IN THE SUPREME COURT OF THE UNITED STATES

No. 24-109

STATE OF LOUISIANA, APPELLANT

v.

PHILLIP CALLAIS, ET AL.

No. 24-110

PRESS ROBINSON, ET AL., APPELLANTS

V.

PHILLIP CALLAIS, ET AL.

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

MOTION OF THE UNITED STATES FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE AND FOR ENLARGEMENT OF ARGUMENT

Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in these consolidated cases as amicus curiae; that the time allotted for oral argument be enlarged to 70 minutes; and that the time be allotted as follows: 30 minutes for appellants, 10 minutes for the United

States, and 30 minutes for appellees. Appellants have consented to this motion and appellees take no position.

This case concerns Louisiana's efforts to redraw its six congressional districts after the 2020 census. The State's original map, which contained only one majority-Black district, was preliminarily enjoined after the District Court for the Middle District of Louisiana concluded that the map likely violated Section 2 of the Voting Rights Act of 1965 (VRA), 52 U.S.C. 10301. After an unsuccessful appeal, the State enacted a remedial map that included a second majority-Black district (CD6). In drawing CD6, however, the Louisiana legislature also prioritized political goals -- namely, protecting favored incumbents. Appellees then filed suit in the District Court for the Western District of Louisiana challenging CD6 as an unconstitutional racial gerrymander. In the decision under review, the court found that race predominated in the drawing of CD6's boundaries and further determined that the State's use of race did not satisfy strict scrutiny.

In this Court, the United States has filed a brief as amicus curiae in support of neither party. Although the brief urges the Court to reiterate that a State's intentional creation of a majority-minority district does not itself establish that race predominated at the first step of the racial-gerrymandering inquiry, the brief ultimately takes no position on the district court's case-specific finding of racial predominance.

Instead, the United States argues that, even assuming the district court was correct to proceed to the second step of the inquiry, the court applied the wrong legal framework in holding that CD6 fails strict scrutiny. Specifically, the brief explains that the court failed to recognize that the State's losses in the VRA litigation gave the Louisiana legislature a strong basis in evidence to believe that it needed to draw a second majority-minority district to achieve Section 2 compliance, and that the court further erred in requiring the State to prove that CD6 as drawn would have satisfied the preconditions for VRA liability if it had been offered as an illustrative district by a Section 2 plaintiff. Instead, the court should have asked whether CD6 "substantially addresses" the likely Section 2 violation the district court in the VRA litigation had already identified. League of United Latin Am. Citizens v. Perry, 548 U.S. 399, 431 (2006) (citation omitted).

The United States has a substantial interest in this Court's resolution of the questions presented. The Department of Justice enforces Section 2 of the VRA. 52 U.S.C. 10308(d). And as this case illustrates, States may invoke VRA compliance to justify their reliance on race in districting. The United States has a significant interest in ensuring that States have "breathing room" to navigate the competing imperatives of the VRA and the Equal Protection Clause, Bethune-Hill v. Virginia State Bd. of

Elections, 580 U.S. 178, 196 (2017), especially in circumstances where courts have already found a likely Section 2 violation.

Consistent with those interests, the United States has previously presented oral argument as amicus curiae or as a party in cases involving constitutional racial-gerrymandering claims, the interpretation of VRA Section 2, or both. See, e.g., Alexander v. South Carolina State Conf. of the NAACP, 602 U.S. 1 (2024); Allen v. Milligan, 599 U.S. 1 (2023), Virginia House of Delegates v. Bethune-Hill, 587 U.S. 658 (2019); Abbott v. Perez, 585 U.S. 579 (2018); Cooper v. Harris, 581 U.S. 285 (2017); Wittman v. Personhuballah, 578 U.S. 1732 (2016); Bethune-Hill, supra; Alabama Legislative Black Caucus v. Alabama, 575 U.S. 254 (2015). The United States' participation in oral argument in this case accordingly may be of material assistance to the Court.

As noted, the United States has filed a brief in support of neither party and has sought a disposition (vacatur and remand) that neither appellants nor appellees support. Although appellants consent to the United States' participation in argument and appellees take no position, the United States has been unable to reach an agreement with the parties to cede a portion of their argument time to afford the United States ten minutes of argument. The United States therefore requests that the Court expand the argument by ten minutes, as it did in another redistricting case where, as here, the United States had filed a brief in support of neither party and multiple sets of appellants planned to seek

argument time. See Alabama Legislative Black Caucus, supra (No. 13-895).

Respectfully submitted.

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JANUARY 2025