No. 21-1394

In the
Supreme Court of the United States

JOHN FITISEMANU, PALE TULI, ROSAVITA TULI, and SOUTHERN UTAH PACIFIC ISLANDER COALITION,
Petitioners,

v.

UNITED STATES OF AMERICA, et al.,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

BRIEF IN OPPOSITION FOR RESPONDENTS AMERICAN SAMOA GOVERNMENT AND THE HONORABLE AUMUA AMATA

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QUESTION PRESENTED

Whether the Tenth Circuit correctly held—consistent with constitutional text, structure, and history, longstanding and unbroken historical practice, and every other court of appeals to address the issue—that the Citizenship Clause does not require imposing birthright citizenship on the people of American Samoa over the objection of their elected representatives and government and in violation of their basic right to self-determination.

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INTRODUCTION

For three thousand years, on an archipelago seven thousand miles from this Court, the American Samoan people have preserved *fa'a Samoa*—the traditional Samoan way of life, weaving together countless traditional cultural, historical, and religious practices into a vibrant pattern found nowhere else in the world. The American Samoan people have kept *fa'a Samoa* alive in part by preserving their unique political status: From the moment the traditional leaders of the American Samoan people voluntarily ceded sovereignty over their islands to the United States, persons born in American Samoa have been born as United States nationals, but not United States citizens. As the federal government and the federal courts have recognized, that unique status distinguishes American Samoa from the fifty States and the other territories, and contributes to its ability to maintain its traditional cultural practices.

Petitioners now seek to disrupt that unique status, asking this Court to hold that the Citizenship Clause of the Fourteenth Amendment requires imposing birthright citizenship on the American Samoan people regardless of their wishes. That position contravenes not only constitutional text, structure, and history, but more than a century of unbroken historical practice. Ever since the Fourteenth Amendment was ratified, the federal government has *never* understood the Citizenship Clause to automatically extend birthright citizenship to overseas territories; instead, in each and every case, Congress has determined on a territory-by-territory basis whether and when to extend citizenship to

persons born in overseas territories, through a democratic process that considers the views of the territorial inhabitants affected and respects their basic right to self-determination. The Tenth Circuit correctly held that the Citizenship Clause does not prohibit that longstanding and consistent historical practice—a holding that accords with every other court of appeals to consider the issue, and that this Court has repeatedly declined to review in other cases. This petition should likewise be denied.

This is an inconvenient brief for petitioners, who would love to claim that their stance serves the interests of the American Samoan people. The American Samoan people themselves, however, do not share that view—which is why the leaders of American Samoa, represented by the American Samoa Government and Congresswoman Aumua Amata, intervened to *oppose* petitioners' claims below, and why the American Samoan legislature welcomed the decision below with a *unanimous* concurrent resolution of support that passed both houses without a single dissenting vote. The American Samoan people have not yet reached consensus on whether to accept the privileges and responsibilities of birthright citizenship—but they firmly believe that any decision on birthright citizenship for American Samoa should come through the democratic process, not through a judicial misreading of the Citizenship Clause.

Nothing prevents petitioners from seeking citizenship for themselves through the streamlined naturalization process that Congress has provided for persons born in American Samoa. At the same time, nothing in the Citizenship Clause requires imposing

birthright citizenship on *all* American Samoans, regardless of their wishes and contrary to more than a century of unbroken historical practice. Petitioners' contrary view would threaten *fa'a Samoa*, upend well over a hundred years of settled law and practice, and deprive the American Samoan people of their basic right to determine their own status through the democratic process. The Tenth Circuit correctly rejected that untenable position, and this Court should deny certiorari.

STATEMENT OF THE CASE

A. The United States and Its Territories

Between 1857 and 1947, the United States acquired control of various overseas territories outside the continental United States by purchase, conquest, or cession. The United States first took possession of a series of uninhabited islands in the Pacific containing deposits of guano, which was prized for its use in gunpowder and agricultural fertilizer. In 1899, Spain ceded control of Guam, the Philippines, and Puerto Rico to the United States in the Treaty of Paris. In 1900, the *matai*, traditional Samoan leaders, ceded sovereignty over certain of the Samoan Islands to the United States. In 1917, the United States purchased the U.S. Virgin Islands from Denmark. Finally, in 1947, the United Nations entrusted the United States with the Trust Territory of the Pacific Islands, which included the Marshall Islands, Federated States of Micronesia, Northern Mariana Islands, and Palau. Today, the Territory of American Samoa, the Territory of Guam, the Territory of the U.S. Virgin Islands, the Commonwealth of Puerto Rico, and the

Commonwealth of the Northern Mariana Islands ("CNMI") all remain territories of the United States.

The United States has always considered each territory individually, developing its policies for each territory on a local basis while considering the needs and wishes of the people involved and their basic right to self-determination. As a result of this approach, the relationship between the United States and each territory has changed over time. The Philippines, for instance, chose self-governance and eventually full independence from the United States. The Marshall Islands, Federated States of Micronesia, and Palau chose independence in combination with free association with the United States after their Trusteeship ended. Guam, the U.S. Virgin Islands, Puerto Rico, and the Northern Mariana Islands have all remained territories of the United States, with varying political traditions and government structures. As to those four territories, after considering the views of their governments and elected representatives on a territory-by-territory basis, Congress enacted a series of statutes at various times extending U.S. citizenship at birth to persons born in each of those territories.

American Samoa is unique among the territories of the United States, and its relationship with the United States has been unique from the beginning. Unlike all the other territories of the United States, "American Samoa has never been conquered, never been taken as a prize of war, and never been annexed against the will of [its] people." Statement of Hon. Eni F.H. Faleomavaega before the U.N. Special Comm. on Decolonization (May 23, 2001), *available at*

https://bit.ly/2WkwfyE. Instead, American Samoa became a territory when the *matai*, the traditional leaders of the American Samoan people, voluntarily ceded sovereignty over the islands to the United States. *See* Cession of Tutuila and Aunu'u, Tutuila Samoa-U.S., Apr. 17, 1900.

Ever since that voluntary cession, American Samoa has remained a predominantly self-governing territory. Today, the American Samoa Constitution establishes a bicameral legislature, a judiciary appointed by the Secretary of the Interior, and an elected territorial governor. *See* Revised Const. of Am. Samoa arts. II-IV. Since 1978, American Samoa has also had representation in the U.S. House of Representatives. *See* 48 U.S.C. §1731.

