UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

VERONICA CURTIS-RICHIE, *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	**Case No.: 5:25-cv-557-LCB**
	)	
MADISON COUNTY COMMISSION, *et al.*,	)	
	)	
Defendants.	)	

ORDER

Plaintiffs Veronica Curtis-Richie, Angela Curry, and the Alabama State Conference of the National Association for the Advancement of Colored People ("NAACP") challenge the most recently enacted districting plan for electing the Madison County Commission, bringing a single claim under Section 2 of the Voting Rights Act of 1965 against the Madison County Commission, its seven members,[1] and Madison County Probate Judge Frank Barger. (Doc. 40). The plaintiffs allege that the Madison County Commission's election plan, enacted in 2022, "fails to provide Black voters with an equal opportunity to participate in the political process and elect their candidates of choice to the Commission." *Id.* at 3. They therefore ask the Court to enjoin the Enacted Plan and order the Madison County Commission to

[1] These defendants include Chairman Mac McCutcheon and Commissioners Tom Brandon, Violet Edwards, Steve Haraway, Craig Hill, Phil Vandiver, and Phil Riddick.

cure its "unlawful vote dilution" by drawing a new, "remedial" plan that includes a second majority-black district. *Id.* at 5.

The defendants have moved to dismiss the amended complaint under Federal Rule of Civil Procedure 12(b)(6). (Doc. 38). Alternatively, if the suit is allowed to proceed, the defendants ask the Court to dismiss the individual commissioners and the probate judge as "duplicative" of the claims against the Commission itself. *Id.* at 21. For the reasons below, the Court **GRANTS in part** and **DENIES in part** the defendants' motion to dismiss. (Doc. 38). The defendants' motion to dismiss the members of the commission is **GRANTED**; in all other respects, the motion is **DENIED**.

I. BACKGROUND

The facts that follow are based on the allegations set forth in the plaintiffs' amended complaint.[2] The Madison County Commission is the governing body of Madison County, Alabama, and is responsible for administering the county's elections. (Doc. 40 at 8). The Commission consists of six commissioners elected from single-member districts and one chairperson elected at large, whose legislative role is "nearly identical" to that of the other commissioners except that he presides

[2] When deciding a motion to dismiss, the Court must "take the factual allegations in the complaint as true and construe them in the light most favorable to the plaintiff[]." *Edwards v. Prime, Inc.*, 602 F.3d 1276, 1291 (11th Cir. 2010).

at Commission meetings and votes on matters only in the case of a tie. *Id.* The plaintiffs refer to this arrangement as "the 6-1 plan." *Id.* at 3.

The Commission's 6-1 structure originated with a 1984 lawsuit in which black voters in Madison County challenged the Commission's system of at-large voting to elect its commissioners. *Id.* at 10; *see Grayson v. Madison Cnty.*, No. 5:84-CV-5770-RSV (N.D. Ala. Oct. 31, 1984). In 1988, the parties agreed to a consent order that devised the Commission's current 6-1 plan, a "mixed" structure of six commissioners and one chairperson. (Doc. 40 at 10). In 2006, the Alabama Legislature passed Act 2006-252, codified at Alabama Code section 11-80-12, which formalized the consent order's 6-1 structure under Alabama law. *Id.* at 11.

Alabama Code section 11-3-1.1(a) allows a county commission with single-member districts to alter the boundaries of its districts after each ten-year census. Thus, after the 2020 U.S. Census, the Commission took the opportunity to revise its districting plan to account for population changes since the 2010 U.S. Census. *See id.* at 11–12. On January 19, 2022, the Madison County Commission approved the districting plan at issue in this lawsuit (the "Enacted Plan"). *Id.* at 3. The Enacted Plan updated each district's borders to account for population changes, but it preserved the Commission's longstanding 6-1 structure. *Id.* at 12.

In the time since the parties agreed to the consent order, Madison County's districting plan has contained only one majority-black district: District Six. *Id.* at 10.

Plaintiffs Veronica Curtis-Richie and Angela Curry are both black registered voters in the Enacted Plan's District Six. *Id.* at 6. On April 14, 2025, Curtis-Richie, Curry, and the Alabama State Conference of the NAACP brought this lawsuit challenging the Enacted Plan, and later amended their complaint.[3] (Docs. 1 & 40).

