

**IN THE UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF ALABAMA  
 SOUTHERN DIVISION**

BOBBY SINGLETON, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	Civil Action No.:
v.	)	2:21-cv-1291-AMM
	)	
WES ALLEN, <i>in his</i>	)	THREE-JUDGE COURT
<i>official capacity as Alabama</i>	)	
<i>Secretary of State, et al.</i> ,	)	
	)	
Defendants.	)	

**DEFENDANTS’ OPPOSITION TO PLAINTIFFS’ MOTION  
 FOR AN ORDER TO SHOW CAUSE (DOC. 346)**

No show cause order should issue. Plaintiffs’ motion—which requests this Court enter an order requiring Secretary of State Allen to show cause why he should not be held in contempt for asking an appellate court for relief—is frivolous. Plaintiffs’ motion is premised on the Secretary seeking appellate relief from the U.S. Supreme Court, but the Secretary has always maintained his right to appeal. The language Plaintiffs rely on concerns representations the Secretary made about not challenging the *duration* of this Court’s injunction (i.e., that it runs until 2030), not its existence. Secretary Allen unambiguously reserved his right to appeal to challenge the imposition of the injunction, separate and apart from how long the injunction should remain in place *if* the Secretary were not to prevail in having it vacated. Seeking relief from an appellate court is not contemptuous; it is routine.

Nor have Defendants taken any other action that could warrant such an order. To the degree Plaintiffs’ motion is premised on the Legislative Special Session called by the Governor, Defendants note that (a) the Secretary’s actions did not involve conducting elections in violation of this Court’s injunction; (b) the Secretary’s actions were limited to attesting the Governor’s

proclamation; (c) the Special Legislative Session has yet to pass anything; and (d) the only bills to advance in the Special Legislative Session concern scheduling special primary elections *in the event that* this Court’s injunction is lifted. In sum, Defendants continue to abide by their prior representations to this Court and this Court’s injunctions and orders. Plaintiffs’ motion for a show cause order should be denied.

1. Plaintiffs’ motion begins by stating that it is quoting from a joint status report, but the quotations are abridged from this Court’s opinion. Doc. 346 at 1-2. The referenced joint status report is clear that Secretary Allen reserved his right to appeal:

Pursuant to the Court’s May 28, 2025 Order (*Milligan* Doc. 494; *Caster* Doc. 405; *Singleton* Doc. 324), **and subject to and without waiving any rights to appeal the May 8, 2025 Order**, the Parties hereby provide the following Joint Status Report:

1. Defendants represented to the Court and continue to represent to the Court that the Special Master Plan 3 (the “SM Plan”) will remain in place for the 2026, 2028 and 2030 congressional elections (as well as all special or other congressional elections prior to the adoption of a new congressional district map based on the 2030 census data), **subject to Defendants’ rights on appeal**. See *Milligan*, Doc. 493; *Caster* Doc. 404; *Singleton* Doc. 327.

2. Based on those representations, **and while reserving all other appellate rights**, Defendants further represent here that they will not challenge on appeal **the duration** of an injunction that requires the Secretary of State to use the SM Plan for the 2026, 2028, and 20230 congressional elections (as well as all special or other congressional elections prior to the adoption of a new congressional district map based on the 2030 census data)....

Doc. 331 at 2 (Parties Joint Status Report, dated June 9, 2025) (emphasis added).

2. That joint status report referred to an earlier representation from Secretary Allen and his co-Defendants. That statement, doc. 327, was as follows:

1. In anticipation of the Court’s status conference later today, and in the interest of transparency and efficient, the Chairs of the Permanent Legislative Committee on Reapportionment, Sen. Steve Livingston and Rep. Chris Pringle (collectively, the “Chairs”), and Alabama Secretary of State Wes Allen (the

“Secretary”) (collectively, the “Defendants”) wish to provide the Court and the Parties with an update on their position concerning remedial proceedings.

2. The Defendants understand that the Court anticipates remedial proceedings to: (a) establish a final remedial map for use in Alabama congressional elections for the rest of the decennial cycle; and (b) consider whether Alabama should be subjected to federal preclearance for future congressional districting under Section 3(c) of the Voting Rights Act. (*See, e.g., Milligan* Doc. 490 at 523.)

