No. 25-1017

In the Supreme Court of the United States

REPUBLICAN NATIONAL COMMITTEE,
Petitioner,

v.

MI FAMILIA VOTA, ET AL.,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF FOR AZ AANHPI EQUITY, LUCHA, AND PROMISE ARIZONA RESPONDENTS IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether the Republican National Committee has Article III standing to pursue relief in this Court.

2. Whether either a federal consent decree or the National Voter Registration Act prohibits Arizona from refusing to register state-form applicants as voters for federal elections if they lack documentary proof-of-citizenship.

3. Whether the National Voter Registration Act prohibits Arizona from implementing a program within 90 days of a federal election to systematically purge Arizona's voter rolls of ineligible voters.

CORPORATE DISCLOSURE STATEMENT

Respondents Arizona Asian American Native Hawaiian and Pacific Islander for Equity Coalition, Living United for Change in Arizona, League of United Latin American Citizens, Arizona Students' Association, ADRC Action, Inter Tribal Council of Arizona, Inc., Arizona Coalition for Change, Promise Arizona, and Southwest Voter Registration Education Project do not have parent corporations, nor does any publicly held corporation own 10 percent or more of any stake or stock in respondents.

Respondent San Carlos Apache Tribe is a federally recognized Indian tribe organized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934, ch. 576, 48 Stat. 984, 987.

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INTRODUCTION

Congress enacted the National Voter Registration Act (NVRA) to bolster and protect the franchise. The NVRA encourages states to increase the number of citizens who vote and to place checks so ineligible voters do not vote. To those ends, the statute includes provisions governing what states may require from applicants who wish to register to vote in federal elections, and how states may go about removing ineligible voters from their voting rolls for the same.

Following the 2020 election, Arizona enacted two laws that run afoul of the NVRA's carefully balanced provisions—as well as a federal consent decree. On a full summary judgment and trial record, the district court held as much, and the Ninth Circuit affirmed. The Republican National Committee (RNC), an intervenor-defendant below, asks this Court to review two questions: (1) whether a federal consent decree or the NVRA prohibits Arizona from refusing to register state-form applicants as voters for federal elections if they lack documentary proof-of-citizenship, and (2) whether the NVRA prohibits Arizona from implementing a program within 90 days of a federal election to systematically purge Arizona's voter rolls of voters suspected of being ineligible. Neither question warrants review.

The first question implicates both a federal consent decree and the NVRA, and this Court would have to agree with the RNC on both to grant relief. There is no genuine split of authority on either. The bespoke and case-specific federal consent decree is alone dispositive and does not raise any issue of national importance. And no other circuit has even considered whether or when states can impose a

documentary proof-of-citizenship requirement when a state form is used to vote in a federal election.

The court of appeals also got the first question right, twice over. After authorizing the Attorney General to enter into a final and binding federal consent decree, the Arizona Legislature cannot then require the very conduct the decree prohibited—and it certainly cannot do so without following the proper procedures for amending the judgment. In any event, the NVRA does not permit election officials to demand documentary proof-of-citizenship, and Arizona made no attempt to show that such proof is "necessary" in addition to an attestation under penalty of perjury.

There is likewise no split of authorities on the second, 90-day question. To the contrary, there is uniformity: every circuit to consider the question has held that the NVRA prohibits states from implementing a program to systematically purge voters from the voter rolls within 90 days of a federal election. That is clear from the NVRA's plain text. And it makes sense given the risk of inadvertently purging eligible voters on the eve of a federal election, without the time needed to correct those mistakes. Ineligible voters, including noncitizens, can still be removed at any time—it just has to be based on individualized review if within that 90-day period.

This petition is also a terrible vehicle for the Court's review. The RNC is an intervenor-defendant that likely lacks standing to seek relief in this Court. And the Court would have to resolve that thorny, threshold question before reaching the merits. That is especially so for the 90-day issue, which is raised *only* by the RNC. That neither Arizona nor the Arizona legislators seek review of that issue speaks volumes. The Court should deny review.

STATEMENT OF THE CASE

1. The NVRA "erected a complex superstructure of federal regulation atop state voter-registration systems." *Arizona v. Inter Tribal Council of Ariz., Inc.* (*ITCA*), 570 U.S. 1, 4 (2013); *see* 52 U.S.C. § 20501 *et seq*. The NVRA flows from Congress's recognition that the right to vote is "fundamental"; the United States, "State, and local governments" should "promote the exercise of that right"; and "unfair registration laws and procedures can have a direct and damaging effect on voter participation." 52 U.S.C. § 20501(a).

