

No. 24-621

**In the
Supreme Court of the United States**

NATIONAL REPUBLICAN SENATORIAL COMMITTEE,
ET AL.,

Petitioners,

v.

FEDERAL ELECTION COMMISSION, ET AL.,

Respondents.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

**MOTION OF COURT-APPOINTED
AMICUS CURIAE FOR LEAVE TO FILE
SUPPLEMENTAL BRIEF ON JURISDICTION
AND
PROPOSED SUPPLEMENTAL BRIEF ON
JURISDICTION**

ROMAN MARTINEZ

Counsel of Record

MARGARET A. UPSHAW

CHRISTINA R. GAY

TIMOTHY J. BORGERSON

NATHANIEL G. BERRY

LATHAM & WATKINS LLP

555 11th Street, NW

Suite 1000

Washington, DC 20004

(202) 637-3377

roman.martinez@lw.com

November 24, 2025

**MOTION OF COURT-APPOINTED
AMICUS CURIAE FOR LEAVE TO FILE
SUPPLEMENTAL BRIEF ON JURISDICTION**

Pursuant to Supreme Court Rule 21, Court-Appointed *Amicus Curiae* respectfully moves for leave to file the attached supplemental brief on the new jurisdictional issues raised in this case.

1. On December 4, 2024, petitioners sought certiorari in this Court on the question whether 52 U.S.C. § 30116(d)'s limits on the amount of money the national committee of a political party may spend in coordination with a candidate for federal office are constitutional. After President Trump took office, the Federal Election Commission (FEC) abandoned the position it had taken in the lower courts, agreed with petitioners that Section 30116(d)'s limits are unconstitutional, urged the Court to grant certiorari and overrule *FEC v. Colorado Republican Federal Campaign Committee (Colorado II)*, 533 U.S. 431 (2001), and proposed that the Court appoint an *amicus curiae* to defend the Sixth Circuit's judgment below. The Court granted the petition for certiorari on June 30, 2025. On July 1, 2025, the Court appointed *amicus* to defend that judgment.

On September 29, 2025, *amicus* filed a response brief defending the merits of the judgment below and advancing a number of jurisdictional arguments that were not raised at the non-adversarial certiorari stage or in any of the lower court opinions. For example, *amicus* argued that the FEC's change in position on the constitutionality of Section 30116(d)'s limits moots this case; that the Sixth Circuit lacked interlocutory appellate jurisdiction over the claims brought by the National Republican Senatorial Committee (NRSC) and National Republican

Congressional Committee (NRCC); and that Vice President Vance's claims are moot because he no longer has concrete plans to run for any particular federal office. *Amicus* emphasized these issues as reasons either to dismiss the case for lack of jurisdiction, or dismiss the petition as improvidently granted.

On October 29, 2025, petitioners and the FEC filed their reply briefs, which addressed these jurisdictional arguments for the first time (and at length). On each of the main jurisdictional points, petitioners and the FEC raised new arguments and authorities that had not previously been considered by this Court or the courts below.

In addition, since *amicus* filed his response brief, Vice President Vance has made multiple public statements bearing on whether he presently has a concrete plan to run for federal office, an issue that is key to whether his claims in this case remain live.

2. After consulting with the Clerk's Office on the appropriate way forward under this Court's rules, *amicus* now respectfully seeks leave to file a supplemental brief responding to the jurisdictional arguments in petitioners' and the FEC's reply briefs and raising new facts bearing on Vice President Vance's standing.

Amicus was appointed to ensure this case is properly presented with adversarial briefing on the major issues. Consistent with that role, *amicus* respectfully submits that a supplemental brief responding to the parties solely on jurisdiction would assist the Court by ensuring that the important jurisdictional questions are fully and fairly considered. The supplemental brief is especially

important because (1) petitioners and the FEC were fully aligned at the certiorari stage, with neither party having any incentive to raise potential jurisdictional defects, and (2) as a result, this Court has not yet been made aware of the responses to the parties' defense of jurisdiction.

3. Petitioners and the FEC oppose this motion. Intervenor do not oppose this motion.

Respectfully submitted,
ROMAN MARTINEZ
Counsel of Record
MARGARET A. UPSHAW
CHRISTINA R. GAY
TIMOTHY J. BORGERSON
NATHANIEL G. BERRY
LATHAM & WATKINS LLP
555 11th Street, NW
Suite 1000
Washington, DC 20004
(202) 637-3377
roman.martinez@lw.com

November 24, 2025

ATTACHMENT

No. 24-621

**In the
Supreme Court of the United States**

NATIONAL REPUBLICAN SENATORIAL COMMITTEE,
ET AL.,

Petitioners,

v.

