No. 25A62

IN THE
Supreme Court of the United States

Turtle Mountain Band of Chippewa Indians, et al.,
Applicants,

v.

Michael Howe, Secretary of State of North Dakota,
Respondent.

On Application for Stay of Mandate
U.S. Court of Appeals for the Eighth Circuit

BRIEF OF *AMICUS CURIAE* NAACP LEGAL DEFENSE & EDUCATIONAL FUND, INC. IN SUPPORT OF APPLICANTS

JANAI NELSON
PRESIDENT & DIRECTOR COUNSEL
SAMUEL SPITAL
BRENDA WRIGHT
STUART NAIFEH
KATHRYN SADASIVAN
BRITTANY CARTER
COLIN BURKE
NAACP LEGAL DEFENSE & EDUCATIONAL FUND, INC.
40 Rector St., 5th Fl.
New York, NY 10006
(212) 965-2200
ksadasivan@naacpldf.org

DEUEL ROSS
Counsel of Record
VICTOR OLOFIN
NAACP LEGAL DEFENSE & EDUCATIONAL FUND, INC.
700 14th St. NW, Ste. 600
Washington, DC 20005

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases **Page(s)**

Statutes

INTEREST OF AMICUS CURIAE[1]

Founded in 1940 by Thurgood Marshall, the NAACP Legal Defense & Educational Fund, Inc. ("LDF") is the nation's first and foremost civil rights law organization. LDF's mission is to ensure the full, fair, and free exercise of constitutional and statutory rights for all Americans, and to break down barriers that prevent African Americans from realizing their basic civil and human rights.

Beginning with *Smith v. Allwright*, 321 U.S. 649 (1944), LDF has represented Black voters as private litigants before this Court in most of the precedent-setting cases involving efforts to enforce or defend the constitutional right to vote and the Voting Rights Act of 1965. *See, e.g.*, *Robinson v. Callais*, 144 S. Ct. 1171 (2024) (mem.); *Alexander v. S. Carolina State Conf. of the NAACP*, 602 U.S. 1 (2024); *Allen v. Milligan*, 599 U.S. 1 (2023); *Shelby Cnty. v. Holder*, 570 U.S. 529 (2013); *Nw. Austin Mun. Util. Dist. No. One v. Holder*, 557 U.S. 193 (2009); *Easley v. Cromartie*, 532 U.S. 234 (2001); *Abrams v. Johnson*, 521 U.S. 74 (1997); *Bush v. Vera*, 517 U.S. 952 (1996); *Shaw v. Hunt*, 517 U.S. 899 (1996); *Houston Lawyers' Ass'n v. Att'y Gen. of Tex.*, 501 U.S. 419 (1991); *Chisom v. Roemer*, 501 U.S. 380 (1991); *Thornburg v. Gingles*, 478 U.S. 30 (1986); *NAACP v. Hampton Cnty. Election Com'n*, 470 U.S. 166 (1985); *City of Mobile v. Bolden*, 446 U.S. 55 (1980); *E. Carroll Par. Sch. Bd. v. Marshall*, 424 U.S. 636 (1976); *Turner v. Fouche*, 396 U.S. 346 (1970); *Allen v. State Bd. of Elections*, 393

[1] Pursuant to Supreme Court Rule 37.6, counsel for *Amicus Curiae* state that no counsel for a party authored this brief in whole or in part and that no person other than *Amicus Curiae*, its members, or its counsel made a monetary contribution to the preparation or submission of this brief.

U.S. 544 (1969); *Anderson v. Martin*, 375 U.S. 399 (1964); *Terry v. Adams*, 345 U.S. 461 (1953). As such, LDF has a significant interest in ensuring that private plaintiffs remain able to enforce the entirety of the Voting Rights Act.