American Samoa is unique among U.S. territories not only for its idiosyncratic history, but also for the political status of its people. Under federal law, persons born in American Samoa are U.S. nationals, not U.S. citizens. As U.S. nationals, they owe allegiance to the United States, may enter the United States freely, may apply for U.S. citizenship without first becoming a permanent resident, and may serve (as many American Samoans have) in the U.S. Armed Forces. Although the American Samoan people are proud of their relationship with the United States, they have never come to a consensus on whether they should ask Congress to grant them citizenship at birth—and in keeping with its historical practice for over a century, Congress has refrained from imposing that status on the American Samoan people without their consent.

B. The American Samoan Way of Life

A lele le Toloa, e toe ma'au lava i le vai.[1]

Even after voluntarily ceding sovereignty to the United States more than a century ago, American Samoa has retained its own vibrant and distinctive culture: the American Samoan way of life, known as *fa'a Samoa*. As one author has put it, *fa'a Samoa* is "more than merely a set of laws, norms, and social conventions"; instead, "*fa'a Samoa* is the essence of being Samoan, and includes a unique attitude toward fellow human beings, unique perceptions of right and wrong, the Samoan heritage, and fundamentally the aggregation of everything that the Samoans have learned during their experience as a distinct race." Jeffrey B. Teichert, *Resisting Temptation in the Garden of Paradise: Preserving the Role of Samoan Custom in the Law of American Samoa*, 3 Gonz. J. Int'l L. 35, 37 (1999). The critical importance of *fa'a Samoa* to the American Samoan people is reflected in the original deeds of cession, which make express provision for the preservation of Samoan culture. *See* Cession of Tutuila and Aunu'u, Tutuila Samoa-U.S., Apr. 17, 1900; Cession of Manu'a Islands, Manua Samoa-U.S., July 16, 1904. It is also reflected in the American Samoa constitution, which explicitly provides that the government shall "protect persons of Samoan ancestry against alienation of their lands and the destruction of the Samoan way of life and language," and "protect the lands, customs, culture, and traditional Samoan family organization of

[1] "Wherever the Toloa bird may travel, it will always return and settle back to its native waters." American Samoan proverb.

persons of Samoan ancestry." Revised Const. of Am. Samoa art. I, §3.

Many aspects of *fa'a Samoa* are wholly unlike anything in either the other territories or the continental United States, and this rich and unique cultural heritage permeates every level of Samoan society. Samoan households, for example, are notable for their organization according to large, extended families, known as *'aiga*. These extended families, under the authority of *matai*, or chiefs, remain a fundamental social unit in Samoan society. *See* Arnold H. Leibowitz, *American Samoa: Decline of a Culture*, 10 Cal. W. Int'l L.J. 220, 224-25 (1980).

Another key aspect of *fa'a Samoa* is communal ownership of land, which is of vital importance to Samoan culture as a place for creating a home, for sustaining a livelihood, and for gathering together the *'aiga*. *See Craddick v. Territorial Registrar*, 1 Am. Samoa 2d 10, 13 (App. Div. 1980). As the High Court of American Samoa has observed, "[t]he whole fiber of the social, economic, traditional, and political pattern in American Samoa is woven fully by the strong thread which American Samoans place in the ownership of land." *Id.* at 13-14 (citation omitted). Other important parts of Samoan culture, such as the *'aiga* and the *matai*, are likewise historically predicated upon control of the land. *See* Leibowitz, *American Samoa*, *supra*, at 222-23. These traditions (and countless others) represent a culture in American Samoa unlike anything elsewhere in the world—a culture that Congress has recognized and sought to preserve for over a century.

In light of the unique and irreplaceable nature of Samoan cultural practices, and the obligations it accepted under the instruments of cession, the United States has repeatedly vowed to protect *fa'a Samoa*. "It has been the constant policy of the United States, partly as a matter of honor, partly as the result of treaty obligations, not to impose our way of life on Samoa." *Revised Const. of Am. Samoa: Hr'g before the Subcomm. on Energy Conservation & Supply of the Comm. on Energy & Nat. Res.* ("Const. Hr'g"), 98th Cong., S. Hr'g 98-997 at 53 (May 8, 1984) (statement of Robert B. Shanks, Deputy Assistant Att'y Gen., Office of Legal Counsel). As Governor Peter Tali Coleman, the first person of Samoan descent to serve as governor of American Samoa and the first popularly elected governor of American Samoa, explained, "[t]he United States … has guaranteed protection to American Samoa not only of our islands themselves but also of our land, customs and traditions." *Id.* at 10 (statement of Peter Tali Coleman, Governor of Am. Samoa). In keeping with those commitments, Congress continues to work with the government and elected representatives of the people of American Samoa to play its key role as "the protector of our Samoan way of life." *Id.* at 16.

C. Procedural History

1. This is not the first case in which litigants have attempted to misread the Citizenship Clause to force birthright citizenship on the people of American Samoa. In 2012, five individuals born in American Samoa and a nonprofit organization filed suit in the U.S. District Court for the District of Columbia, arguing (like the petitioners here) that the Citizenship

Clause imposes U.S. citizenship on all persons born in American Samoa. The district court dismissed the complaint for failure to state a claim, and the D.C. Circuit unanimously affirmed. *Tuaua v. United States*, 788 F.3d 300 (D.C. Cir. 2015). As the D.C. Circuit explained, the Citizenship Clause by its terms "does not extend birthright citizenship to those born in American Samoa," and it declined to "impose citizenship by judicial fiat" contrary to "the democratic prerogatives of the American Samoan people themselves." *Id.* at 301-02. The D.C. Circuit denied rehearing en banc without any judge requesting a vote, and this Court denied certiorari with no noted dissent. *Tuaua v. United States*, 579 U.S. 902 (2016).

2. Less than two years later, petitioners filed this suit, apparently hoping that the same arguments that were rejected in *Tuaua* would manage to succeed in a different forum. Petitioners are three individuals born in American Samoa and a nonprofit organization, represented by much the same counsel as the plaintiffs in *Tuaua*. The individual petitioners do not allege that anything prevents them from seeking citizenship through the streamlined naturalization process that Congress has provided for persons born in American Samoa; they contend only that they are entitled to birthright citizenship as a matter of constitutional right.

