"Enforcing *Calais*: Implementing the Supreme Court's Command Against Racial Gerrymandering"

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Statement for the Record

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Chairman Schmitt, Ranking Member Welch, and members of the Subcommittee, thank you for the opportunity to testify today on enforcing the Supreme Court's decision in *Louisiana v. Callais*.

Louisiana v. Callais, decided last month, held that Louisiana's congressional map, which added a second majority-Black district, was an unconstitutional racial gerrymander.[1] The holding rests on clear constitutional principles. As Justice Alito explained in his opinion for the Court, Louisiana's SB8, which created the congressional map in question, "triggered strict scrutiny because the State's underlying goal was racial."[2] Given that strict scrutiny applied, Louisiana had to demonstrate that its use of race was "narrowly tailored to further a compelling governmental interest,"[3] and no such interest existed. Properly construed, Section 2 itself targets intentional racial discrimination; it does not license racial bean-counting to create majority-minority districts.[4]

This command is not confined to Louisiana or to any single party or region. It binds every state legislature, redistricting commission, and court in the country. Any map in which race was intentionally used as a factor is presumptively unconstitutional.

California and Illinois are cases in point. In Illinois, the Democratic-controlled General Assembly produced a congressional map widely recognized as one of the most bizarre gerrymanders in the nation.[5] If this gerrymander were purely partisan, there would be no federal constitutional question.[6] But, as explained in the recently filed lawsuit *Ives v. Pritzker,*[7] Illinois law requires line drawers to use racial demographic data to preserve clusters of minority voters under the guise of Voting Rights Act compliance.[8] Those districts would thus fail strict scrutiny under *Callais*.

California's new bizarre gerrymander also fails the *Callais* test. Its new map, adopted after the passage of Proposition 50, is another bizarre partisan gerrymander. Perhaps its most bizarre district is the new 2nd Congressional district, which manages to include Sausalito (just across the Golden Gate Bridge from San Francisco) with Modoc County in the far northeastern corner of the state. Now, if anyone truly believes that it's reasonable for the residents of Modoc County to be in the same Congressional district as the residents of Sausalito, I might just try and sell you the Golden Gate Bridge. But, as we discussed, partisan gerrymanders are constitutional, even if bizarre.

But California's line-drawer, too, impermissibly used racial factors to draw their lines. The map drafter, a man named Paul Mitchell, admitted as much publicly on multiple occasions. In a presentation, he stated that "the number one thing [he] first started thinking about" when drawing the map was "drawing a replacement Latino majority/minority district in the middle of Los

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1 *Louisiana v. Callais*, No. 24-109 (U.S. Apr. 29, 2026).

2 *Id.*, slip op. at 33.

3 *Id.*

4 *See id*. at 23.

5 *See, e.g.*, NBC Chicago Staff and The Associated Press, *What is gerrymandering, and what do Illinois congressional districts look like?*, NBC Chicago (Aug. 5. 2025 at 11:45 am) (citing the Princeton Gerrymandering Project's having given Illinois Congressional maps an "F" grade in 2021), available at https://www.nbcchicago.com/news/local/chicago-politics/what-is-gerrymandering-what-do-illinois-congressional-districts-look-like-what-to-know/3804655/.

6 *See Rucho v. Common Cause*, 588 U.S. 684 (2019).

7 *See* Complaint at 5-8, Ives v. Pritzker, No. 26-cv-03158 (C.D. Ill. May 8, 2026).

8 *See id.*

Angeles."[9] On X, Mitchell boasted that his new map would "increase Latino voting power," "increase Asian-American voting power," and "add[] one more Latino influence district."[10] These motivations are impermissible under our Constitution, and *Callais* ensures that map-drawers can no longer use the Voting Rights Act as an excuse for this odious racial bean-counting.

States whose maps rest on these foundations have a clear duty. They should acknowledge that the affected districts are unconstitutional and redraw them using race-neutral criteria: compactness, contiguity, respect for political subdivisions, or any other legitimate, non-racial factors. The fact that we are well into the 2026 election cycle provides no blanket exemption from this constitutional obligation. Special sessions can be convened, primary elections can be delayed, and candidate filing deadlines can be adjusted where necessary. In short: unless it is simply impossible to implement constitutional maps in time for November's elections, state governments should do everything in their power to pass a map for this year's election that doesn't overtly discriminate on the basis of race.

I welcome any questions.

9 *See* United States' Complaint in Intervention, Tangipa v. Newsom, No. 25-cv-10616 (C.D. Cal. Nov. 13, 2025), Dkt. No. 28-2, at 9-10.

10 *See id.* at 10.