FEDERAL ELECTION COMMISSION, ET AL.,

Respondents.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

**SUPPLEMENTAL BRIEF ON JURISDICTION
OF COURT-APPOINTED *AMICUS CURIAE***

ROMAN MARTINEZ

Counsel of Record

MARGARET A. UPSHAW

CHRISTINA R. GAY

TIMOTHY J. BORGERSON

NATHANIEL G. BERRY

LATHAM & WATKINS LLP

555 11th Street, NW

Suite 1000

Washington, DC 20004

(202) 637-3377

roman.martinez@lw.com

November 24, 2025

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
INTRODUCTION	1
ARGUMENT	1
I. There Is No Threat Of Enforcement.....	1
II. The Committees Are Not Proper Parties	4
A. No Appellate Jurisdiction.....	5
B. No Standing Based On Invalid Assignment Regulation	7
III. Vice President Vance Is Not A Proper Party	9
CONCLUSION.....	13

TABLE OF AUTHORITIES

Page(s)

CASES

<i>Alexander v. Sandoval</i> , 532 U.S. 275 (2001).....	8
<i>Barr v. American Association of Political Consultants, Inc.</i> , 591 U.S. 610 (2020).....	3
<i>Bread Political Action Committee v. FEC</i> , 455 U.S. 577 (1982).....	5
<i>Carney v. Adams</i> , 592 U.S. 53 (2020).....	9, 10
<i>Common Cause v. FEC</i> , 108 F.3d 413 (D.C. Cir. 1997).....	4
<i>FEC v. Colorado Republican Federal Campaign Committee</i> , 533 U.S. 431 (2001).....	2
<i>FEC v. DSCC</i> , 454 U.S. 27 (1981).....	6, 8
<i>Free Enterprise Fund v. Public Co. Accounting Oversight Board</i> , 561 U.S. 477 (2010).....	5
<i>Hamer v. Neighborhood Housing Services of Chicago</i> , 583 U.S. 17 (2017).....	6
<i>Loper Bright Enterprises v. Raimondo</i> , 603 U.S. 369 (2024).....	7

TABLE OF AUTHORITIES—Continued**Page(s)**

<i>Lujan v. Defenders of Wildlife</i> , 504 U.S. 555 (1992).....	9
<i>McConnell v. FEC</i> , 540 U.S. 93 (2003).....	12
<i>Ohio Telecom Association v. FEC (In re MCP No. 185)</i> , 124 F.4th 993 (6th Cir. 2025)	7
<i>Pulsifer v. United States</i> , 601 U.S. 124 (2024).....	7
<i>United States v. Windsor</i> , 570 U.S. 744 (2013).....	2
<i>Whole Woman’s Health v. Jackson</i> , 595 U.S. 30 (2021).....	3, 4

STATUTES AND REGULATIONS

28 U.S.C. § 1391(e).....	12
52 U.S.C. § 30101(14).....	5, 6, 7
52 U.S.C. § 30109(a)(8)	3, 4
52 U.S.C. § 30110	5, 6, 7
52 U.S.C. § 30116(a)(9)	8
52 U.S.C. § 30116(d).....	1
52 U.S.C. § 30116(d)(5)	8
Pub. L. No. 107-155, 116 Stat. 81 (2002)	7
Pub. L. No. 113-235, 128 Stat. 2130 (2014).....	7

TABLE OF AUTHORITIES—Continued

	Page(s)
11 C.F.R. § 109.33(a)	7, 8
11 C.F.R. § 110.7(a)(4) (1981)	8

OTHER AUTHORITIES

90 Fed. Reg. 10447 (Feb. 24, 2025)	1
Neal Devins & Saikrishna Prakash, <i>The</i> <i>Indefensible Duty to Defend</i> , 112 Colum. L. Rev. 507 (2012)	2

INTRODUCTION

Petitioners and the FEC want this Court to stretch—along every possible dimension—to advance their project of derailing decades of campaign-finance law enacted by Congress and upheld by the Judiciary. Their reply briefs underscore just how badly they want the Court to abandon traditional principles of justiciability and restraint. But there is no real-world Article III controversy here, and petitioners are not proper parties in any event. The Court should reject jurisdiction or dismiss the petition as improvidently granted.

ARGUMENT

I. There Is No Threat Of Enforcement

A. The FEC concedes this Court has jurisdiction only if petitioners “face a credible threat that the party-expenditure limit will be enforced against them.” FEC.Reply.4. But the FEC does not actually say (or threaten) that it will enforce 52 U.S.C. § 30116(d) against the Vice President, NRSC, or NRCC.

Nor could it, because Executive Order 14215 directly bars such enforcement. That directive (1) instructs that President Trump’s “authoritative interpretations of law” are “controlling on all [Executive Branch] employees,” and (2) prohibits such employees from “advanc[ing] an interpretation of the law . . . that contravenes the President or the Attorney General’s opinion on a matter of law, *including . . . [through] positions advanced in litigation.*” 90 Fed. Reg. 10447, 10448-49 (Feb. 24, 2025) (emphasis added); *see Amicus.Br.17-18*. This position is consistent with the prevailing originalist view that the President’s oath to “preserve, protect,

and defend” the Constitution “forbids him from executing” laws that he in good faith concludes are “unconstitutional.” Neal Devins & Saikrishna Prakash, *The Indefensible Duty to Defend*, 112 Colum. L. Rev. 507, 521-26 (2012).