In March 2018, petitioners filed suit against the United States in the U.S. District Court for the District of Utah, asking that court to revisit the same question decided by *Tuaua* and reach the opposite result—that is, to be the first court ever to hold that the Citizenship Clause of the Fourteenth Amendment

requires U.S. citizenship at birth for all persons born in overseas territories, despite well over a century of historical practice to the contrary. The American Samoa Government and the Honorable Aumua Amata intervened as defendants, agreeing with the United States that petitioners' arguments were meritless and providing additional context to explain the unintended and potentially harmful consequences for *fa'a Samoa* and American Samoan society that petitioners' arguments might cause.

The district court nevertheless granted summary judgment for petitioners, believing (contrary to more than a century of settled law and practice) that imposing birthright citizenship on the American Samoan people was "required by the mandate of the Fourteenth Amendment." Pet.App.180a. Apparently recognizing the dubious grounds for its ruling and the remarkable disruption that ruling could cause, the district court *sua sponte* stayed its decision pending appeal.

3. The Tenth Circuit reversed. In an opinion by Judge Lucero, joined in relevant part by Chief Judge Tymkovich, the court explained that "neither constitutional text nor Supreme Court precedent demands the district court's interpretation of the Citizenship Clause." Pet.App.5a. Instead, "text, precedent, and historical practice" together confirm that whether to extend birthright citizenship to persons born in overseas territories "properly falls under the purview of Congress." Pet.App.5a. Both before and after the ratification of the Fourteenth Amendment, "one aspect of the nation's approach to American citizenship in the territories was always

clear: it was not extended by operation of the Constitution." Pet.App.11a. Instead, "every extension of citizenship to inhabitants of an overseas territory has come by an act of Congress," and "[w]ithout such an act, no inhabitant of an overseas territory has ever been deemed an American citizen by dint of birth." Pet.App.13a. Petitioners' arguments thus "would contradict the consistent practice of the American government since our nation's founding: citizenship in the territories comes from a specific act of law, not from the Constitution." Pet.App.13a-14a; *see also* Pet.App.43a-44a (Tymkovich, C.J., concurring). And crediting those arguments would be especially inappropriate here, where "imposition of birthright citizenship would be against [the American Samoan] people's will and would risk upending certain core traditional practices." Pet.App.7a; *see also* Pet.App.36a (Lucero, J.) (recognizing the "fundamental and timeless truth" that "a people's incorporation into the citizenry of another nation ought to be done with their consent or not done at all").

Judge Bacharach dissented. Despite recognizing that the federal circuit courts "have had six occasions to consider application of the Citizenship Clause to an unincorporated territory" and "[o]n each occasion, the circuit court held that the Citizenship Clause does not apply," Judge Bacharach would have broken from every federal appellate court to consider the issue and held that the Citizenship Clause *requires* imposing birthright citizenship on the American Samoan people, regardless of their own views on the subject, the potential effects on their way of life, their basic right to self-determination, and more than a century

of contrary historical practice. Pet.App.92a-93a (Bacharach, J., dissenting).

The Tenth Circuit proceeded to deny rehearing en banc, with five judges voting against rehearing and only Judge Bacharach and Judge Moritz dissenting. Pet.App.182a.

REASONS FOR DENYING THE PETITION

There is nothing American Samoa treasures more than *fa'a Samoa*—the Samoan way of life, drawing on traditions that trace their roots back for thousands of years. Petitioners' attempt to force birthright citizenship on all American Samoans threatens numerous aspects of *fa'a Samoa*, risking serious disruption to the political and social structures that have allowed this unique culture to survive. Equally unacceptable, by imposing birthright citizenship on the American Samoan people regardless of their wishes, petitioners' position would deprive the American Samoan people of their basic right to determine their own status through the democratic process. While the American Samoan people have not yet come to any consensus on whether birthright citizenship is in their best interests, there is widespread agreement that the proper way to resolve that question is through democratic debate, not judicial decree—which is why the American Samoan legislature unanimously welcomed the decision below, and why the government and elected representatives of American Samoa have intervened in this case to unanimously oppose petitioners' mistaken reading of the Citizenship Clause.

The decision below not only respects *fa'a Samoa* and the political autonomy of the American Samoan

people, but is correct as a matter of constitutional text, structure, history, and purpose. The plain text of the Citizenship Clause extends constitutional citizenship only to persons born "in the United States," a phrase that does not normally include overseas territories. The structure of the Fourteenth Amendment (and its contrast with Thirteenth Amendment) confirms that the Citizenship Clause focuses on the States and their residents, not overseas territories. And history and purpose underscore the point, as countless prior statutes show that Congress regularly includes explicit mention of the territories when they are meant to be covered. Most persuasive of all, however, is the evidence of unbroken historical practice, which demonstrates beyond peradventure that Congress has never understood the Citizenship Clause to apply to overseas territories, and has instead consistently addressed citizenship in those territories by statute. Petitioners' position cannot be squared with that consistent post-ratification practice.

Nor are there any other special circumstances that would warrant further review here. The decision below agrees with all five of the other circuits that have considered whether the Citizenship Clause applies to overseas territories, and this Court has regularly denied other petitions raising the same question. The question presented may not be dispositive, and pending political events may alter the relevant legal context. Finally, even if this Court were inclined to revisit the *Insular Cases*, this case would be an exceptionally poor vehicle for doing so. As petitioners themselves recognize, the issues decided in the *Insular Cases* are not squarely raised here, and so there is no need to address them to resolve this case.

If this Court is inclined to reconsider those cases, it should wait for a vehicle in which they are squarely presented—and ideally one in which overruling them will promote the rights of those who live in the territories, not deprive them of their fundamental right to self-determination. The petition for certiorari should be denied.

I. The Decision Below Correctly Respects *Fa'a Samoa* and the Political Autonomy of the American Samoan People.

A. Imposing Citizenship on the American Samoan People Would Threaten Serious Disruption to *Fa'a Samoa*.

The American Samoan way of life, *fa'a Samoa*, is of fundamental importance to the American Samoan people, and Congress has done its part to help preserve this unique culture for over a century. As the Department of Justice has explained, "[t]hat protection … has been accomplished in part through a legal isolation of American Samoa, which stems in part from the fact that American Samoans are noncitizen nationals rather than American citizens." Const. Hr'g at 46 (statement of Robert B. Shanks); *see also Boumediene v. Bush*, 553 U.S. 723, 760 (2008) (recognizing that citizenship is a "key factor" in determining the extent to which constitutional provisions apply overseas). Petitioners' attempt to impose birthright citizenship on the American Samoan people regardless of their wishes threatens to disrupt numerous central aspects of *fa'a Samoa*, including its basic social structures, its traditional practices for land alienation, and its religious customs—all of which are legally protected principles

of American Samoan society. *See* Revised Const. of Am. Samoa art. I, §3 (protecting the American Samoan people "against alienation of their lands and the destruction of the Samoan way of life and language").