INTRODUCTION AND SUMMARY OF ARGUMENT

The Voting Rights Act of 1965 is "the most successful civil rights statute in the history of the Nation." *Allen v. Milligan*, 599 U.S. 1, 10 (2023) (quoting S. Rep. No. 97–417, at 111). In enacting the Voting Rights Act ("VRA"), Congress attempted to "banish the blight of racial discrimination in voting" by creating "stringent new remedies" and "strengthen[ing] existing remedies[.]" *South Carolina v. Katzenbach*, 383 U.S. 301, 308 (1966). A core aspect of the VRA is § 2, which serves as a "permanent, nationwide ban on racial discrimination in voting." *Shelby Cnty. v. Holder*, 570 U.S. 529, 557 (2013).

Since its enactment in 1965, the history of § 2 of the VRA has been written largely through private enforcement. Indeed, every § 2 case to come before this Court has concerned claims brought by private plaintiffs. *See, e.g.*, *Allen v. Milligan*, 599 U.S. 1 (2023); *Brnovich v. Democratic Nat'l Comm.*, 594 U.S. 647 (2021); *Abbott v. Perez*, 585 U.S. 579 (2018); *Perry v. Perez*, 565 U.S. 388 (2012); *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399 (2006) ("*LULAC*"); *Abrams v. Johnson*, 521 U.S. 74 (1997); *Holder v. Hall*, 512 U.S. 874 (1994); *Johnson v. De Grandy*, 512 U.S. 997 (1994); *Growe v. Emison*, 507 U.S. 25 (1993); *Voinovich v. Quilter*, 507 U.S. 146 (1993); *Hous. Laws. Ass'n v. Att'y Gen.*, 501 U.S. 419 (1991); *Chisom v. Roemer*, 501 U.S. 380 (1991); *Thornburg v. Gingles*, 478 U.S. 30 (1986); *City of Mobile v. Bolden*, 446 U.S.

50 (1980). The lower courts have likewise heard hundreds of § 2 cases filed by private plaintiffs. *See Turtle Mountain Band of Chippewa Indians v. Howe*, 137 F.4th 710, 721 (8th Cir. 2025) (Colloton, C.J. dissenting).

Consistent with this history, this Court has twice expressly recognized that private plaintiffs can enforce the VRA. *See, e.g.*, *Morse v. Republican Party of Va.*, 517 U.S. 186 (1996); *Allen v. State Bd. of Elections*, 393 U.S. 544 (1969). In response, Congress has repeatedly amended the VRA to ratify this Court's interpretation and make clear its desire to permit and encourage the private enforcement of the VRA. *See, e.g.*, *Milligan*, 599 U.S. at 12–14 (discussing the 1982 Amendments); *Morse*, 517 U.S. at 233–34 (plurality op.) (discussing the 1975 Amendments). Congress is "undoubtedly aware" of the history of private enforcement. *Cf. Milligan*, 599 U.S. at 38–39 (collecting § 2 redistricting challenges, each of which involved private plaintiffs). But it has repeatedly declined to curtail it, even "as they have made other changes to the VRA," *id*. at 42 (Kavanaugh, J., concurring). For example, as recently as 2006, Congress amended § 14(e) of the VRA to permit private plaintiffs to recover "reasonable expert fees and other reasonable litigation expenses." 52 U.S.C. § 10310(e); *see also* Pub. L. 109-246, §§ 3(e)(3), 6, 120 Stat. 580, 581 (July 27, 2006).

The Eighth Circuit's erroneous and aberrant holding that § 2 is not enforceable under 42 U.S.C. § 1983 is a stark break from this history, congressional intent, and this Court's precedent. It ignores the special force of statutory *stare decisis*. And it conflicts with the holdings of every other circuit to consider the issue. *See, e.g.*, *Robinson v. Ardoin*, 86 F.4th 574 (5th Cir. 2023); *Ala. State Conf. of NAACP v.*

Alabama ("*Ala. NAACP*"), 949 F.3d 647, 651–54 (11th Cir. 2020), *opinion vacated as moot*, 141 S. Ct. 2618 (2021) (mem.); *Ford v. Strange*, 580 F. App'x 701, 705 n.6 (11th Cir. 2014); *Mixon v. Ohio*, 193 F.3d 389, 406 (6th Cir. 1999).