The plaintiffs bring only one claim: the Commission's Enacted Plan violates Section 2 of the Voting Rights Act of 1965 by abridging the voting rights of black voters in Madison County. (Doc. 40 at 27–29). The plaintiffs ask that the Court declare the 6-1 plan, including the Enacted Plan and at-large chairperson, to be illegal; permanently enjoin the Commission from holding elections under the Enacted Plan; take action necessary to order a Voting Rights Act-compliant plan; order a reasonable deadline for the Commission to adopt a lawful redistricting plan that includes either two majority-black districts or two districts that otherwise provide black voters in Madison County with an opportunity to elect the candidates of their choice; award the plaintiffs' costs, expenses, expert fees, and all other reasonable attorneys' fees pursuant to 52 U.S.C. § 10310(e) and 42 U.S.C. § 1988; and retain jurisdiction until the defendants have complied with all orders. *Id.* at 29–30.

[3]The plaintiffs filed an amended complaint on July 3, which is docketed as Doc. 33. However, this amended complaint erroneously omitted an exhibit, the consent order from the 1984 case, *Grayson v. Madison County*, No. 5:84-CV-5770-RSV, which addressed Madison County's 6-1 districting plan. The plaintiffs later filed a corrected amended complaint with the exhibit attached, which is now the operative complaint. (Doc. 40).

On July 17, the defendants moved to dismiss the amended complaint under Rule 12(b)(6) for failure to state a claim. (Doc. 38).

II. LEGAL STANDARD

Federal Rule of Civil Procedure 8 establishes the general standard for pleading civil claims in federal court. *Randall v. Scott*, 610 F.3d 701, 708 (11th Cir. 2010). Under Rule 8(a)(2), a complaint must contain a "short and plaint statement of the claim showing that the pleader is entitled to relief." FED. R. CIV. P. 8(a)(2). While "detailed factual allegations" are not necessary, a complaint with only "labels and conclusions" or a "formulaic recitation of the elements of a cause of action will not do." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

Federal Rule of Civil Procedure 12(b)(6) provides that a party may move to dismiss a complaint that fails "to state a claim upon which relief can be granted." To survive a motion to dismiss under Rule 12(b)(6), a complaint must contain sufficient facts, accepted as true, to state a facially plausible claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A claim is facially plausible when the facts raise "'a reasonable expectation that discovery will reveal evidence' of the defendant's liability." *Miyahira v. Vitacost.com, Inc.*, 715 F.3d 1257, 1265 (11th Cir. 2013) (quoting *Twombly*, 550 U.S. at 556).

When deciding a motion to dismiss for failure to state a claim, courts must "take the factual allegations" in the complaint as true and "construe them in the light

most favorable to the plaintiff[].” *Edwards v. Prime, Inc.*, 602 F.3d 1276, 1291 (11th Cir. 2010).

A district court considering a motion to dismiss must generally limit itself “to the pleadings and any exhibits attached to it.” *Baker v. City of Madison, Ala.*, 67 F.4th 1268, 1276 (11th Cir. 2023). There are two exceptions to this rule: “(1) the incorporation-by-reference doctrine and (2) judicial notice.” *Id.* A court may take judicial notice of a fact “not subject to reasonable dispute” if the fact “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” FED. R. EVID. 201(b)(2).

III. DISCUSSION

The defendants raise five arguments for dismissing the amended complaint. First, they contend the plaintiffs’ challenge to the Commission’s at-large seat is an impermissible collateral attack on the *Grayson* consent order. (Doc. 38 at 6–8). Second, they contend Section 2 does not allow federal courts to modify the size of an elected governing body such as the Commission. *Id.* at 8–10. Third, they contend that the doctrine of laches bars the plaintiffs’ claim. *Id.* at 10–12. Fourth, they contend that the plaintiffs fail to state a plausible claim under Section 2. *Id.* at 13–17. Fifth, they contend that Section 2 is not privately enforceable. *Id.* at 18–21.

Alternatively, if the amended complaint survives, the defendants ask the Court to dismiss the named individual defendants as redundant with the Commission. *Id.* at 21–22.

In response, the plaintiffs argue that the Court should allow their Section 2 claim to proceed against all the defendants, because, they contend, all of the defendants' arguments in support of dismissal are meritless.

