way that minimizes the number of contests between present incumbents does not in and of itself establish invidiousness"); s*upra*, *Larios*, 300 F.Supp.2d 1320 (N.D. Ga.) (three-judge panel), *aff'd*, 542 U.S. 947 (2004)). The Supreme Court has declined to expand its consideration of legitimate factors governments can rely upon in its more recent opinions. *See, e.g., Harris* 578 U.S. at 258; *Cox*, 542 U.S. 947.

In the present case, as similar in *Larios*, the Commission has made clear its intent to prioritize an illegitimate factor, "least change" for incumbents, over traditional election factors recognized by a long history of caselaw. 542 U.S. 947 (2004). In *Larios*, the court found "clear that many of the incumbent-protecting population deviations were caused not by the legitimate state interest in avoiding contests between incumbents, but, rather by the more aggressive goal of allowing incumbents to avoid taking on more new constituents than was absolutely necessary to stay within 5% of the ideal district size." 300 F. Supp. 2d at 1349. The Commission's reliance on "least change" produced a map that maintained the same district cores, preserved incumbents' existing constituencies, and tolerated larger population deviations than necessary to ensure Council adoption. That sequence of decisions demonstrates that protecting incumbents' political positions was not a coincidental byproduct, but the central purpose guiding the Commission's plan. The Commission had ample alternatives available that would have allowed them to achieve traditional election considerations, such as compactness and maintaining the integrity of political subdivisions, while also approximating population equality more closely. However, the deviations

that resulted in the Commission's plan cannot solely be explained by traditional factors. Rather, the resulting deviations were motivated by the Commission's predominant reliance on a single illegitimate factor can more reasonably be explained by a desire to provide unequal weight to some voters in the county to protect incumbents.

2. An injunction is necessary to prevent immediate and irreparable harm.

Injunctive relief is necessary to prevent immediate and irreparable harm to Plaintiffs. As discussed herein, Defendants' plan threatens Plaintiffs' fundamental right to vote.

"Voting is the beating heart of democracy," and a "fundamental political right, because it is preservative of all rights." *Singleton v. Merrill*, 582 F. Supp. 3d 924, 1027 (N.D. Ala. 2022) (quoting *Democratic Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312, 1315 (11th Cir. 2019)) (internal quotation marks omitted). Further, a plan placing voters in overpopulated districts "if enforced, would reduce their voting power, in violation of their established constitutional rights." *McConchie v. Scholz*, 567 F. Supp. 3d 861, 878 (N.D. Ill. 2021). As courts have recognized, "[b]y their very nature, a plan with population deviations will overvalue voters in underpopulated districts and undervalue voters in overpopulated districts. The voter in the overpopulated district will be personally affected by overpopulation because his vote will matter less..." *Perez v. Abbott*, 250 F. Supp. 3d 123, 195 (W.D. Tex. 2017). Voters who reside in overpopulated districts will find it more difficult for representatives to have detailed knowledge about individualized concerns affecting their communities. *See Raleigh Wake Citizens Ass'n,* 827 F.3d at 350. This requirement that all citizens' votes be weighted equally, known as the one person, one vote principle, applies not just to the federal government but also to state and local governments—including school boards and county governing bodies. *Id.* at 340 (citing *Avery v. Midland Cty.*, 390 U.S. 474, 480 (1968)).

"A showing of irreparable harm is the sine qua non of injunctive relief." *Braxton v. Stokes,* No. 2:23-00127-KD-N, 2024 WL 2116057 at *4 (S.D. Ala. May 10, 2024) (citing *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000)) (per curiam). "Courts routinely deem restrictions on fundamental voting rights irreparable injury." *Singleton*, 582 F. Supp. 3d at 1026 (quoting *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014) (citing *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012); *Alternative Political Parties v. Hooks*, 121 F.3d 876 (3d Cir. 1997); *United States v. City of Cambridge*, 799 F.2d 137, 140 (4th Cir. 1986); *Williams v. Salerno*, 792 F.2d 323, 326 (2d Cir. 1986)). And once the election occurs, there can be no do-over and no redress for voters whose rights were violated . . . ." *Singleton*, 582 F. Supp. 3d at 1027 (quoting *League of Women Voters of N.C.* , 769 F.3d at 247 (internal quotation marks omitted)).

If there is no injunction in place before the June 2026 election, Plaintiffs will have their votes unlawfully diluted toward candidates that will remain in office for four years. Further, the election results will affect a myriad of community policy issues handled by the County Council over the next four years, including, but not limited to, legislation on health policy, education, public safety, and zoning.

The right to vote is priceless. Once the election is over, there is no way to compensate an unlawfully disenfranchised voter. Therefore, an injunction is necessary in this case.

3. Balance of Equities and the Public Interest Weigh in Plaintiffs' Favor.

The third and fourth factors "merge when the [g]overnment is the opposing party." *Nken v. Holder*, 556 U.S. 418, 435 (2009). The balance of equities and the public interest both weigh in favor of a preliminary injunction.