Social Structure. First, imposing citizenship on all American Samoans at birth would threaten the basic social structure of American Samoan society. American Samoan households are organized according to large, extended families, known as *'aiga*. *See* Leibowitz, *American Samoa*, *supra*, at 224-25. *Matai*, holders of hereditary chieftain titles, regulate village life. *See* Daniel E. Hall, *Curfews, Culture, and Custom in American Samoa: An Analytical Map for Applying the U.S. Constitution to U.S. Territories*, 2 Asian-Pac. L. & Pol'y J. 69, 71-72 (2001).

The United States has always recognized American Samoa's *matai* system. *See* Arnold H. Leibowitz, *Defining Status: A Comprehensive Analysis of United States Territorial Relations* 440 (1989). When American Samoa was under the authority of the U.S. Navy from 1900 to 1951, it was customary for the naval government to meet annually with the district governors who had been appointed by the naval governor because of their rank within the *matai* system. *Id.* at 441. This annual meeting, or *fono*, eventually evolved into the American Samoa Legislature (*Fono*) today. *Id.*

The prominence of *matai* in American Samoan culture is recognized by limiting eligibility to serve in the upper house of the *Fono* to "the registered *matai* of a Samoan family who fulfills his obligations as required by Samoan custom in the county from which

he is elected." Revised Const. of Am. Samoa art. II, §3. Were all American Samoans to be automatically born as citizens, these political structures might be subject to heightened scrutiny under the Constitution's equal protection and due process guarantees. While the ultimate outcome of any such challenge is unpredictable, is impossible to "conclude with certainty that citizenship will have no effect on the legal status of the *fa'a Samoa*," especially since "[c]itizenship status has often been an important factor in determining how the Constitution applies" overseas. Pet.App.39a; *cf. Boumediene*, 553 U.S. at 760 (citizenship is a "key factor"); *Reid v. Covert*, 354 U.S. 1 (1957).[2]

Land Alienation. In addition to imperiling the role of the *matai*, citizenship at birth could also compromise how land in American Samoa is owned and alienated. By longstanding tradition, land in American Samoa is owned in common by the *'aiga*, which can range in number from dozens to thousands,

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[2] The dissent below claimed that this concern "lacks any legal foundation" because the Constitution's equal protection guarantee protects all "persons," not just citizens, and applies in the territories. Pet.App.83a; *see* Elected Officials *Amici* Br.19-21. But the *content* of that equal protection guarantee unquestionably turns in part on the status of the person invoking it, especially in the context of political participation. Given the "unusual" and "unpredictable" issues that would arise if all American Samoans were made citizens at birth, "[c]itizenship simply cannot be confidently declared irrelevant to how the Constitution will affect American Samoa." Pet.App.39a; *see also Boumediene*, 553 U.S. at 760; *cf. United States v. Vaello Madero*, 142 S.Ct. 1539, 1547-52 (2022) (Thomas, J., concurring) (suggesting that the right to equal protection as to the federal government is best located in the Citizenship Clause).

and managed by the *matai*. *See* Leibowitz, *American Samoa*, *supra*, at 222-24. Each *matai*'s power rests in control over the land, without which he would have no authority. The *matai*, in turn, supervise the economic activity of the common land and meet with each other in a council (*fono*) to organize larger projects for the community. *Id.* at 224.

Social institutions in American Samoa revolve around the communal ownership and management of land for the good of the community. More than ninety percent of the land in American Samoa is communally owned. *Id.* at 239. Alienation of communal land is strictly regulated, to the extent that the Governor himself must approve the sale. Am. Samoa Code Ann. §37.0204(a) (2000). In addition, Samoan law restricts the sale of community land to anyone with less than fifty percent Samoan ancestry. *Id.* §37.0204(b). This restriction is consistent with historical practice dating back to 1900, when the United States assumed possession of American Samoa and Commander B.F. Tilley prohibited the alienation of land to non-Samoans. *See* Teichert, *supra*, at 50.

In short, "[c]ommunal ownership of land is the cornerstone of the traditional Samoan way of life." *Corp. of Presiding Bishop of Church of Jesus Christ of the Latter-Day Saints v. Hodel*, 830 F.2d 374, 377 (D.C. Cir. 1987). This unique and complex relationship with the land is part of what the Samoans sought to protect in the instruments of cession, and the concern that citizenship at birth could potentially undermine this aspect of the Samoan way of life plays a central part in the lack of consensus among the American Samoan people on whether to ask Congress to extend

birthright citizenship by statute. *See Tuaua*, 788 F.3d at 310.[3]

Religion. Unlike the United States, American Samoa has an exceptionally homogenous religious culture. *See* Hall, *supra*, at 71 ("One hundred percent of Samoans report being Christian."). Religious observance is not only a social norm, but it is also enforced by local leaders, the village *matai*: "In most villages in American Samoa, there are both early evening 'prayer' curfews as well as nocturnal curfews." *Id.* at 97. Curfews are enforced by young men who punish violators with a range of sanctions that could "include requiring the offender to feed the entire village or the village council, fining the offender as much as $100, reprimanding the offender, withdrawal of titles in extreme cases, banishment, and withholding village protection of the family of the offender." *Id.* at 98.