The plaintiffs are correct that none of the defendants' arguments warrant outright dismissal. Three of those arguments fail on the merits: laches does not bar the plaintiffs' Section 2 claim, the plaintiffs plausibly state a Section 2 claim, and Section 2 is privately enforceable. The defendants' two remaining arguments—those concerning the *Grayson* consent order and the size of the Commission—fail for the separate reason that it would be premature to decide them on a motion to dismiss, because at least one of the plaintiffs' proposed remedies would not require changing the size of the Commission.

But even though the amended complaint survives dismissal, seven defendants do not. The Commission's individual members, who have been sued in their official capacities, may be dismissed as redundant of the Commission itself. The probate judge, however, performs unique functions under Alabama law, and the claims against him may proceed.

A. The plaintiffs successfully allege a plausible Section 2 claim against the Commission.

The Court denies the defendants' motion to dismiss the plaintiffs' Section 2 claim against the Commission for two reasons: the matter of remedies is premature at this stage, and the remaining arguments fail.

First, two of the defendants' arguments—that the plaintiffs' challenge to the Commission's 6-1 structure is an impermissible collateral attack on *Grayson*'s consent order and that federal courts cannot modify the size of an elected body to remedy a Section 2 violation—are premature on a motion to dismiss. The plaintiffs have proposed several possible remedies, including one that would maintain the commission's 6-1 structure and redraw the districts to create a second majority-black district. (Doc. 40 at 14–17). Even assuming, without deciding, that the *Grayson* order precludes modifications to the Commission's structure and that courts are barred from modifying the size of an elected body to remedy a Section 2 violation, this proposed remedy would neither disturb the consent decree nor modify the Commission's size. Because the plaintiffs have thus alleged at least one remedial path that would not modify the Commission's structure, these arguments are not dispositive at the pleading stage.

Recognizing this, the defendants ask in their reply brief to "dismiss the challenge to the at-large position at the outset." (Doc. 47 at 4). But this too would be premature on a motion to dismiss. A Rule 12(b)(6) motion to dismiss merely tests a

complaint's sufficiency against Rule 8(a)'s legal standards; it requires nothing more than an allegation of "sufficient facts, accepted as true, to state a facially plausible claim for relief." *Iqbal*, 556 U.S. 662, 678 (2009). The issue of permissible remedies—which depend on facts that have not yet been developed—should not be resolved unless and until the plaintiffs pursue a remedy that would modify the Commission's structure.

Second, the defendants' laches argument fails, because they have not proven that the plaintiffs inexcusably delayed bringing their claim or that this delay caused undue prejudice. *See Venus Lines Agency, Inc. v. CVG Int'l Am., Inc.*, 234 F.3d 1225 (11th Cir. 2000) (internal quotation marks omitted) ("The equitable doctrine of laches will bar a claim when three elements are present: (1) a delay in asserting a right or a claim; (2) that the delay was not excusable; and (3) that there was undue prejudice to the party against whom the claim is asserted."). The Commission passed the Enacted Plan in January 2022, and this lawsuit was brought soon after the failure of settlement negotiations that began in July 2024. (Doc. 43 at 25). The defendants have cited no authority to show that a three-year delay amounts to an inexcusable delay, nor are their arguments persuasive.

The defendants' argument that Section 2 is not privately enforceable likewise fails. Decades of precedent, Section 2's text, Congressional ratification, and stare decisis all show that Section 2 is privately enforceable. *See Caster v. Allen*, 2025

WL 1643532, at *174–185 (N.D. Ala. May 8, 2025) (holding that a contrary finding "would seriously disrupt longstanding and consistent federal law on this issue").

Finally, having considered the operative complaint and its exhibit, as well as the exhibits attached to the defendants' motion to dismiss,[4] the Court concludes the plaintiffs' complaint alleges sufficient facts to support a plausible Section 2 claim. *Iqbal*, 556 U.S. at 678.

B. The Court dismisses the Commission's members as needlessly redundant because a suit against the members in their official capacity is a suit against the Commission.

The defendants move the Court to dismiss the individual defendants: the seven members of the Madison County Commission and Madison County Probate Judge Frank Barger. (Doc. 38 at 19–20). They contend that these defendants are "duplicative" because the Commission "is responsible for redistricting" and thus "could effectuate any judgment in this litigation." (Doc. 38 at 21).