Despite § 2's success, voting discrimination is "not ancient history." *Bartlett v. Strickland*, 556 U.S. 1, 25 (2009). Indeed, there is a recent history of mistreatment of Native Americans and other historically disfranchised groups in the Eighth Circuit. *See, e.g.*, *Mo. State Conf. of the NAACP v. Ferguson-Florissant Sch. Dist.*, 894 F.3d 924 (8th Cir. 2018); *Bone Shirt v. Hazeltine*, 461 F.3d 1011 (8th Cir. 2006). And yet, the panel's radical decision leaves this discrimination untouchable in seven states.

Accordingly, *Amicus Curiae* respectfully urge the Court to grant the application for a stay of the Eighth Circuit's mandate.

ARGUMENT

I. This Court Should Grant Applicants' Stay Request Because the Eighth Circuit Applied the Wrong Standard in Considering Whether § 1983 Permits Private Enforcement of § 2 of the VRA.

The Eighth Circuit applied a deeply flawed analysis in holding that § 1983 does not permit private parties to enforce § 2 of the VRA. But the Eighth Circuit analysis fails in at least three ways.

First, the Eighth Circuit collapsed the implied private right of action test and the test for whether a statute is enforceable under § 1983. *See Turtle Mountain*, 137 F.4th at 717–18. While related, the tests are distinct. *See Gonzaga Univ. v. Doe*, 536 U.S. 273, 284 (2002) (explaining that, unlike for implied private right of actions,

"[p]laintiffs suing under § 1983 do not have the burden of showing an intent to create a private remedy").

This is important because a majority of this Court previously recognized that an implied private right of action under § 2 was "clearly intended by Congress." *Morse v. Republican Party of Va.*, 517 U.S. 186, 232 (1996) (plurality op. of Stevens, J. joined by Ginsburg, J.) (quoting S. Rep. No. 97–417, at 30 (1982)); *see id.* at 240 (Breyer, J., concurring joined by O'Connor and Souter, JJ.) (same). In *Morse*, this Court considered whether private actors could enforce § 10 of the VRA, which authorizes the Attorney General to challenge poll taxes, but does not mention private plaintiffs. *Id.* at 231–33 & n.42. (quoting 52 U.S.C. § 10306). As a necessary predicate in holding that § 10 is privately enforceable, the plurality opinion concluded that § 2 is privately enforceable. *Id.* at 232. Three Justices agreed that "Congress intended to establish a private right of action to enforce § 10, no less than it did to enforce §§ 2 and 5." *Id.* at 240 (Breyer, J., concurring). "[T]he understanding [in *Morse*] that Section Two provides a private right of action was necessary to reach the judgment that Section Ten provides a private right of action." *Singleton v. Merrill*, 582 F. Supp. 3d 924, 1034 (N.D. Ala. 2022) (three-judge court) ("*Singleton I*"), *aff'd sub nom. on other grounds Allen v. Milligan*, 599 U.S. 1 (2023). *Morse*'s holding "turn[ed] in no small measure on its foundational observation that Section Two, like Section Five, is indeed enforceable by private right of action" *Singleton v. Allen* ("*Singleton III*"), No. 2:21-CV-01291, 2025 WL 1342947, at *178 (N.D. Ala. May 8, 2025) (three-judge court).

To evaluate the existence of an implied private right of action, the Court looks to the plain text to see if Congress intended an implied right of action. *See Alexander v. Sandoval*, 532 U.S. 275, 286 (2001) ("The judicial task is to interpret the statute Congress has passed to determine whether it displays an intent to create . . . a private remedy."). The VRA's plain text leaves absolutely no doubt there is an implied right of action both because of the clear rights-protecting language of § 2 as well as because of all the other parts of the VRA show that Congress intended private enforcement.