It is not difficult to imagine the disruptive consequences that imposing birthright citizenship might have on American Samoa's tradition of prayer curfews. While the constitutional ramifications of citizenship for this "unique cultural and social structure" would necessarily be "unpredictable," Pet.App.39a, challengers would unquestionably argue

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[3] The dissent below never explicitly addresses how birthright citizenship would affect traditional American Samoan land-ownership practices, *see* Pet.App.83a-84a, but it is clear the threat is real. *Contra* Elected Officials Amici Br.20. While the Ninth Circuit has upheld a CNMI land alienation law against an equal protection challenge without explicitly addressing the effect of citizenship, *see Wabol v. Villacrusis*, 958 F.2d 1450 (9th Cir. 1990), that decision depended on the very precedents that petitioners are asking this Court to overturn.

that "a curfew aimed at all citizens could not survive constitutional scrutiny," *Bykofsky v. Borough of Middletown*, 429 U.S. 964, 964-65 (1976) (Marshall, J., joined by Brennan, J., dissenting from denial of certiorari), particularly one premised on religious practice, *see, e.g.*, *Zorach v. Clauson*, 343 U.S. 306, 314 (1952) (Establishment Clause prohibits government from "mak[ing] a religious observance compulsory"); *cf. Boumediene*, 553 U.S. at 760; *Reid*, 354 U.S. at 5-6, 32-33 (plurality op.) (protections of the Bill of Rights extend to "citizens abroad"). Given the serious uncertainty over whether birthright citizenship would require abandoning these traditional practices, "the American Samoans' cautious approach should be respected." Pet.App.39a.

B. Imposing Citizenship on the American Samoan People Would Disregard Their Basic Right to Self-Determination.

In light of these serious concerns over the potential effect of birthright citizenship on *fa'a Samoa*, the American Samoan people have not reached consensus on whether that status is in their best interests. Congress—in the same consultative democratic process that has governed questions of citizenship in the territories for more than a century—has properly deferred to that lack of consensus and the basic right of the American Samoan people to determine their own status, and refused to impose citizenship on the American Samoan people without their clear consent. The Tenth Circuit correctly refused to disturb that democratic process, deprive the American Samoan people of their right to self-determination, and judicially impose citizenship at

birth on all American Samoans based on an unprecedented misreading of the Citizenship Clause.

For the entire history of our Nation, in exercising the constitutional power to regulate whether (and how) to extend U.S. citizenship to persons born in a particular U.S. territory, Congress has acted in cooperation with—and never against the express wishes of—territorial governments. This practice is consistent with and reflective of a long tradition of a "model of citizenship based on consent," which "is imbued in our founding documents." Pet.App.11a. The United States was born from an understanding that "all allegiance ought to be considered the result of a contract resting on consent," and it was this idea that "shaped [colonists'] response to the claims of Parliament and the king, legitimized their withdrawal from the British empire, … and underwrote their creation of independent governments." Pet.App.10a-11a (quoting James H. Kettner, *The Development of American Citizenship, 1608-1870* 9-10 (1978)). Consent of the governed, after all, is the foundational premise of a democratic republic, and the basic distinction by which "we distinguish a republican association from the autocratic subjugation of free people." *Tuaua*, 788 F.3d at 310 (citing *Kennett v. Chambers*, 55 U.S. (14 How.) 38, 41 (1852)).

Since voluntarily ceding sovereignty to the United States in 1900, the people of American Samoa have continued to exercise their basic right of self-determination by working with Congress to protect *fa'a Samoa* and to develop their unique relationship with the United States. The United States, for its part, has likewise continually supported the self-

determination efforts of the American Samoan people. *See, e.g.*, Statement of Jay Kenneth Katzen on Am. Samoa, U.S. Mission to the U.N. (Nov. 18, 1976) (recognizing that the United States is "fully committed to the principle of self-determination"). The American Samoan people, their government, and their elected officials continue to evaluate their relationship with the United States through an effective democratic dialogue, including proposed bills in Congress to further simplify the path to citizenship for American Samoans, *see* H.R. 1941, 117th Cong. (2021); H.R. 3482, 116th Cong. (2019); H.R. 1208, 116th Cong. (2019); H.R. 5026, 115th Cong. (2018), and active preparation for an upcoming American Samoa constitutional convention, *see* Am. Samoa Gov., Report of the 2022 Constitutional Review Committee (June 17, 2022), *available at* https://bit.ly/3AODMtq.

The American Samoan people have welcomed the decision below for allowing that ongoing democratic dialogue to proceed rather than attempting to resolve it by judicial fiat. In the aftermath of the Tenth Circuit's decision below, the *Fono* (the bicameral legislature of American Samoa) passed a concurrent resolution expressing its support for the decision. *See* S. Con. Res. No. 37-3, 37th Leg., 2d Reg. Sess. (Am. Sam. 2021), *available at* https://bit.ly/3e0FxuH. That resolution passed unanimously, without a single dissenting vote in either house of the American Samoa legislature. As that resolution illustrates, petitioners' attempt to resolve the ongoing democratic debate over American Samoan citizenship by judicial fiat would contravene the will of the American Samoan people and strip them of their right to determine their own status through the democratic process, and would

instead "impose citizenship on an unwilling people from a courthouse thousands of miles away." Pet.App.5a. The Citizenship Clause does not compel that result, and the Tenth Circuit correctly refused to require it.

II. The Decision Below Correctly Interprets the Citizenship Clause.

A. The Decision Below Accords With Constitutional Text, Structure, History, and Purpose.

The decision below not only protects *fa'a Samoa* and the right of the American Samoan people to self-determination, but is also correct as a matter of constitutional text, structure, history, and purpose.

1. The Citizenship Clause of the Fourteenth Amendment provides: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." U.S. Const. amend. XIV, §1, cl.1. As the Tenth Circuit correctly concluded, nothing about that text requires interpreting "in the United States" to include all of its far-flung overseas territories. On the contrary, "in the United States" is normally used—and has been since the Founding—to refer only to the States and the District of Columbia, not territorial possessions. *See, e.g.*, Letter from Henry Vanderburgh to Winthrop Sargent (April 30, 1795), in Winthrop Sargent Papers (on file with the Massachusetts Historical Society, Reel 4) ("I hear he is gone [from the Ohio territory] to the U[nited] States."); *see also United States*, Black's Law Dictionary (11th ed. 2019) ("A federal republic … made up of 48 conterminous states, plus the state of

Alaska and the District of Columbia in North America, plus the state of Hawaii in the Pacific."), Just as "in the United Kingdom" does not usually mean Bermuda, "in France" does not usually mean French Guiana, and "in Denmark" does not usually mean Greenland, "in the United States" does not usually mean overseas territories like American Samoa.