The FEC notes that it has not specifically “disavow[ed]” the possibility of enforcing Section 30116(d), and it cites a handful of instances where other Presidents declined to defend—but continued to enforce—purportedly unconstitutional federal statutes. FEC.Reply.5-6. But the FEC’s carefully worded denial-of-disavowal does not affirmatively commit to enforcement, which is directly barred by Executive Order 14215. That Executive Order also distinguishes this situation from the FEC’s historical examples.

The FEC conspicuously ignores the relevant language (quoted above) from the Executive Order. It also ignores *amicus*’s additional point that the Administration is highly unlikely to enforce this allegedly unconstitutional law against the President’s closest political allies. *Amicus*.Br.17-18.

The FEC deems it “startling” that *amicus*’s argument would “prevent this Court from reconsidering [*FEC v. Colorado Republican Federal Campaign Committee (Colorado II)*, 533 U.S. 431 (2001)],” but Article III demands exactly that result. FEC.Reply.6. As Justice Scalia, the Chief Justice, and Justice Thomas recognized in *United States v. Windsor*, the fact that “some questions of law” might temporarily, or even permanently, “escape[]” this Court’s review because of a Presidential determination not to “enforce [or] defend [a] statute” is a feature, not a bug, of our constitutional structure. 570 U.S. 744, 781, 786-87 (2013) (dissenting). If a

future Administration decides to enforce Section 30116(d), this Court can review *Colorado II* at that time.

B. For their part, petitioners assert—with no citation—that “the government’s reply reveals that it will continue to enforce § 30116(d).” Petrs.Reply.4. Actually, the FEC’s own brief is carefully drafted not to make that claim. *Supra* 1-2. And in all events, petitioners never argue that this FEC will enforce Section 30116(d) *against them*.

Petitioners also speculate that their spending decisions might be “chill[ed]” by the theoretical prospect that a *future* Administration might “exercise its discretion” differently. Petrs.Reply.4. But the mere “chilling effect” of having an allegedly unconstitutional statute “on the books” does not create a justiciable controversy. *Whole Woman’s Health v. Jackson*, 595 U.S. 30, 50 (2021). Petitioners ignore that precedent.

Regardless, even if a future FEC changed positions, it would almost certainly apply its new view prospectively—and would not try to punish private actors for *past* conduct that it had previously deemed lawful. And longstanding due-process and entrapment-by-estoppel principles would bar any such prosecution anyway, *Amicus*.Br.21—as this Court could make clear in its ruling, *cf. Barr v. Am. Ass’n of Pol. Consultants, Inc.*, 591 U.S. 610, 634 n.12 (2020). The FEC doesn’t deny any of this.

C. Finally, petitioners and the FEC invoke the possibility of *private-party* enforcement of Section 30116(d) under 52 U.S.C. § 30109(a)(8)’s complex regime for authorizing private claims by “aggrieved” parties. Petrs.Reply.5; FEC.Reply.4-5. But it is

notoriously difficult to establish Article III standing to bring a Section 30109(a)(8) claim, because the mere desire to have the FEC “get the bad guys” is not an injury in fact. *Common Cause v. FEC*, 108 F.3d 413, 418-19 (D.C. Cir. 1997) (per curiam). And the parties identify no private entity threatening to enforce Section 30116(d) against petitioners using that provision. In any event, *Whole Woman’s Health* squarely holds that a plaintiff cannot satisfy Article III for a pre-enforcement challenge against *government* defendants based on a fear of “private civil actions.” 595 U.S. at 36-45.

Petitioners and the FEC claim that a Section 30109(a)(8) enforcement suit is already happening, citing *DCCC v. FEC*, No. 24-cv-2935 (D.D.C. filed Oct. 17, 2024). FEC.Reply.5; Petr.Reply.5. That’s just wrong: The *DCCC* case is an *APA* action *against the FEC* seeking a declaratory judgment that a particular category of spending qualifies as coordinated expenditures. *See DCCC v. FEC* Am. Compl., Dkt. 28. Contrary to the FEC, it is not a suit “invoking that [Section 30109(a)(8)] procedure to enforce the party-expenditure limit against one of the petitioners.” FEC.Reply.5.

In short, there is no imminent and actual risk of FEC or private enforcement—and no Article III jurisdiction.

II. The Committees Are Not Proper Parties

The FEC does not defend this Court’s jurisdiction over the NRSC or NRCC. That’s for good reason: The Sixth Circuit lacked appellate jurisdiction over their claims, and the FEC regulation allowing assignments of the RNC’s coordinated-expenditure authority is invalid.