3. The Chairs, through their counsel and after coordination with respective leadership for the Alabama Legislature, state that both they and the leadership for both chambers of the Alabama Legislature will voluntarily forgo any rights that they may have to attempt to draw an additional congressional district map as part of remedial proceedings in this case.

4. ***While Defendants maintain their arguments about the necessity and constitutionality of any remedial plan***, Defendants do not plan to submit any further remedial plan so long as the Special Master’s Remedial Plan 3 (the “Special Master Plan”) remains in place, thus maintaining the status quo ***pending any appeal***.

5. Further, the Chairs, through their counsel and after coordination with respective leadership for the Alabama Legislature, represent in good faith that neither they nor leadership for either chamber of the Alabama Legislature have any intention of passing any additional congressional district maps before receiving 2030 census data.

6. ***These statements are provided subject to the Defendants’ rights to appeal, which Defendants explicitly reserve. Except as explicitly stated, nothing in this notice is intended to constitute a waiver of any right or argument.***

Doc. 327 at 2-3 (Statement of Defendants Concerning Remedial Proceedings, dated May 28, 2025) (emphasis added).

3. Not only was Secretary Allen explicit in reserving his right to appeal, but this Court well understood that. Turning to the portion of this Court’s opinion cited by the Plaintiffs, *see* doc. 346 at 1-2 (citing doc. 338 at 7-9), this Court referred to the Defendants’ May statement and to the June joint status report. The language this Court quoted recognized that the representation that the Special Master Plan would remain in place was “***subject to [the State’s] rights on appeal***” and that what the Secretary represented he would “not challenge on appeal” was “the duration of an

injunction.” Doc. 338 at 7-8 (quoting *Milligan* doc. 497, which is the June joint status report) (emphasis added; alteration by the Court).

4. Of course, Plaintiffs are correct that this Court permanently enjoined Secretary Allen “from conducting any elections according to Alabama’s 2023 Plan” and to affirmatively use that plan “until Alabama enacts a new congressional district plan based on the 2030 census data.” Doc. 338 at 1-2. That injunction is why the Secretary appealed and why he seeks to have the injunction lawfully vacated or stayed.

5. By Plaintiffs’ logic, the Secretary violated his representations nearly a year ago simply by noticing his appeal since the “purpose” (doc. 346 at 3) of the appeal is ultimately to use the 2023 Plan before the 2030 redistricting cycle. But the Secretary expressly *preserved* his right to challenge the legal basis for the injunction on appeal, and he has continued to abide by his representations. Plaintiffs do not explain how filing a motion to expedite, vacate, or stay the injunction constitutes willful and knowing repudiation of a representation not to challenge the injunction on the basis of its duration.

6. The Secretary’s actions after the Supreme Court issued its decision last week in *Louisiana v. Callais* are all in accord with his prior representations. As Plaintiffs note, the Secretary has asked the Supreme Court to expedite consideration of his appeals (which have been pending since August) and to vacate and remand this Court’s orders in light of *Callais*. The Secretary has also asked this Court to stay the injunctions for the same reason. The Secretary’s argument is not that the injunctions should be vacated because of their duration but because *Callais* confirms that the injunctions are improper. The Secretary has long sought appellate relief on that basis; he now just seeks that relief faster because *Callais* has clarified the legal standard.

7. While Plaintiffs' motion requesting a show cause order is limited to the Secretary's filings in the United States Supreme Court, they have also filed a motion seeking an "emergency status conference" because the Secretary "attested to a proclamation by the Governor calling for a special session." Doc. 344 at 2. Attesting to Governor's Proclamations is one of the Secretary's many duties. *See* Ala. Code § 36-14-1(2) ("It is the duty of the Secretary of State: ... (2) To attest commissions and all other public documents from the executive of the state and, when necessary, to affix the seal of the state thereto and to certify the same in his or her official capacity.").