2. What the usual meaning of the text suggests, context and structure confirm. The Citizenship Clause itself suggests that its focus is on the States (not territories), making each person a citizen from birth of "*the State wherein they reside*." U.S. Const. amend. XIV, §1, cl.1 (emphasis added); *see* Pet.App.28a n.16. The Clause's reference to "in the United States" also contrasts noticeably with the Thirteenth Amendment, ratified less than three years earlier, which abolished slavery "within the United States, *or any place subject to their jurisdiction*." U.S. Const. amend. XIII, §1 (emphasis added); *see also Downes v. Bidwell*, 182 U.S. 244, 336-37 (1901) (White, J., concurring) (noting that the Thirteenth Amendment "recognized that there may be places subject to the jurisdiction of the United States, but which … are not within the United States in the completest sense of those words"). The Eighteenth Amendment drew the same distinction fifty years later, prohibiting the manufacture or sale of alcohol within "the United States *and all territory subject to the jurisdiction thereof*." U.S. Const. amend. XVIII, §1, *repealed by* U.S. Const. amend. XXI, §1. The explicit inclusion of the territories in the Thirteenth and Eighteenth Amendments, and their conspicuous absence in the Citizenship Clause, strongly suggests that those "different words … make a legal difference."

Burlington N. & Santa Fe Ry. Co. v. White, 548 U.S. 53, 62-63 (2006).

3. History supports the same conclusion. In the decades leading up to the proposal and ratification of the Citizenship Clause, Congress regularly treated "the United States" as distinct from its "territories" in numerous statutes. *See, e.g.*, Act of Mar. 2, 1807, §1, 2 Stat. 426, 426 (banning the importation of slaves "into the United States or the territories thereof"); Act of Mar. 1, 1809, §1, 2 Stat. 528, 528 (barring certain French and British vessels from "harbors and waters of the United States and of the territories thereof"); Act of June 30, 1864, §94, 13 Stat. 223, 264 (setting duties on products made or sold "within the United States or the territories thereof"); Act of July 4, 1864, §5, 13 Stat. 385, 386 (barring from certain offices persons involved in transporting immigrants "to the United States and its territories"). That tradition of referring explicitly to the territories continued in the Civil Rights Act of 1866, passed over President Johnson's veto just months before Congress proposed the Fourteenth Amendment, in which Congress secured equal rights for citizens "in every State and Territory" and prohibited depriving "any inhabitant of any State or Territory" of rights secured by the Act. §§1-2, 14 Stat. 27, 27; *see also id.* §6, 14 Stat. at 28-29 (providing for certain criminal penalties in "any one of the organized Territories of the United States"). "The decision of the 39th Congress to not include, in the Fourteenth Amendment, language related to territories—language that was present in the Civil Rights Act—may by itself constitute evidence that [Congress] did not intend for territories to be included within the Citizenship Clause's geographic scope."

Pet.App.148a; *see, e.g.*, *Crawford v. Burke*, 195 U.S. 176, 190 (1904) (recognizing that "a change in phraseology creates a presumption of a change in intent").

4. The decision below is also consistent with the purpose of the Citizenship Clause. At the time that Clause was ratified, "the United States lacked material overseas possessions or territories," apart from a few uninhabited guano islands and Alaska (whose citizenship questions had been resolved by the Alaska Purchase Treaty). Pet.App.42a & n.3. Whatever may have been the intent with respect to "contiguous United States territories destined for statehood," Pet.App.42a, there is no plausible reason to believe the Citizenship Clause was understood to automatically extend constitutional birthright citizenship to persons born in American Samoa, Guam, Micronesia, Palau, the Philippines, or any of the other far-flung overseas territories that the United States would eventually acquire (and in some cases relinquish).

B. The Decision Below Accords With Longstanding Historical Practice.

The decision below comports not only with the constitutional text, structure, history, and purpose, but with consistent historical practice. For the entire history of this Nation, "every extension of citizenship to inhabitants of an overseas territory has come by an act of Congress," and "[w]ithout such an act, no inhabitant of an overseas territory has ever been deemed an American citizen by dint of birth." Pet.App.13a. That clear unbroken historical practice—which petitioners barely mention, and

cannot dispute—strongly confirms that the Citizenship Clause does not impose birthright citizenship on the people of American Samoa. *See, e.g.*, *NLRB v. Noel Canning*, 573 U.S. 513, 524 (2014) ("[L]ong settled and established practice is a consideration of great weight in a proper interpretation of constitutional provisions[.]"); *Walz v. Tax Comm'n*, 397 U.S. 664, 678 (1970) ("unbroken practice" is "not something to be lightly cast aside").

Even before the ratification of the Fourteenth Amendment, "one aspect of the nation's approach to American citizenship in the territories was always clear: it was not extended by operation of the Constitution." Pet.App.11a. Instead, decisions on citizenship in the territories were left to the political branches—in accordance with Congress's power to "make all needful Rules and Regulations respecting the Territory … belonging to the United States," U.S. Const. art. IV, §3, cl.2, its power to "establish a uniform Rule of Naturalization," *id.* art. I, §8, cl.4, and the President's power "with the Advice and Consent of the Senate, to make Treaties," *id.* art. II, §2, cl.2. In practice, for major territorial expansions, citizenship questions were "typically decided by treaty provisions" in the treaty by which the territory was acquired. Pet.App.12a n.5; *see, e.g.*, Louisiana Purchase Treaty, U.S.-Fr., art. III, 8 Stat. 200 (1803) (providing that "inhabitants of the ceded territory" would enjoy "all the[] rights, advantages, and immunities of citizens of the United States"); Treaty of Guadalupe Hidalgo, U.S.-Mex., art. VIII, 9 Stat. 922 (1848) (allowing Mexican citizens in the ceded territories to "either retain the title and rights of Mexican citizens, or acquire those of citizens of the United States");

Cession of Alaska, U.S.-Russ., art. III, 18 Stat. 671 (1867) ("inhabitants of the ceded territory … [who] remain in the ceded territory," except for "native tribes," shall become "citizens of the United States").

Upon ratification of the Fourteenth Amendment in 1868, the Citizenship Clause constitutionalized birthright citizenship "in the United States." U.S. Const. amend. XIV, §1, cl.1. But as consistent practice from 1868 on shows, that Clause was never understood to constrain Congress's power to decide whether to extend citizenship to persons born in the territories. Instead, for each and every territory that the United States has acquired since 1868, Congress has decided on a case-by-case basis whether to extend birthright citizenship to that territory.