The ongoing injury to Plaintiffs, which threatens the fundamental right to vote, far outweighs any interest that the Defendants may have in carrying forth with an unlawful map, and

the public will be best served by an injunction. Plaintiffs are suffering violations of their constitutional and statutory rights. The Defendants have no interest in defending actions that violate federal law or the County Charter. *See United States v. Alabama*, 691 F.3d 1269, 1301 (11th Cir. 2012) ("Frustration of federal statutes and prerogatives are not in the public interest."); *KH Outdoor, LLC v. City of Trussville*, 458 F.3d 1261, 1272 (11th Cir. 2006) (holding that neither city nor public had any interest in "enforcing an unconstitutional ordinance"). Further, Plaintiffs have proposed a schedule to resolve this case on the merits and institute, if applicable, a remedy ahead of the next regularly scheduled election, minimizing any administrative inconvenience to Defendants.

An injunction serves the public interest. The Supreme Court has held that "voting is of the most fundamental significance under our constitutional structure." *Burdick v. Takushi*, 504 U.S. 428, 433 (1992) (citations omitted); *see also Obama for Am. v. Husted*, 697 F.3d 423, 436-37 (6th Cir. 2012) ("[T]he public has a strong interest in exercising the fundamental political right to vote." (internal quotation marks and citations omitted); *Charles H. Wesley Educ. Found., Inc. v. Cox,* 408 F.3d 1349, 1355 (11th Cir. 2005) ("[P]rotection of the Plaintiffs' franchise- related rights is without question in the public interest.").

4. This case warrants a consolidated merits trial because it presents purely legal and record-based issues suitable for final resolution.

Federal Rule of Civil Procedure 65(a)(2) permits a court to "order the trial of the action on the merits to be advanced and consolidated with the hearing of the application." "The decision about whether to consolidate is discretionary, as the rule simply states that the court 'may' advance and consolidate a trial on the merits." *Oregon Right to Life v. Stolfi*, 751 F. Supp. 3d 1124, 1131 (D. Or. 2024) (*citing Human Life of Wash., Inc. v. Brumsickle*, Case No. C08-0590-JCC, 2008 WL 11506796, at 2 (W.D. Wash. May 15, 2008). Under Rule 65(a)(2), a matter may be consolidated

where the parties are permitted to present all material evidence. *Abraham Zion Corp. v. Lebow*, 761 F.2d 93, 101 (2d Cir. 1985). The Fourth Circuit has clarified that, in particular, "[c]ivil rights cases are especially suitable [to hear a motion for preliminary injunction and conduct a hearing on the merits at the same time]". *Singleton v. Anson Cnty. Bd. of Ed.*, 387 F.2d 349, 351 (4th Cir. 1967) (denying preliminary relief in favor of fuller factual development and evidentiary hearing, leading to an order that desegregated county schools). *See also Gellman v. State of Md.*, 538 F.2d 603, 604 (4th Cir. 1976) ("Fed.R.Civ.P. 65(a)(2) wisely permits the district court in an appropriate case to hear a motion for preliminary injunction and conduct a hearing on the merits at the same time.").

Consolidating the preliminary injunction hearing with a trial on the merits serves both judicial economy and the interests of justice. It has been recognized that Rule 65(a)(2) is an appropriate vehicle where "the full record is before the Court, a separate trial on the merits would be a waste of time and resources." *N. B. v. United States*, 552 F. Supp. 3d 387, 396 (E.D.N.Y. 2021). The current schedule provides equal time for discovery and expert submissions, allows each side to brief dispositive issues, and preserves the opportunity for full argument on both preliminary and final relief, leading to a complete record for a consideration on the merits.

The case's limited factual scope and reliance on an established administrative record ensure that neither party will be deprived of a meaningful chance to present its position. Consolidation will advance an efficient, just, and timely disposition. As such, no party is prejudiced by consolidation. Accordingly, for the foregoing reasons, Plaintiffs submit that this motion for preliminary injunction should proceed as one consolidated with the merits.

5. Moving the February 26, 2026 Candidate Qualifying Deadline

Should this case remain unresolved sufficiently in advance of February 26, 2026, the candidate qualification deadline for Countywide elections, a brief delay of the qualification

deadline is warranted to ensure final resolution of the merits in this case. Vote dilution through malapportionment is an irreparable injury, and Defendants face no substantial or undue prejudice if the candidate qualifying deadline is delayed by four weeks. Delays of candidate qualifying deadlines are commonplace in redistricting litigation. *See*, *e.g., Matter of 2022 Legislative Districting of State,* 481 Md. 507 (2022) (staying the candidate qualifying deadline twice). Notwithstanding the anticipated expedited case schedule resolving the merits in time for the candidate qualifying deadline on February 26, 2026, Plaintiffs re-assert, in the context of this motion for preliminary injunction consolidated with the merits, the need for preliminary relief in the form of a brief four-week stay of the candidate qualifying deadline, should this case approach the February deadline.

IV. CONCLUSION

Plaintiffs respectfully request that this Court grant Plaintiffs' motion for preliminary injunction consolidating the hearing with the trial on the merits.

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