Meanwhile, the plaintiffs argue that naming individual defendants in Section 2 cases is "routine practice" because of their authority in managing and implementing the election in Madison County. (Doc. 43 at 36–39). They argue that

[4] Defendants ask the Court to take judicial notice of Exhibits A, B, and C attached to their motion. (Doc. 38 at 4–5 nn.1–3). Exhibits A and B are the Class Action Certification and Consent orders from *Grayson v. Madison County, Alabama*. (Doc. 38–1; Doc. 38–2). Exhibit C is the "Resolution of the Madison County Commission" adopting the Enacted Plan. (Doc. 38–3). These are public records "not subject to reasonable dispute" because they "can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." FED. R. EVID. 201(b)(2). Therefore, the Court takes judicial notice of Defendants' Exhibits A, B, and C. (Doc. 38).

the county commissioners should remain as defendants because of their "many election responsibilities" and their "authority to change the district lines." *Id.* at 37. Moreover, they argue, "probate judges have unique duties from the Commission and its members." *Id.* Thus, they argue defendant Barger—the Madison County Probate Judge—should remain in the suit even if the members of the commission are dismissed.

An official-capacity suit against an organization's officer is an action against the organization itself. *See Kentucky v. Graham*, 473 U.S. 159, 165 (1985). Suits against a municipal officer and that officer's municipality are "functionally equivalent." *See Busby v. City of Orlando*, 931 F.2d 764, 776 (11th Cir. 1991). For the same reason, courts in the Eleventh Circuit "routinely and overwhelmingly" dismiss official-capacity claims against police officers as redundant when the plaintiff has also sued the entity for which the officer bears responsibility. *Duncan v. Bibb Cnty. Sheriff's Dept.*, 471 F. Supp. 3d 1243, 1255–56 (N.D. Ala. July 9, 2020).

While the plaintiffs attempt to cabin the defendants' redundancy argument to suits against municipalities under *Monell v. Department of Social Services*, 436 U.S. 658 (1978), the Court is not persuaded by their proposed limiting principle. (Doc. 43 at 38–39). Other courts in this district have dismissed individual defendants as redundant in the context of Voting Rights Act claims. *See, e.g.*, *Ala. State Conf. of*

NAACP v. City of Pleasant Grove, 372 F. Supp. 3d 1333, 1339 (N.D. Ala. Apr. 2, 2019); *Lewis v. Bentley*, 2017 WL 432464, at *3 (N.D. Ala. Feb. 1, 2017).

The Commission governs Madison County and controls redistricting. *Smitherman v. Marshall Cnty. Comm'n.*, 746 So. 2d 1001, 1005 (Ala. 1999); Ala. Code § 11-3-1.1. Because the chairman and the commissioners are officers of the Commission, official-capacity claims against them are merely claims against the Commission in a different form. *Graham*, 473 U.S. at 165. Although the plaintiffs contend the commissioners possess "election responsibilities"—and most importantly, "have the authority to change the district lines"—they have not shown that a suit against the commissioners in their official capacities will afford any relief that a suit against the Commission would not also afford. (Doc. 43 at 37). Therefore, the claims against the individual commissioners and chairman are redundant.

But it is not clear that the suit against Probate Judge Barger is also redundant. Under Alabama Code section 17-1-3, "[t]he judge of probate is the chief elections official of the county and shall serve as chair of the appointing board." There is a legal distinction between the county and county commission. *Smitherman*, 746 at So. 2d at 1005. Although the plaintiffs primarily seek a new redistricting plan, which could be effectuated by the Commission alone, they also ask the Court to "[p]ermanently enjoin the Defendants and their agents from administering . . . elections for the Commission under the Enacted Plan." (Doc. 40 at 29). Thus, as the

chief elections official for Madison County and the chair of the appointing board, the probate judge possibly offers relief that the Commission does not under section 17-1-3. Consequently, unlike the members of the Commission, Probate Judge Barger is not redundant to the Commission.

Therefore, the claims against the commissioners and the chairman are dismissed; those against the probate judge remain.

IV. CONCLUSION

Accordingly, the Court orders as follows:

1. The Court **GRANTS in part** and **DENIES in part** Defendants' Motion to Dismiss (Doc. 38).

2. The motion is **GRANTED** in that Chairman Mac McCutcheon and Commissioners Tom Brandon, Violet Edwards, Steve Haraway, Craig Hill, Phil Vandiver, and Phil Riddick are **DISMISSED**; in all other respects, the motion is **DENIED**.

3. The Court **LIFTS** the stay entered on December 8, 2025 (Doc. 57).

DONE and **ORDERED** this February 23, 2026.

LILES C. BURKE
UNITED STATES DISTRICT JUDGE