A. No Appellate Jurisdiction

1. The Sixth Circuit lacked jurisdiction to adjudicate the committees' appeal because they are not "the national committee" of the Republican Party under 52 U.S.C. § 30110, the provision authorizing interlocutory appellate review. *Amicus*.Br.23-24; see 52 U.S.C. § 30101(14) (defining "national committee"). Petitioners try to dodge this problem by labeling *amicus*'s argument as an objection to petitioners' *cause of action*—and then waving it away as forfeited. *Petrs.*Reply.10-11.

That maneuver fails. To be clear: *Amicus* believes petitioners *do* have a cause of action, irrespective of Section 30110. See *Bread Pol. Action Comm. v. FEC*, 455 U.S. 577, 585 (1982); *Free Enter. Fund v. Pub. Co. Acct. Oversight Bd.*, 561 U.S. 477, 491 n.2 (2010) (recognizing equitable cause of action against unconstitutional government conduct). *Amicus*'s only challenge is to the Sixth Circuit's "*appellate jurisdiction*," as stated many times in the opening brief (at 4, 12-13, 23-24, 52).

As petitioners and the FEC themselves made clear to that court, Section 30110 is "jurisdiction[al]" in its truest sense. *FEC CA6 Second Br. 1* ("This Court has jurisdiction to decide the question certified by the U.S. District Court . . . pursuant to 52 U.S.C. § 30110."); *Petrs. CA6 First Br. 7* (same). And rightly so: Absent Section 30110's express grant of authority, the Sixth Circuit lacked power to adjudicate the First Amendment issue at this interlocutory stage.

Because Section 30110 is jurisdictional, petitioners' forfeiture argument fails. Appellate courts have an independent obligation to assure themselves of their own jurisdiction, and it is

impossible to waive or forfeit a jurisdictional objection. *See Hamer v. Neighborhood Hous. Servs. of Chicago*, 583 U.S. 17, 20 (2017).

2. By its terms, Section 30110’s unique grant of interlocutory appellate jurisdiction is limited to claims brought by “[t]he [FEC], the national committee of any political party, or any individual eligible to vote in any election for the office of President.” 52 U.S.C. § 30110. Petitioners briefly argue that the NRSC and NRCC qualify as “the national committee” under Section 30110. *Petrs.Reply.12*. They are wrong.

As *amicus* explained, Section 30101(14) expressly defines “national committee” to refer (in this context) *only* to the RNC. *Amicus.Br.24*. For that reason, this Court has held—following extensive discussion of the point at oral argument—that none of Section 30110’s categories includes the NRSC or NRCC. *FEC v. DSCC*, 454 U.S. 27, 33 n.4 (1981); *DSCC Oral Arg. Tr. 11-15, 20-22, 44-47* (Nos. 80-939, 80-1129), https://www.supremecourt.gov/pdfs/transcripts/1981/80-939_80-1129_10-06-1981.pdf. Remarkably, petitioners totally ignore both (1) Section 30101(14)’s definition, and (2) *DSCC*’s holding on this point.

Instead, petitioners point to a handful of later-enacted FECA provisions where Congress specifically “provide[d]” that a particular reference to “a national committee” would “include[]” congressional committees. *Petrs.Reply.12*. But these examples show Congress was explicit when departing from Section 30101(14)’s otherwise-generally-applicable statutory definition. Congress included no comparable language in Section 30110.

Moreover, Congress enacted petitioners’ cited provisions in 2002 and 2014—decades after promulgating Sections 30110 and 30101(14) in 1974.¹ The usual “presumption of consistent usage” is “defeasib[le]” when “Congress draft[s]” the statutory provisions “at different times.” *Pulsifer v. United States*, 601 U.S. 124, 149, 151 (2024). Any scattered, later-enacted language in other provisions cannot override Section 30101(14) or overrule *DSCC*.

B. No Standing Based On Invalid Assignment Regulation

1. The NRSC and NRCC also lack Article III standing to challenge Section 30116(d), because that provision impacts them only through the FEC’s invalid “assignment” regulation, 11 C.F.R. § 109.33(a). *Amicus*.Br.25-26. Petitioners have no textual theory for how that regulation can be squared with either (1) Section 30116(d)(1), which gives coordinated-expenditure authority only to specified committees; or (2) Sections 30116(a) and (h), which impose statutory caps on the NRSC and NRCC’s spending that cannot be negated by regulation.

Petitioners say *DSCC*’s *Chevron*-like statutory analysis governs here under *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 412 (2024). *Petr*s.Reply.9. But *Loper Bright* preserved only prior *Chevron*-based holdings that “specific agency actions are lawful.” 603 U.S. at 412 (emphasis added); see, e.g., *Ohio Telecom Ass’n v. FEC (In re MCP No. 185)*, 124 F.4th 993, 1002 (6th Cir. 2025).