In 1898, the United States explicitly provided in the Treaty of Paris that the "political status" of inhabitants of its newly acquired territories of Puerto Rico and the Philippines "shall be determined by the Congress." U.S.-Spain, art. IX, 30 Stat. 1754, 1759 (1898). Congress later extended citizenship to residents of Puerto Rico, *see* Organic Act of Porto Rico, ch. 416, §2, 39 Stat. 951, 953 (1917), but never to residents of the Philippines. The United States likewise acquired Guam in 1898, but Congress extended birthright citizenship there only in 1950. *See* Organic Act of Guam, ch. 512, §4, 64 Stat. 384 (1950). The United States acquired the U.S. Virgin Islands in 1917, but Congress extended birthright citizenship there only in 1927, and only under certain conditions. *See* Act of Feb. 25, 1927, ch. 192, 44 Stat. 1234. The United States was entrusted with the Northern Marianas Islands (along with the Marshall

Islands, Micronesia, and Palau) in 1947, but extended birthright citizenship to its inhabitants only in 1976 (and never to inhabitants of the latter three territories). That is, from the moment the Citizenship Clause was ratified to the present day, Congress has always understood that Clause to apply only to persons born or naturalized "in the United States," not in overseas territories.

The decision below thus follows "the consistent practice of the American government since our nation's founding: citizenship in the territories comes from a specific act of law, not from the Constitution." Pet.App.13a-14a. As the Tenth Circuit explained, the "unbroken understanding of the meaning of the text" of the Citizenship Clause, confirmed by "longstanding practice" ever since the Fourteenth Amendment was ratified, is that Congress continues to "wield[] plenary authority over the citizenship status of unincorporated territories." Pet.App.31a; *see* Pet.App.44a (Tymkovich, C.J., concurring) (recognizing "the historical practice, undisturbed for over a century, that Congress has the authority to determine the citizenship status of unincorporated territorial inhabitants"). That "[l]ong settled and established practice," *Noel Canning*, 573 U.S. at 524, confirms that the Citizenship Clause does not impose birthright citizenship on the American Samoan people.

C. The Decision Below Accords With This Court's Precedent and Every Other Decision Addressing This Issue.

Given the constitutional text, structure, history, and purpose, and consistent historical practice since

1868, it is hardly surprising that the decision below aligns with every other court to consider the issue. As the dissent below recognized, the federal courts of appeals "have had six occasions" to consider whether the Citizenship Clause applies to overseas territories—and "[o]n each occasion, the circuit court held that the Citizenship Clause does not apply." Pet.App.92a-93a; *see Tuaua*, 788 F.3d at 302-06 (American Samoa); *Thomas v. Lynch*, 796 F.3d 535, 542 (5th Cir. 2015), *cert. denied*, 579 U.S. 927 (2016) (military base in Germany); *Nolos v. Holder*, 611 F.3d 279, 284 (5th Cir. 2010) (Philippines); *Lacap v. INS*, 138 F.3d 518, 519 (3d Cir. 1998) (Philippines); *Valmonte v. INS*, 136 F.3d 914, 920 (2d Cir.), *cert. denied sub nom. Santillan Valmonte v. INS*, 525 U.S. 1024 (1998) (Philippines); *Rabang v. INS*, 35 F.3d 1449, 1452 (9th Cir. 1994), *cert. denied sub nom. Sanidad v. INS*, 515 U.S. 1130 (1995) (Philippines). That unanimous consensus confirms both that the decision below is correct and that further review is unnecessary.

The decision below likewise accords with this Court's precedent. This Court has never squarely addressed the geographic scope of the Citizenship Clause, and nothing in the cases that petitioners cite purports to expand that Clause (contrary to its plain meaning and well over a century of consistent historical practice) to apply to overseas territories. *Contra* Pet.20-23. Petitioners rely most heavily on *United States v. Wong Kim Ark*, 169 U.S. 649 (1898)—but that case involved a person born in California. *Id.* at 652. Nothing in *Wong Kim Ark* (or subsequent opinions citing it) suggests that when this Court said "within the territory of the United States," *id.* at 693,

it meant "within the United States or its territories." *Contra* Pet.21-23; *see Tuaua*, 788 F.3d at 304-05. In fact, both *Wong Kim Ark* and the other cases on which petitioners primarily rely were decided before the United States acquired its first significant overseas territories, making the relevance of the language that petitioners quote limited at best. *See Elk v. Wilkins*, 112 U.S. 94 (1884); *Slaughter-House Cases*, 83 U.S. (16 Wall.) 36 (1873); *contra* Pet.20-21. In sum, nothing in this Court's decisions requires reading the Citizenship Clause to extend to overseas territories—as confirmed by the fact that every circuit to consider the question has rejected that reading.

III. The Decision Below Does Not Warrant Further Review.

1. The decision below is not only correct, but also presents no special circumstances that would warrant further review. There is no circuit split on the question presented; instead, all six circuits to consider the issue have reached the same result as the decision below. Reflecting that fact, other petitions raising the same question have been regularly denied, including as recently as 2016. *See Tuaua*, 579 U.S. 902; *Thomas*, 579 U.S. 927; *Valmonte*, 525 U.S. 1024; *Sanidad*, 515 U.S. 1130.

2. The question presented also is not necessarily outcome-dispositive in this case. As the D.C. Circuit correctly held in *Tuaua*, even if American Samoa were "in the United States" under the Citizenship Clause, the American Samoan people are not "subject to the jurisdiction" of the United States under the Citizenship Clause, and so the Clause does not extend them birthright citizenship. 788 F.3d at 305-06.

While the decision below took a different view in a footnote, *see* Pet.App.27a n.15, it did not meaningfully respond to the D.C. Circuit's reasoning on this point, or this Court's controlling decision in *Elk*.

In *Elk*, this Court held that members of recognized Native American tribes are not "subject to the jurisdiction" of the United States under the Citizenship Clause. 112 U.S. at 109. As the Court explained, the "evident meaning" of that language was "not merely subject in some respect or degree to the jurisdiction of the United States, but *completely* subject to their political jurisdiction, and owing them *direct and immediate* allegiance"—a description that tribal members, as members of "distinct political communities," did not meet. *Id.* at 99, 102 (emphases added). As the D.C. Circuit correctly held, the same logic applies to the American Samoan people: While they owe "permanent allegiance to the United States" as a statutory matter, 8 U.S.C. §1101(a)(22), they remain members of an "independent political community" with its own unique political and social traditions and practices, which mediate the relationship between the American Samoan people and the United States. *Elk*, 112 U.S. at 109. The Citizenship Clause does not impose birthright citizenship on such "distinct, significantly self-governing" political communities, "even where … ultimate governance remains statutorily vested with the United States." *Tuaua*, 788 F.3d at 306. At the very least, the presence of this additional unresolved issue—which could prevent relief for petitioners even if they were to prevail on their question presented—weighs against granting certiorari here.