8. Nothing about the Special Session indicates that the Secretary is not abiding by his prior representations or by this Court's injunctions. Rather, after *Callais* was issued, the Governor called a Special Session of the Legislature to convene this week to consider what would happen *in the event that* the injunctions are lifted or stayed by the courts—*i.e.*, "to consider legislation to provide for a special primary election for electing members of the United States House of Representatives ... in districts whose boundary lines are altered by a court issuing a judgment, vacating an injunction, or otherwise ordering or permitting an alteration in the boundaries of such districts."<sup>1</sup> In short, the Governor convened the Legislature to consider changes to the election schedule *in case the courts allow* the State to use Legislatively-adopted maps that are currently subject to injunctions.

9. At the time the Secretary is filing this response, only two bills have been advanced by either Chamber of the Legislature: SB1, which provides for special primary elections in Senate Districts 25 and 26 using the Legislature's 2021 Senate District Map under certain circumstances; and, HB1, which provides for special primary elections in Congressional Districts 1, 2, 6, and 7

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<sup>1</sup> Proclamation by Governor Kay Ivey (May 1, 2026), <https://governor.alabama.gov/newsroom/2026/05/2026-first-special-session-proclamation/>.

using the Legislature’s 2023 Congressional District Map under certain circumstances. The “circumstances” in each are the same: they are contingent on (a) *the injunctions currently in effect being lifted*; and (b) the Secretary of State being able to certify election results by August 26, 2026. *See* HB1 and SB1, as passed by their originating chamber, attached as Exhibits 1 and 2. As of this time, there is no indication that the Legislature is likely to pass anything else.<sup>2</sup>

10. Again, the Secretary’s motion in the Supreme Court requesting expedited review and his motion in this Court requesting a stay have suggested only what the State has asserted all along: that the federal courts should allow the State to use the 2023 Congressional District Map drawn by the Legislature. The Secretary did not waive his right to seek such relief, and Plaintiffs could not reasonably think he had.

For these reasons, Plaintiffs’ motion is due to be denied.

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<sup>2</sup> To be sure, two Congressional maps have been introduced during the Special Session—by the Plaintiffs: Senator Smitherman introduced SB2 and Senator Singleton introduced SB3. As of this filing, these bills remain pending committee action in the Senate.

Dated: May 7, 2026

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Respectfully submitted,

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*Counsel for Secretary of State Wes Allen*

### **CERTIFICATE OF SERVICE**

I certify that I electronically filed this document using the Court's CM/ECF system on May 7, 2026, which will serve all counsel of record.

s/ A. Barrett Bowdre  
A. Barrett Bowdre  
*Counsel for Secretary Allen*

# EXHIBIT 1

HB1

**HB1 INTRODUCED**



1 HB1  
2 JP3T1FF-1  
3 By Representative Pringle  
4 RFD: Ways and Means General Fund  
5 First Read: 04-May-26



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SYNOPSIS:

Under existing law, the 2026 primary election for offices other than municipal offices is set to occur in May on the Tuesday preceding Memorial Day.

Also under existing law, a special primary election may be called by the Governor or as provided by law.

This bill would authorize a new special primary election to be held if: (i) a federal court issues an order or vacates an injunction thereby allowing the Legislature to use a previously enacted legislative Congressional redistricting plan in the 2026 General Election, and (ii) the court ruling is made at a time that is too late to be accommodated during the normal primary election schedule but would allow a new special primary election to be held in a manner that does not affect the 2026 General Election date set in November of 2026.

This bill would require the Governor to call a special primary election for the affected Congressional districts if the special primary election may be in a specified time frame without violating certain laws and would authorize the Governor to modify certain deadlines specified in state law with regard to elections.



**HB1 INTRODUCED**

29                   This bill would provide that the candidate who  
30 receives the highest vote count in the special primary  
31 election is considered the party nominee for purposes  
32 of the general election and would eliminate the need  
33 for a primary runoff election.

34                   This bill would specify that the special primary  
35 election would only affect those Congressional  
36 districts impacted.

37                   This bill would provide further for the  
38 qualification of affected candidates.

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A BILL

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TO BE ENTITLED

43

AN ACT

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45                   Relating to primary elections; to authorize a new  
46 special primary election for Congressional districts affected  
47 by a federal court ruling under certain circumstances; to  
48 require the Governor to call a special primary election for  
49 affected Congressional districts under certain conditions and  
50 to set an election calendar; and to provide further for the  
51 qualification of affected candidates.