¹ See Pub. L. No. 113-235, Div. N., § 101(a)(3), 128 Stat. 2130, 2772 (2014) (adding § 30116(a)(9)); Pub. L. No. 107-155, § 1, 116 Stat. 81, 82-83 (2002) (adding § 30125(a)-(b)).

In *DSCC*, the “specific agency action” at issue was an FEC administrative order “dismissing [a] complaint” alleging that the Republican State committees violated FECA by designating the NRSC as their agent for coordinated-expenditure purposes. 454 U.S. at 36. That case did not adjudicate the validity of *either* the regulation at issue here (11 C.F.R. § 109.33(a), enacted in 2004), *or* a differently worded assignment regulation in effect in 1981 (11 C.F.R. § 110.7(a)(4)). *Contra* *Petr. Reply. 9.n.1. Loper Bright* does not bind this Court to *DSCC*’s anti-text, pro-deference holding when interpreting Section 109.33(a) for the first time.

Nor did Congress “ratif[y]” *DSCC*’s assignment analysis in 2014 through a convoluted bank-shot involving internal cross-references in new Sections 30116(a)(9) and (d)(5) that do not mention assignments. *Petr. Reply. 9*. That argument rests on the false premise that Section 30116(a)(9)’s sole purpose is to identify expenditures exempted from Section 30116(d). But Section 30116(a)(9)’s primary function is to identify the accounts to which individuals and multi-candidate committees can contribute higher amounts under Sections 30116(a)(1)(B) and (2)(B). The fact that Section 30116(a)(9) references the congressional committees is not a reason to infer that Section 30116(d) authorizes assignments to such committees. *See Alexander v. Sandoval*, 532 U.S. 275, 292-93 (2001) (requiring “comprehensive[] revis[ion],” rather than isolated amendments, to infer ratification).

2. Petitioners also say *amicus*’s assignment-based objection is an “argument on the merits” that must be assumed in their favor when evaluating standing. *Petr. Reply. 10*. Wrong again: Petitioners’ merits

claim challenges the validity of Section 30116(d)'s limits, not the FEC's assignment rules. Neither logic nor precedent requires the Court to evaluate standing by assuming the validity of a dubious regulatory scheme that bears *only* on standing (and not on the merits).

III. Vice President Vance Is Not A Proper Party

The only petitioner the FEC defends as properly before this Court is Vice President Vance. FEC.Reply.3; *see also* Petrs.Reply.6-8. But Vice President Vance has repeatedly disclaimed any concrete plan to run for any particular federal office. The Court lacks jurisdiction over his claim.

A. *Amicus* has satisfied his burden of showing mootness. The relevant question is whether Vice President Vance has “concrete plans” to run in a specific race in the near future. *Carney v. Adams*, 592 U.S. 53, 64 (2020); *see Lujan v. Defs. of Wildlife*, 504 U.S. 555, 564 (1992) (requiring “concrete plans” for Article III standing and rejecting “some day” intentions” as insufficient). As the FEC itself previously acknowledged in this case, candidate standing requires a “description of concrete plans” and a “specification of when” the candidate will run. D.Ct. Dkt. 45 at 11; *see also, e.g.*, FEC Suppl. Br. re Standing 2, *Nader v. FEC*, 725 F.3d 226 (D.C. Cir. 2013) (No. 12-5134), 2013 WL 137201 (arguing that the “absence of a concrete future candidacy belies any possibility that [plaintiff] has standing to seek prospective relief”).

Here, Vice President Vance's situation has transformed from when this case began: He is now the Vice President (not a Senator); no one seriously thinks he will run for Senate in 2028; he has made no

statement in his current position affirmatively embracing any intention to run for President, Senate, or any other federal office in the near future; and he has repeatedly made public statements disclaiming any such concrete plans. *Amicus*.Br.28-30; see Add.1a-9a.²

Vice President Vance’s most recent comments confirm the absence of any concrete plan. On October 29, for example, he called it “*premature*” for him even to consider a 2028 ticket, and said he had “never woken up and thought to myself how do I make myself President of the United States.” Add.2a (emphasis added). And on November 13, he explained that he is trying to “put [any potential future run] out of [his] head,” to avoid “getting distracted” from his current role. Add.1a.

These comments—like his earlier statements—are the exact opposite of what Article III requires. In *Carney*, this Court held that vague statements that a plaintiff “would seriously consider” a candidacy do not suffice. 592 U.S. at 61. If Vice President Vance had a concrete plan to run for office in 2028, he could have easily said so somewhere (and at minimum in his reply brief). His inability to do so speaks volumes.