3. Another factor weighing against granting further review now is the ongoing democratic dialogue on these issues, as American Samoans and their elected representatives have continued to work with Congress to determine the relationship that will best serve the American Samoan people and *fa'a Samoa*. *See supra* pp.20-22. As already noted, multiple bills have been introduced in Congress to further simplify the path to citizenship for American Samoans who choose to seek that status, including a pending bill introduced by the Honorable Aumua Amata and co-sponsored by five others. H.R. 1941, 117th Cong. (2021). In addition, the American Samoan people are also in the midst of a new constitutional convention, which will involve further debate over the relationship of the American Samoan people and their government with the United States. *See* Am. Samoa Gov., Report of the 2022 Constitutional Review Committee (June 17, 2022), *available at* https://bit.ly/3AODMtq. Given these pending potential changes in the legal background against which petitioners bring their challenge, there is good reason for this Court to decline review now and allow the democratic process to take its course before any further judicial consideration.

4. Apparently recognizing that the underlying question presented here—whether the Citizenship Clause imposes birthright citizenship on the American Samoan people—is not certworthy on its own terms, petitioners do their best to expand it, asking the Court to use this case as a vehicle to decide "whether the *Insular Cases* should be overruled." Pet.i. But the question of whether to overrule the *Insular Cases* is not squarely raised by this case—which is why petitioners find themselves forced to awkwardly reach

out and explicitly "includ[e]" that issue in their question presented. *Id.* As that awkward phrasing makes clear, this case is an exceptionally poor vehicle for reconsidering the *Insular Cases*. Whatever interest this Court may have in revisiting those decisions, it should wait for a case that actually requires doing so.

The question presented by this case is a straightforward question of the proper interpretation of the text of the Citizenship Clause: namely, whether the phrase "in the United States" in the Citizenship Clause includes overseas territories like American Samoa. None of the *Insular Cases* squarely addresses that question. In fact, none of the *Insular Cases* arises under the Citizenship Clause at all. Instead, those cases arise under other provisions of the Constitution, most of which do not define their own geographic scope and so provide no explicit textual basis for determining whether their protections apply overseas. *See, e.g.*, *Balzac v. Porto Rico*, 258 U.S. 298 (1922) (Sixth Amendment jury-trial right); *Dorr v. United States*, 195 U.S. 138 (1904) (Article III and Sixth Amendment jury-trial rights); *Hawaii v. Mankichi*, 190 U.S. 197 (1903) (Fifth Amendment indictment and Sixth Amendment jury-trial rights).

The *Insular Cases* thus primarily address a much broader question: how to determine whether the Constitution applies overseas *in cases where the Constitution says nothing about where it applies*. *See* Pet.App.76a (recognizing that *Balzac* and *Dorr* involve "rights that do not identify their geographic scope"). This case presents no opportunity to address that broader question, because the Citizenship Clause *does*

include its own "geographic scope clause." Pet.App.26a. And while one of the *Insular Cases* does address a provision that specifies its own geographic scope, *see Downes v. Bidwell*, 182 U.S. 244 (1901) (Tax Uniformity Clause), that Article I provision was ratified decades before the Fourteenth Amendment, with an entirely different historical context and purpose. This case therefore provides no basis for revisiting any of the *Insular Cases*.

And contrary to what the petition suggests, the *Insular Cases* were not even central to the decision below. While the panel majority did discuss those cases (and found them more relevant than *Wong Kim Ark*), *see* Pet.App.14a-26a, its result did not depend on those cases. Judge Lucero did apply the *Insular Cases* analysis in his separate opinion, *see* Pet.App.32a-40a, but Chief Judge Tymkovich did not join that analysis, *see* Pet.App.32a n.21, making it neither part of the decision below nor Tenth Circuit precedent. Instead, the outcome below (based on Chief Judge Tymkovich's deciding vote) depended on the "traditional tools of constitutional interpretation: text, structure, and history," and in particular on the more than a century of post-ratification historical practice rejecting petitioners' view. Pet.App.41a, 44a (Tymkovich, C.J., concurring); *see* Pet.App.26a-32a; *see also Vaello Madero*, 142 S.Ct. at 1556 (Gorsuch, J., concurring) (citing Pet.App.43a-44a and recognizing that these are "the right questions").

Petitioners themselves contend that the *Insular Cases* are "irrelevant here," as "[n]one involved the Citizenship Clause or defined 'in the United States' as it is used in the Fourteenth Amendment." Pet.24

(emphasis omitted). For precisely that reason, this case provides an exceptionally poor vehicle for reconsidering the *Insular Cases*. This Court does not normally reach out to address issues that are not necessary to its decisions, and it certainly does not normally grant certiorari to decide a question that is not squarely presented. Whatever interest there may be in revisiting the *Insular Cases*, the question of whether to overrule those decisions is "better resolved in other litigation" where it would actually be "dispositive of the case." *Relford v. Commandant*, 401 U.S. 355, 370 (1971).

Finally, it bears noting that even if this Court were inclined to reconsider and overrule the *Insular Cases*, it would be remarkably ironic to take that step in a case where those decisions have been cited not to perpetuate racist or imperialist doctrines, but instead "to preserve the dignity and autonomy of the peoples of America's overseas territories." Pet.App.17a. The *Insular Cases* are often criticized for relying on "beliefs both odious and wrong" to deprive the inhabitants of overseas territories of their rights, including their basic right to self-determination. *Vaello Madero*, 142 S.Ct. at 1560 n.4 (Sotomayor, J., dissenting). The decision below, however, does precisely the opposite: It *respects* the wishes of the American Samoan people, as expressed by the unanimous voice of their democratic government and elected representatives, by allowing the American Samoan people to decide for themselves (in consultation with Congress) whether and when to seek birthright citizenship. It would be the height of irony to use the *overruling* of the *Insular Cases* to cut off that ongoing democratic dialogue, deprive the American Samoan people of their

fundamental right to self-determination, and force them to accept birthright citizenship regardless of their wishes. The Tenth Circuit correctly determined that the Citizenship Clause does not require that result, and no further review is warranted.

CONCLUSION

This Court should deny the petition.

Respectfully submitted,

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