

**UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

THE STATE OF ALABAMA; ROBERT ADERHOLT, Representative for Alabama’s 4th Congressional District, in his official and individual capacities; WILLIAM GREEN; and CAMARAN WILLIAMS,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF COMMERCE; GINA RAIMONDO, in her official capacity as Secretary of Commerce; UNITED STATES BUREAU OF THE CENSUS, an agency within the United States Department of Commerce; and RON JARMIN, in his official capacity as Acting Director of the U.S. Census Bureau,

Defendants.

CIVIL ACTION NO. 3:21-CV-211-RAH-ECM-KCN

**PLAINTIFFS’ NOTICE OF SUPPLEMENTAL AUTHORITY**

Earlier today, the U.S. Court of Appeals for the Sixth Circuit issued its decision in Ohio’s challenge to Defendants’ delay in delivering the tabulations of population to the States pursuant to 13 U.S.C. § 141. *See Ohio v. Raimondo*, No. 21-3294 (6th Cir. May 18, 2021). As Defendants noted in their opposition to Plaintiffs’ motion for preliminary injunction in this case, the Ohio district court had dismissed Ohio’s challenge for lack of standing. *See Defs’ Opp.*, Doc. 41 at 30, 36, 38, 40, 42, 43, 75.

The Sixth Circuit reversed that decision and held that Ohio has standing to challenge Defendants’ delay. The court made three primary holdings. First, it held that “Ohio suffered (and continues to suffer) an informational injury because the Secretary failed to deliver Ohio’s data as

the Census Act requires.” Slip op. at 1-2 (citations omitted). Second, it held that Ohio’s “injury is traceable to the Secretary because Ohio’s informational injury is the direct result of the Secretary’s failure to produce the required data.” *Id.* at 2 (citations omitted). “And third,” the court held that “Ohio’s injury is redressable” because “Ohio currently has no assurance that the federal government will live up to its most recent representation” to provide the redistricting data in a “legacy format” by August 16, 2021, “[s]o at the very least, monitoring by the district court could move the proceedings along and provide Ohio with some redress.” *Id.* The court thus remanded the case to the district court “to determine what remedy (if any) is appropriate.” *Id.*

The supplemental authority is relevant to this case because Alabama suffers the same harms, traceable to the same Defendants, which can be redressed in part in the same way. The Sixth Circuit’s decision is attached.

Dated: May 18, 2021

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

This is to certify that on the 18th day of May, 2021, a copy of the foregoing has been electronically filed with the Clerk of the Court using the CM/ECF system, which will electronically send a copy of the same to all counsel of record electronically registered with the Clerk.

s/ Edmund G. LaCour Jr.  
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NOT RECOMMENDED FOR PUBLICATION

File Name: 21a0245n.06

Case No. 21-3294

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

**FILED**  
May 18, 2021  
DEBORAH S. HUNT, Clerk

STATE OF OHIO, )  
 )  
Plaintiff-Appellant, )  
 )  
v. )  
 )  
GINA RAIMONDO, in her official capacity as )  
Secretary of Commerce; DEPARTMENT OF )  
COMMERCE; RON S. JARMIN, Acting )  
Director, U.S. Census Bureau; U.S. CENSUS )  
BUREAU, )  
 )  
Defendants-Appellees. )

ON APPEAL FROM THE UNITED  
STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF  
OHIO

BEFORE: DAUGHTREY, McKEAGUE, and THAPAR, Circuit Judges.

PER CURIAM. The Census Act requires the Secretary of Commerce to deliver population data to the states by April 1, 2021. 13 U.S.C. § 141. Under Ohio’s Constitution, Ohio uses that data to redraw its state and federal voting districts. The Secretary failed to meet the statutory deadline, so Ohio sued. It asked the district court to order the data released at “the earliest possible date.” R. 1, Pg. ID 16. The district court held that Ohio lacked standing and dismissed the case. We conclude that Ohio has standing and reverse and remand.

Ohio meets all three requirements for standing: (1) injury in fact, (2) traceability, and (3) redressability. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992). First, Ohio suffered (and continues to suffer) an informational injury because the Secretary failed to deliver Ohio’s data as

Case No. 21-3294, *Ohio v. Raimondo, et al.*

the Census Act requires. *Fed. Election Comm'n v. Akins*, 524 U.S. 11, 21 (1998); *Pub. Citizen v. U.S. Dep't of Justice*, 491 U.S. 440, 448–50 (1989). Second, the injury is traceable to the Secretary because Ohio's informational injury is the direct result of the Secretary's failure to produce the required data. *Am. Canoe Ass'n, Inc. v. City of Louisa Water & Sewer Comm'n*, 389 F.3d 536, 543 (6th Cir. 2004). And third, Ohio's injury is redressable. The Census Bureau represents that it can deliver Ohio's data in a "legacy format" by August 16, 2021—well before the September 30, 2021, projection that the agency previously identified. Whitehorne Decl., Appellate R. 33, p. 2. Although Ohio would prefer to get its data sooner, Ohio agrees that an August 16 delivery would allow it to complete its redistricting process. But Ohio currently has no assurance that the federal government will live up to its most recent representation. So at the very least, monitoring by the district court could move the proceedings along and provide Ohio with some redress.

For these reasons, we conclude that Ohio has standing and remand the case to the district court. With only three months until the proffered resolution date, the district court should treat this matter expediently and hold a hearing to determine what remedy (if any) is appropriate.