B. The parties’ counterarguments lack merit.

First, petitioners criticize *amicus* for supposedly asserting that Vice President Vance has “disclaimed” running for public office *altogether*. *Petr*s.Reply.7. That attacks a strawman. *Amicus* has argued not that the Vice President has conclusively ruled out a

² For ease of reference, the addendum reproduces excerpts from Vice President Vance’s public statements from January 1, 2025 to November 23, 2025 regarding any potential future run for federal office.

run, but rather that he has repeatedly disclaimed currently having any “concrete plan” to seek any particular office in the near future. That defeats his standing.

Second, petitioners and the FEC suggest that the Court should ignore Vice President Vance’s statements from 2025 in favor of outdated evidence from 2023 indicating that then-Senator Vance would seek reelection to the Senate. Petrs.Reply.7-8; FEC.Reply.4. But they offer no explanation why the older statements are more probative of real life today, given the obvious changes in circumstance. Likewise, the Vice President’s legacy FEC filings and campaign accounts are just that—a legacy of his prior campaigns. *See* FEC.Reply.4. They do not establish his concrete plans for 2028 or the future.³

Third, petitioners imply Vice President Vance may run for President from the fact that eleven of his fourteen immediate predecessors eventually took that step. Petrs.Reply.7. That is a bizarre—and almost comically indirect—way for the Vice President to establish his own intentions for 2028, and it does not come close to showing the requisite concrete plan.

Finally, petitioners and the FEC invoke the legal principle that a case becomes moot only when it is “impossible” to grant any effectual relief.” FEC.Reply.3; *see* Petrs.Reply.3. That principle is sound, but it applies only where the plaintiff has a concrete and imminent injury from which relief is warranted in the first place.

³ Vice President Vance’s recent statements clearly disclaim any concrete plans, but—if necessary—any confusion over such plans should be resolved with a remand for jurisdictional discovery and factfinding.

Here, Vice President Vance’s new office, his affirmative statements about his political future, and his conspicuous failure to assert a concrete plan to run for President or Senate in 2028 all point in the same direction: No such plan currently exists. Accordingly, Section 30116(d) does not injure Vice President Vance—or trigger any right to Article III relief.

C. Recognizing they have a serious Article III problem, petitioners throw a final Hail Mary by inviting the Court to substitute two new individual plaintiffs in their place—Michigan Congressman Tom Barrett and Ohio Senator Bernie Moreno. *Petr.Reply.12.n.2*. But Barrett represents the 7th District of Michigan, and he cannot establish venue to sustain this case in the Southern District of Ohio under 28 U.S.C. § 1391(e). *See* JA6. And Moreno is not up for re-election until 2030—exactly the length of time this Court held too remote for Senator McConnell to have standing in *McConnell v. FEC*, 540 U.S. 93, 225-26 (2003). *See Amicus.Br.29-30*.

More generally, petitioners offer none of the basic facts actually needed to establish Barrett or Moreno’s Article III standing—for instance, that either intends to seek reelection and would solicit and obtain coordinated expenditures above Section 30116(d)’s limits if the limits did not exist. Petitioners’ desperate eleventh-hour substitution ploy fails too.

* * *

Everything above confirms this case is a jurisdictional mess. If the Court wants to dismiss this case on Article III grounds, it can. Or it can simply dismiss the petition as improvidently granted. Either way, the Court should refuse the parties’ invitation to stretch the usual justiciability rules, abandon judicial

restraint, and decide a complex constitutional question in a case that no longer properly presents it.

CONCLUSION

The Court should either decline to resolve this case on the merits or affirm the judgment below.

Respectfully submitted,

ROMAN MARTINEZ

Counsel of Record

MARGARET A. UPSHAW

CHRISTINA R. GAY

TIMOTHY J. BORGERSON

NATHANIEL G. BERRY

LATHAM & WATKINS LLP

555 11th Street, NW

Suite 1000

Washington, DC 20004

(202) 637-3377

roman.martinez@lw.com

November 24, 2025

ADDENDUM

ADDENDUM TABLE OF CONTENTS

	Page
Hannity, <i>Democrats will try to ‘screw up’ everything Trump has set in motion if they regain power, says JD Vance</i> (Fox News, Nov. 13, 2025), https://www.foxnews.com/video/6385081082112 (excerpts)	1a
Pod Force One, <i>“I wept at Jesus’ Tomb”; Trump’s 2028 dream ticket with “best friend” Rubio; & UFO mysteries</i> (YouTube, Oct. 29, 2025), https://www.youtube.com/watch?v=w4-Fuq8jDxo&t=3s (excerpts)	2a
My View with Lara Trump, <i>JD Vance on whether he’ll make a 2028 presidential run</i> (Fox News, Sept. 6, 2025), https://www.foxnews.com/video/6378669652112 (excerpts)	3a
Meet the Press, <i>Vance expresses optimism that ‘energetic diplomacy’ will end the war in Ukraine</i> (NBC News, Aug. 24, 2025), https://www.nbcnews.com/politics/jd-vance/vance-optimism-energetic-diplomacy-will-end-war-ukraine-rcna226606 (excerpts)	4a
Sunday Morning Futures, <i>Vance urges Republicans to take ‘decisive action’ against Dems in nationwide redistricting feud</i> (Fox News, Aug. 10, 2025), https://www.foxnews.com/video/6376764434112 (excerpts)	5a