Significantly, *Morse* unequivocally found that the VRA's structure displays an intent to create private remedies for violations of § 2. While the Court disagreed about the private enforceability of § 10, all nine Justices in *Morse* agreed that § 3 "explicitly recognizes that private individuals can sue under the Act." 517 U.S. at 289 (Thomas, J., dissenting, with Rehnquist, Scalia, Kennedy, JJ.) (emphasis added) (cleaned up); *see id*. at 234 (plurality op., Stevens, J., with one other justices) (same); *id*. at 240 (Breyer, J., concurring with two other justices) (same). This is because Congress amended § 3 to make clear that any "aggrieved person" can enforce the VRA. 52 U.S.C. § 10302(a)–(c). The amendments "provide the same remedies to private parties as had formerly been available to the Attorney General alone." *Morse*, 517 U.S. at 233 (plurality op.). Section 3 makes "what was once implied now explicit: private parties can sue to enforce the VRA." *Ala. NAACP*, 949 F.3d at 651.

Second, the Eighth Circuit erred in only cursorily considering the fact that § 2 was enacted pursuant to Congress's power to enforce the Fourteenth and Fifteenth Amendments. *Milligan*, 599 U.S. at 41. Congress's "principal purpose" of including

"and laws" in § 1983 was to "ensure that federal legislation providing specifically for equality of rights would be brought within the ambit of the civil action authorized by that statute." *Maine v. Thiboutot*, 448 U.S. 1, 7 (1980) (citation omitted). In contrast, this Court has been more circumspect when considering whether to allow private enforcement of laws enacted under the Spending Clause. *See, e.g.*, *Medina v. Planned Parenthood S. Atl.*, 145 S. Ct. 2219, 2227–28 (2025). The "spending power allows Congress to offer funds to States that agree to certain conditions," and the "typical remedy" for a violation of those conditions is "not a private enforcement suit but rather action by the Federal Government to terminate funds to the State." *Id.* at 2227–28. Section 2 does not implicate the separation-of-power concerns that govern the Spending Clause analysis. *Cf. id.* at 2229 (describing the "clearly and unambiguously" rights-creating test as necessary to "vindicat[e] the separation of powers") (citation omitted). This is because § 2 was enacted under the Reconstruction Amendments, which "already altered the constitutional balance by limiting the power of the States and enlarging the power of Congress." *Turtle Mountain*, 137 F.4th at 722 (Colloton, C.J., dissenting) (citing *Fitzpatrick v. Bitzer*, 427 U.S. 445, 454 (1976)). The panel's cursory analysis failed to grapple with this distinction or explain why this test would be logically or doctrinally applicable to the VRA. *Cf. id.* at 721 (majority).

Third, even if the "clearly and unambiguously" test does apply, § 2 satisfies this test. A statute is enforceable under § 1983 if the "provision in question is 'phrased in terms of the persons benefited' and contains 'rights-creating,' individual centric language with an 'unmistakable focus on the benefited class.'" *Health & Hosp. Corp.*

of Marion Cnty. v. Talevski, 599 U.S. 166, 183 (2023) (citations omitted). The main criterion for whether a statute contains rights-creating language is whether it explicitly refers to a citizen's "right[]" and is "phrased in terms of the persons benefited." *Gonzaga*, 536 U.S. at 284.

Section 2 plainly contains such language. It protects the "right of *any citizen* . . . to vote" free from discrimination. 52 U.S.C. § 10301(a) (emphasis added). This Court has explicitly and repeatedly held that § 2's reference to "the right of any citizen," *id*., means that the "right to an undiluted vote does not belong to the 'minority as a group,' but rather to 'its individual members.'" *League of United Latin Am. Citizens v. Perry,* 548 U.S. 399, 437 (2006) ("*LULAC*") (quoting *Shaw v. Hunt*, 517 U.S. 899, 917 (1996)). As the three-judge panel in *Singleton III* explained:

> subsection (a) of Section Two expressly discusses "the right of any citizen of the United States to vote," and it expressly prohibits voting practices that abridge voting rights based on race, color, or language-minority status. 52 U.S.C. § 10301(a) (incorporating by reference 52 U.S.C. § 10303(f)(2)). And subsection (b) expressly discusses the voting rights of persons who are "members of a class of citizens protected by subsection (a)." *Id*. § 10301(b). In the next sentence, subsection (b) refers twice to "members of a protected class." *Id.* Together, these subsections protect citizens in the enumerated class from voting practices with discriminatory results, not just voting practices based on discriminatory intent (which the Fifteenth Amendment forbids based on race or color). Because Section Two is comprised only of a title and three sentences of text, the upshot of the foregoing analysis is that every sentence of Section Two either refers to rights of the benefited class, contains rights-creating language that creates new rights for that specific class, or expressly focuses on the benefited class.

2025 WL 1342947, at *173.

Section 2's text also "closely resembles" the text of 42 U.S.C. § 2000d and 20 U.S.C. § 1681, which this Court has highlighted as key examples of "rights-creating"

language. *See Gonzaga*, 536 U.S. at 287 (discussing Title IV and IX of the Civil Rights Act, which state that "No person . . . shall . . . be subjected to discrimination"). That § 2 mentions the rights of an identified group does not mean that the group alone, rather than the individual, enjoys the right. *See Talevski*, 599 U.S. at 184 (explaining that a statute focused on the "rights" of a group of nursing home "residents" still included the necessary individual rights-creating language). Nor is it relevant that § 2 references "any State." 52 U.S.C. § 10301(a). "Indeed, it would be strange to hold that a statutory provision fails to secure rights simply because it considers, alongside the rights bearers, the actors that might threaten those rights[.]" *Talevski*, 599 U.S. at 185.

The VRA's text also evinces a clear congressional intent to permit both private and government enforcement of § 2. Nothing in § 2 or the structure of the VRA suggests that Congress sought to prevent private enforcement. To the contrary, Congress and this Court have both consistently accepted that the Attorney General's enforcement power is consistent with an implied private right of action under VRA sections. *See, e.g.*, *Shelby Cnty.*, 570 U.S. at 537 ("Both the Federal Government and individuals have sued to enforce § 2 . . . and injunctive relief is available in appropriate cases to block voting laws from going into effect."); *Morse*, 517 U.S. at 231 (plurality op.) (explaining that "achievement of the Act's laudable goal could be severely hampered . . . if each citizen were required to depend solely on litigation instituted at the discretion of the Attorney General.") (quoting *Allen*, 393 U.S. at 556).

It is hard to think of a clearer example of an implied private right to action than § 2 and its sixty-year history of private enforcement, sanctioned by Congress and this Court. Accordingly, *Amicus Curiae* agree with Applicants, Stay Br. at 26–33, No. 25A62 (July 15, 2025), and urge the Court to grant a stay.

II. Statutory Stare Decisis Weighs Heavily in Favor of Granting a Stay to Applicants.

Here, both the plain text of § 2 and precedent standing alone are enough to warrant a stay. But Applicants' request is further bolstered by the doctrine of statutory *stare decisis*. In the context of this Court's interpretation of a statute, the *stare decisis* carries "special force." *Halliburton Co. v. Erica P. John Fund, Inc.*, 573 U.S. 258, 274 (2014). This is because, "unlike in a constitutional case, . . . Congress can correct any mistake it sees." *Kimble v. Marvel Ent., LLC*, 576 U.S. 446, 456 (2015).

An opinion interpreting a statute is a "ball[] tossed into Congress's court, for acceptance or not as that branch elects." *Id*. When Congress fails to correct decades of unanimous federal-court interpretation of a statute, it "acquiesce[s]" to the judiciary's interpretation. *John R. Sand & Gravel Co. v. United States*, 552 U.S. 130, 139 (2008). This "enhance[s] even the usual precedential force" of stare decisis. *Shepard v. United States*, 544 U.S. 13, 23 (2005).