52 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

53                   Section 1. (a) It is the intent of the Legislature that  
54 a special primary election, as contemplated in this section,  
55 be held only in the event a federal court issues or vacates an  
56 order affecting the boundaries of Congressional districts in a

**HB1 INTRODUCED**

57 time frame that allows for a supplemental special primary  
58 election during the 2026 General Election cycle.

59 (b) In the event: (i) a federal court, by issuing a  
60 judgment or by vacating an injunction, permits the  
61 reinstatement of the last legislatively enacted Congressional  
62 districts, as enacted by Act 2023-563 of the 2023 Second  
63 Special Session, to be used in the 2026 General Election, and  
64 (ii) the court ruling is made at a time too late to be  
65 accommodated during the normal 2026 primary election schedule  
66 held or to be held in accordance with Chapter 13 of Title 17,  
67 Code of Alabama 1975, the state shall hold a new special  
68 primary election for the affected Congressional Districts in  
69 accordance with this section, so long as certification of the  
70 special primary election can be completed by August 26, 2026.

71 (c) (1) Upon a federal court making a ruling described  
72 in subsection (b), the Governor shall issue a proclamation  
73 calling for a special primary election to be held as soon as  
74 possible for the affected Congressional districts, consistent  
75 with subsection (b). Notwithstanding any state law to the  
76 contrary, the Governor shall set a calendar for the election  
77 as required to effectuate the purposes of this section,  
78 provided the dates specified in the election calendar do not  
79 violate federal law. A special primary election held pursuant  
80 to this section shall be required for the affected  
81 Congressional districts regardless of whether a regular  
82 primary election was held for the affected Congressional  
83 districts using the previous boundary lines.

84 (2) Notwithstanding any state law to the contrary, the

**HB1 INTRODUCED**

85 candidate who receives the greatest number of votes at the  
86 special primary election shall be deemed the winner and party  
87 nominee of that primary election, and no primary runoff  
88 election shall be held.

89 (d) No candidate shall be deemed the party nominee of a  
90 political party for an affected Congressional office based  
91 solely on the results of the regular primary election if a new  
92 special primary election is held pursuant to this section. Any  
93 official certification of results of the regular primary  
94 election for an affected Congressional office is void for  
95 purposes of determining the party nominee once a new special  
96 primary election is required under this section. However, a  
97 candidate who was eligible and qualified for the regular  
98 primary election for an affected Congressional district office  
99 shall remain eligible to appear on the ballot for the new  
100 special primary election, subject to laws and party rules not  
101 inconsistent with Chapter 13 of Title 17, Code of Alabama  
102 1975. The certification of a nominee for an affected office  
103 shall be based solely on the results of the new special  
104 primary election conducted under this section.

105 (e) (1) Nothing in this section prohibits a party from  
106 choosing its candidates by any means allowed by law other than  
107 by primary election.

108 (2) Nothing in this section shall alter the timing of  
109 regular primary elections when no change in district  
110 boundaries has occurred as described in subsection (b).

111 (3) Nothing in this section shall be construed to alter  
112 the date scheduled for the 2026 General Election.



**HB1 INTRODUCED**

113           Section 2. This act shall become effective immediately.

# EXHIBIT 2

SB1

**SB1 INTRODUCED**



1 SB1

2 CX8G5JQ-1

3 By Senator Elliott

4 RFD: Fiscal Responsibility and Economic Development

5 First Read: 04-May-26



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SYNOPSIS:

Under existing law, the 2026 primary election for offices other than municipal offices is set to occur in May on the Tuesday preceding Memorial Day.

Also under existing law, a special primary election may be called by the Governor or as provided by law.

This bill would authorize a new special primary election to be held if: (i) a federal court issues an order or vacates an injunction thereby allowing the Legislature to use a previously enacted legislative State Senate redistricting plan in the 2026 General Election, and (ii) the court ruling is made at a time that is too late to be accommodated during the normal primary election schedule but would allow a new special primary election to be held in a manner that does not affect the 2026 General Election date set in November of 2026.