TABLE OF CONTENTS—Continued

	Page
Sudiksha Kochi, <i>Will JD Vance run for president in 2028? VP pressed on potential White House bid</i> (USA Today, Aug. 10, 2025), https://www.usatoday.com/story/news/politics/2025/08/10/jd-vance-president-2028-early/85600664007/ (excerpts)	6a
Henry J. Gomez, <i>Vance looks to cultivate a relationship with the pope as a new diplomatic partner for the U.S.</i> (NBC News May 20, 2025), https://www.nbcnews.com/politics/jd-vance/vance-cultivate-pope-new-diplomatic-partner-us-rcna207760 (excerpts)	7a
Sunday Morning Futures, <i>Vice President Vance opens up about potential 2028 presidential run: ‘We’ll see what happens’</i> (Fox News, Feb. 2, 2025), https://www.foxnews.com/video/6368158619112 (excerpts)	9a

Vice President Vance Fox News Interview with Sean Hannity (November 13, 2025)¹

Q: “In all seriousness, [2028] is coming fast. . . . Thinking about it at all?”

A: “I would say that I’ve thought about what that moment might look like after the midterm elections, sure, but I also, whenever I think about that I try to put it out of my head and remind myself the American people elected me to do a job right now and my job is to do it. And if you start getting distracted and focus on what comes next, I think it actually makes you worse at the job that you have.”

* * *

“And then [after the midterms], I’m going to sit down with the President of the United States and talk to him about [2028]. But let’s focus on the now because we’ve got well over a year to do as much as we can for the American people. And my attitude, Sean, is look, if we do a good job the politics will take care of itself. . . . So I’m just going to focus on the job that I have.”

* * *

“Here’s why the presidential focus, the 2028 focus I think is bad, is because if you wake up in my job or anybody else’s job asking yourself what’s good for my future, a few years down the road, you’re not going to do a good job right now.”

¹ Hannity, *Democrats will try to ‘screw up’ everything Trump has set in motion if they regain power, says JD Vance*, at 8:00-11:07 (Fox News, Nov. 13, 2025), <https://www.foxnews.com/video/6385081082112>.

**Vice President Vance Pod Force One Interview
with Miranda Devine (October 29, 2025)²**

Q: “Now, President Trump’s been saying quite often, about the dream ticket that he’s got now for his succession, which is you and the Secretary of State, Marco Rubio. . . . So, how do you feel about that? And have you talked to the Secretary Rubio about it?”

* * *

A: “[The President] mentioned this probably six months or so ago. And I mentioned it to the Secretary [of State Marco Rubio] in jest, but it feels so premature because we’re still so early.”

* * *

“My attitude is the American people elected me to be Vice President. I’m going to work as hard as I can to make the President successful over the next three years and three months. And if we get to a point where something else [is] in the offer, let’s handle it then. But let’s at least get through the next couple of years and do good work for the American people before we talk about politics.”

* * *

“I never want to wake up, and so far, I’ve never woken up and thought to myself how do I make myself President of the United States.”

² Pod Force One, “*I wept at Jesus’ Tomb*”; *Trump’s 2028 dream ticket with “best friend” Rubio; & UFO mysteries*, at 30:08-32:24 (YouTube, Oct. 29, 2025), <https://www.youtube.com/watch?v=w4-Fuq8jDxo&t=3s>.

**Vice President Vance Fox News Interview with
Lara Trump (September 6, 2025)³**

Q: “A lot of people think that you will be running for president in 2028. Can we expect that?”

A: “I just think that — I don’t like thinking about it because I like thinking about the job that I have right now. And if we do a good job in 2025 and 2026, then we can talk about the politics in 2027. But I really think the American people are so fed up with folks who are already running for the next job seven months into the current one. There are a lot of great people. I think if I do end up running it’s not going to be given to me, either on the Republican side or on the national side. So, I’m just going to keep on working hard.”

³ My View with Lara Trump, *JD Vance on whether he’ll make a 2028 presidential run*, at 6:42-7:17 (Fox News, Sept. 6, 2025), <https://www.foxnews.com/video/6378669652112>.

**Vice President Vance Meet the Press Interview
with Kristen Welker (August 24, 2025)⁴**

Q: “Do you see yourself as the apparent future of the MAGA movement?”