"Since 1982, private plaintiffs have brought more than 400 actions based on § 2." *Turtle Mountain*, 137 F.4th at 721 (Colloton, C.J. dissenting). That includes every § 2 case decided by this Court. *See, e.g.*, *Milligan*, 599 U.S. at 16; *Brnovich*, 594 U.S. at 663; *Abbott*, 585 U.S. at 590; *Perry*, 565 U.S. at 392; *LULAC*, 548 U.S. at 430; *Abrams*, 521 U.S. at 78; *Holder*, 512 U.S. at 877; *De Grandy*, 512 U.S. at 1001–02;

Growe, 507 U.S. at 27–29; *Voinovich*, 507 U.S. at 149; *Hous. Laws. Ass'n.*, 501 U.S. at 421–22; *Chisom*, 501 U.S. at 384; *Gingles*, 478 U.S. at 35; *Bolden*, 446 U.S. at 58. In sharp contrast, in the last 40 years, the United States alone has brought only fifteen of the 182 successful § 2 cases. *See Ark. State Conf. of the NAACP v. Ark. Bd. of Apportionment*, 86 F.4th 1204, 1219 n.8 (8th Cir. 2023) (Smith, C.J. dissenting).

"Congress is undoubtedly aware" of *Morse*, *Allen*, and this Court's many decades of entertaining private § 2 cases. *Milligan*, 599 U.S. at 39; *see Shelby Cnty.*, 570 U.S. at 577–78 (Ginsburg, J., dissenting) (summarizing an extensive national survey of private § 2 cases that was a part of the 2006 congressional record) (citing *To Examine the Impact and Effectiveness of the Voting Rights Act: Hearing before the Subcommittee on the Constitution of the House Committee on the Judiciary*, 109th Cong., 1st Sess., pp. 964–1124 (2005)). Nonetheless, Congress has declined to curtail private enforcement of § 2—even "as they have made other changes to the VRA," *Milligan*, 599 U.S. at 42 (Kavanaugh, J., concurring). Rather, Congress has consistently amended the VRA to encourage private enforcement. As the entire Court in *Morse* agreed, Congress amended § 3 in 1975 to "provide the same remedies to private parties as had formerly been available to the Attorney General alone." 517 U.S. at 233–34 (plurality op. of Stevens, J., with one other justice); *id.* at 240 (Breyer, J., concurring with two other justices) (agreeing that § 3 created private remedies); *id.* at 289 (Thomas, J., dissenting, joined by three other justices) (recognizing that § 3 indicates "that private individuals can sue under the Act"). The 1975 amendments also added § 14(e) which authorizes attorneys' fees for "the prevailing party, other

than the United States." 52 U.S.C. § 10310(e). Section 14(e) reflects Congress' recognition that private parties could enforce the Act.[2] *Morse*, 517 U.S. at 234 (plurality op.).

Next, in 1982, Congress amended § 2 itself to overturn *Bolden*, a decision that Congress believed would curtail private enforcement of § 2. *See Milligan*, 599 U.S. at 10–14 (detailing history of the 1982 amendments). The context of *Bolden* as a private § 2 case and the reality of broad private § 2 enforcement "was not lost on anyone when § 2 was amended." *Milligan*, 599 U.S. at 40. The Senate and House Reports explicitly "reiterate[d]" that the "existence of the private right of action under Section 2 . . . has been clearly intended by Congress since 1965." S. Rep. No. 97–417, at 30; *see also* H. Rep. No. 97–227, at 32 (1981) ("It is intended that citizens have a private cause of action to enforce their rights under Section 2."). These reports are the "authoritative source for legislative intent" for the VRA amendments. *Gingles*, 478 U.S. at 43 n.7.