This bill would require the Governor to call a special primary election for the affected State Senate districts if the special primary election may be in a specified time frame without violating certain laws and would authorize the Governor to modify certain deadlines specified in state law with regard to elections.



**SB1 INTRODUCED**

29                   This bill would provide that the candidate who  
30 receives the highest vote count in the special primary  
31 election is considered the party nominee for purposes  
32 of the general election and would eliminate the need  
33 for a primary runoff election.

34                   This bill would specify that the special primary  
35 election would only affect those State Senate districts  
36 impacted.

37                   This bill would provide further for the  
38 qualification of affected candidates.

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A BILL

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TO BE ENTITLED

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AN ACT

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45                   Relating to primary elections; to authorize a new  
46 special primary election for State Senate districts affected  
47 by a federal court ruling under certain circumstances; to  
48 require the Governor to call a special primary election for  
49 affected State Senate districts under certain conditions and  
50 to set an election calendar; and to provide further for the  
51 qualification of affected candidates.

52 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

53                   Section 1. (a) It is the intent of the Legislature that  
54 a special primary election, as contemplated in this section,  
55 be held only in the event a federal court issues or vacates an  
56 order affecting the boundaries of State Senate districts in a

**SB1 INTRODUCED**

57 time frame that allows for a supplemental special primary  
58 election during the 2026 General Election cycle.

59 (b) In the event: (i) a federal court, by issuing a  
60 judgment or by vacating an injunction, permits the  
61 reinstatement of the last legislatively enacted State Senate  
62 districts, as enacted by Act 2021-558 of the 2021 Second  
63 Special Session, to be used in the 2026 General Election, and  
64 (ii) the court ruling is made at a time too late to be  
65 accommodated during the normal 2026 primary election schedule  
66 held or to be held in accordance with Chapter 13 of Title 17,  
67 Code of Alabama 1975, the state shall hold a new special  
68 primary election for the affected State Senate Districts in  
69 accordance with this section, so long as certification of the  
70 special primary election can be completed by August 26, 2026.

71 (c) (1) Upon a federal court making a ruling described  
72 in subsection (b), the Governor shall issue a proclamation  
73 calling for a special primary election to be held as soon as  
74 possible for the affected State Senate districts, consistent  
75 with subsection (b). Notwithstanding any state law to the  
76 contrary, the Governor shall set a calendar for the election  
77 as required to effectuate the purposes of this section,  
78 provided the dates specified in the election calendar do not  
79 violate federal law. A special primary election held pursuant  
80 to this section shall be required for the affected State  
81 Senate districts regardless of whether a regular primary  
82 election was held for the affected State Senate districts  
83 using the previous boundary lines.

84 (2) Notwithstanding any state law to the contrary, the

**SB1 INTRODUCED**

85 candidate who receives the greatest number of votes at the  
86 special primary election shall be deemed the winner and party  
87 nominee of that primary election, and no primary runoff  
88 election shall be held.

89 (d) No candidate shall be deemed the party nominee of a  
90 political party for an affected State Senate office based  
91 solely on the results of the regular primary election if a new  
92 special primary election is held pursuant to this section. Any  
93 official certification of results of the regular primary  
94 election for an affected State Senate office is void for  
95 purposes of determining the party nominee once a new special  
96 primary election is required under this section. However, a  
97 candidate who was eligible and qualified for the regular  
98 primary election for an affected State Senate district office  
99 shall remain eligible to appear on the ballot for the new  
100 special primary election, subject to laws and party rules not  
101 inconsistent with Chapter 13 of Title 17, Code of Alabama  
102 1975. The certification of a nominee for an affected office  
103 shall be based solely on the results of the new special  
104 primary election conducted under this section.

105 (e) (1) Notwithstanding any law to the contrary, a  
106 political party may choose its candidates by any means allowed  
107 by law other than by primary election so long as the party  
108 certifies its nominees to the Secretary of State no later than  
109 August 26, 2026.

110 (2) Nothing in this section shall alter the timing of  
111 regular primary elections when no change in district  
112 boundaries has occurred as described in subsection (b).



**SB1 INTRODUCED**

113           (3) Nothing in this section shall be construed to alter  
114 the date scheduled for the 2026 General Election.

115           Section 2. This act shall become effective immediately.