A: “No. I see myself as a Vice President who’s trying to do a good job for the American people, Kristen, and if I do a good job and if the President continues to be successful, as I know that he will be, the politics will take care of itself. We can cross that bridge when we come to it. But we just had an election seven months ago. I think I’m probably like most Americans, and I’m already sick of talking about politics after a big general election. The next election that matters is not the election of 2028. It’s 2026. So, before we talk about anything three and a half years down the road, let’s take a break from politics, focus on governing the country, and when we return to politics, it’s going to be to focus on those midterm elections.”

⁴ Meet the Press, *Vance expresses optimism that ‘energetic diplomacy’ will end the war in Ukraine*, at 18:37-19:21 (NBC News, Aug. 24, 2025), <https://www.nbcnews.com/politics/jd-vance/vance-optimism-energetic-diplomacy-will-end-war-ukraine-rcna226606>.

Vice President Vance Fox News Interview with Maria Bartiromo (August 10, 2025)⁵

Q: “Well, look, the President has been floating you, along with Marco Rubio as your partner, for the next election. Have you spoken to Secretary Rubio about this?”

A: “I saw Marco about a month ago. We just laughed at the whole thing, because neither one of us are focused on politics. We’re focused on actually doing a good job for the American people. And the way that I think about it, Maria, is, if we do a good job, number one, that’s the reward, in and of itself, that I’ll have made a big difference in the lives of our country for the last six months, the next three and a half years. But if we do a good job, the politics will take care of itself. Let’s just focus on that. I think, as the President said, it’s way too early to be thinking about the political future. It’s frankly, way too early to be thinking about 2026. It’s certainly way too early to be thinking about 2028.”

⁵ Sunday Morning Futures, *Vance urges Republicans to take ‘decisive action’ against Dems in nationwide redistricting feud*, at 18:16-19:01 (Fox News, Aug. 10, 2025), <https://www.foxnews.com/video/6376764434112>.

Vice President Vance Press Pool Interview in the United Kingdom (August 10, 2025)⁶

Q: “What do you make of President Trump’s comments last week about you [being] the likely frontrunner for 2028?”

A: “I don’t want to talk about lowly things like politics in this grand house. Come on. Look, I think my view on the politics of 2028 is I’m not really focused even on the election in 2026, much less one two years after that. And if we do a good job for the American people, the politics will take care of itself. So, I’m going to try to do a good job for the American people just as David [Lammy]’s trying to do a good job for the people of the UK.”

⁶ Sudiksha Kochi, *Will JD Vance run for president in 2028? VP pressed on potential White House bid*, at 00:08-00:36 (USA Today, Aug. 10, 2025), <https://www.usatoday.com/story/news/politics/2025/08/10/jd-vance-president-2028-early/85600664007/>.

Henry J. Gomez of NBC News Reporting on Vice President Vance's Statements (May 20, 2025)⁷

Vance's expansive role has placed him alongside Rubio, the administration's chief diplomat, as a face of Trump's foreign policy. The president stoked speculation of a 2028 rivalry between the two earlier this month when, in an interview on NBC News' "Meet the Press," he suggested both as potential successors.

At the time, allies of both Vance and Rubio dismissed any notion of competition or friction. Vance did so himself Monday, mentioning a recent conversation with a political consultant.

"I can just feel it — the media is going to start telling some story of me versus Marco or me having a rivalry with Marco," Vance recalled telling the consultant.

"Most of the time," Vance said, "I don't give a s--- about this stuff. I don't even think that much about it."

He and Rubio, Vance added, talk five times a day — "on a light day." If there's a call Vance knows Rubio will be on, he said, he knows he can skip the call and catch up with him later.

⁷ Henry J. Gomez, *Vance looks to cultivate a relationship with the pope as a new diplomatic partner for the U.S.* (NBC News May 20, 2025), <https://www.nbcnews.com/politics/jd-vance/vance-cultivate-pope-new-diplomatic-partner-us-rcna207760>.

“That’s the level of trust and confidence that I have in Marco,” Vance said.

“My attitude is, if I do end up running in 2028, I’m not entitled to it,” he continued. “But I really think that Marco and I can get a lot done together over the next few years. That’s how I think about our friendship and our relationship. And I would be shocked if he thought about it any differently.”

**Vice President Vance Fox News Interview with
Maria Bartiromo (February 2, 2025)⁸**

Q: “You’re one of the youngest vice presidents that we’ve ever seen in the history of our country. Are you expecting to run for president in three and a half years?”

* * *

A: “We’ve not thought a lot about politics in the last six months, we’ve thought about getting the American people’s business done. We’ll see what happens come 2028. But the way that I think about this is, the best thing for my future is actually the best thing for the American people, which is that we do a really good job over the next three and a half years. So we’ll cross the political bridge when we come to it. I’m not thinking about running for president, I’m thinking about doing a good job for the American people.”

⁸ Sunday Morning Futures, *Vice President Vance opens up about potential 2028 presidential run: ‘We’ll see what happens’*, at 16:52-17:29 (Fox News, Feb. 2, 2025), <https://www.foxnews.com/video/6368158619112>.