Finally, the most recent 2006 amendments again made it easier for private plaintiffs to enforce the VRA. Congress actively incentivized private plaintiffs to continue to play their historic role in enforcing the VRA by amending Section 14(e) to permit "reasonable expert fees and other reasonable litigation expenses." 52 U.S.C. § 10310(e); *see* Pub. L. 109-246, §§ 3(e)(3), 6, 120 Stat. 580, 581 (July 27, 2006); *see also Sandoval*, 532 U.S. at 280 (explaining that congressional amendments to Title VI and

[2] As the Senate Report explained, "Congress depends heavily upon private citizens to enforce the fundamental rights involved" and "[f]ee awards are a necessary means of enabling private citizens to vindicate these Federal rights." S. Rep. No. 94–295, at 40 (1975).

IX that expressly provided for private remedies ratified this Court's past decisions).

Congress's unusually clear record of acquiescence and encouragement of private litigation counsels strongly in favor of continuing to allow private enforcement. "Congress is presumed to be aware of an administrative or judicial interpretation of a statute and to adopt that interpretation when it re-enacts a statute without change." *Forest Grove Sch. Dist. v. T.A.*, 557 U.S. 230, 239–40 (2009) (citation omitted). Congress may sometimes struggle to "find[] room in a crowded legislative docket" to correct judicial misinterpretations. *Ramos v. Louisiana*, 590 U.S. 83, 118–19 (2020) (Kavanaugh, J., concurring). Not so with the VRA, which Congress has amended repeatedly in response to judicial interpretations it disagreed with, to the benefit of private litigants. "It is difficult in the extreme for us to believe that for nearly sixty years, federal courts have consistently misunderstood one of the most important sections of one of the most important civil rights statutes in American history, and that Congress has steadfastly refused to correct our apparent error." *Singleton III*, 2025 WL 1342947, at *181.

While Congress may "change that [interpretation] if it likes[,]" "until and unless it does, statutory *stare decisis* counsels . . . staying the course." *Milligan*, 599 U.S. at 39 (citing *Kimble*, 576 U.S. at 456). Because "Congress has spurned multiple opportunities to reverse" the established consensus favoring private § 2 enforcement, reversing course requires "a superspecial justification[.]" *Kimble*, 576 U.S. at 456.

No such "superspecial justification" exists here.

III. This Court Should Maintain the Status Quo of Private Enforcement of § 2 of the VRA in This Emergency Application.

At minimum, this Court should stay the mandate so that the status quo—which for decades has been private enforcement of Section 2—remains in place absent a merits decision by this Court overruling prior precedent. When deciding a case in the stay posture, the court lacks "full briefing, oral argument, and [its] usual extensive internal deliberations[.]" *Merrill v. Milligan*, 142 S. Ct. 879, 879 (2022) (Kavanaugh, J. concurring). The VRA owes much of its success to private plaintiffs' enforcement. *See supra* II at 12. Section 2 has provided Native Americans, African Americans, and other voters of color a powerful tool to fight discrimination in voting to have a fair chance at electoral opportunity. The question of whether private plaintiffs may enforce their rights under § 2 is too important of an issue for the Court to permit a departure from the statutory status quo of private enforcement "on a short fuse without benefit of full briefing and oral argument." *Does 1-3 v. Mills*, 142 S. Ct. 17, 18 (2021) (Barrett, J. concurring).

The Court should maintain the statutory status quo of private enforcement of § 2 and grant the stay request in this case.

CONCLUSION

For the reasons above and those in the stay application, *Amicus* respectfully urge the Court to grant a stay of the Eighth Circuit's mandate.

Respectfully submitted,

JANAI S. NELSON
SAMUEL SPITAL
Stuart Naifeh
BRENDA WRIGHT
KATHRYN SADASIVAN
BRITTANY CARTER
COLIN BURKE
NAACP LEGAL DEFENSE &
EDUCATIONAL FUND, INC.
40 Rector St., 5th Fl.
New York, NY 10006

/s/ Deuel Ross
DEUEL ROSS
Counsel of Record
VICTOR OLOFIN
NAACP LEGAL DEFENSE &
EDUCATIONAL FUND, INC.
700 14th Street NW, Ste. 600
Washington, DC 20005
(202) 682-1300
dross@naacpldf.org

Counsel for Amici Curiae

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