Congress designed the NVRA to "establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office." *Id.* § 20501(b)(1). The NVRA also "make[s] it possible for Federal, State, and local governments to . . . enhance[] the participation of eligible citizens as voters," "protect the integrity of the electoral process," and "ensure that accurate and current voter registration rolls are maintained." *Id.* § 20501(b)(2)-(4). The NVRA "has two main objectives: increasing voter registration and removing ineligible persons from the States' voter registration rolls." *Husted v. A. Philip Randolph Inst.*, 584 U.S. 756, 761 (2018).

As relevant here, the NVRA contemplates two paths for voter registration. States "shall accept and use" the federal voter-registration form developed by the Election Assistance Commission "for the registration of voters in elections for Federal office." 52 U.S.C. § 20505(a)(1); *see id.* § 20508(a)(2). States may also "develop and use" their own forms. *Id.* § 20505(a)(2). But state forms "may require only such identifying information . . . as is *necessary* to enable

the appropriate State election official to assess the eligibility of the applicant." *Id.* § 20508(b)(1) (emphasis added). And state forms that are provided to public assistance voting agencies must be "equivalent to" the federal registration form. *Id.* § 20506(a)(6)(A)(ii).

The federal registration form does not require documentary proof-of-citizenship. Pet. App. 18a. In *ITCA*, this Court decided whether Arizona could nevertheless require such proof for applicants using the federal form. *See* 570 U.S. at 4-5. The Court held it could not: The NVRA's mandate that States "accept and use" the federal form, 52 U.S.C. § 20505(a)(1), "precludes Arizona from requiring a Federal Form applicant to submit information beyond that required by the form itself." *ITCA*, 570 U.S. at 20.

In addition to voter registration requirements, the NVRA imposes requirements for "removing ineligible persons" from the voter rolls. *Husted*, 584 U.S. at 761. States "shall," for example, undertake reasonable efforts to "remove the names of ineligible voters" from their voter rolls. 52 U.S.C. § 20507(a)(4). But the NVRA balances that objective with the need to protect eligible voters by imposing specific limits on voter removal when an election nears. Subject to certain enumerated exceptions, the NVRA imposes a 90-Day Provision: "A State shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters." *Id.* § 20507(c)(2)(A).

2. Following *ITCA*, Arizona developed a bifurcated system: registrants using the federal form did not need to provide documentary

proof-of-citizenship to vote in federal elections, but registrants using the state form had to provide documentary proof-of-citizenship if they wanted to vote "in any elections." Pet. App. 475a. In the absence of documentary proof-of-citizenship, a state-form application would be "rejected in its entirety." *Id.*

The League of United Latin American Citizens of Arizona (LULAC) and the Arizona Students' Association sued Arizona's Secretary of State, Michele Reagan, and the Maricopa County Recorder, Adrian Fontes. *Id.* at 474a. The plaintiffs asserted that Arizona's bifurcated system—in which one's ability to vote in federal elections could turn entirely on which form was used to register—violated the First and Fourteenth Amendments. *Id.* at 474a-76a.

Both the Secretary of State and Recorder "desire[d] to make it as easy [as] possible for Arizona's citizens to register to vote." *Id.* at 476a. "Having reviewed the applicable law," they "concluded that current technology allow[ed] the Secretary, Recorder Fontes, and the other Arizona County Recorders to treat State Form applications exactly as they treat Federal Form applications." *Id.* And doing so, they concluded, would "make it easier for Arizona's citizens to register to vote, while also providing important safeguards to prevent unlawful voter registration." *Id.* at 476a-77a. Arizona's Secretary of State and Recorder thus entered into a consent decree with the plaintiffs, providing that County Recorders "immediately register" state-form "applicants for federal elections," even without documentary proof-of-citizenship. *Id.* at 484a. On June 18, 2018, the district court entered the decree (the "LULAC Consent Decree"). *Id.* at 494a.

3. After the 2020 elections, Arizona enacted two new laws, H.B. 2492 and H.B. 2243, to restrict voter registration and remove voters from the voter rolls.

For registration, Arizona law now provides that, "[e]xcept for a form produced by the United States election assistance commission, any application for registration shall be accompanied by satisfactory evidence of citizenship," and that "the county recorder or other officer in charge of elections shall reject any application for registration that is not accompanied by" such evidence. Ariz. Rev. Stat. § 16-121.01(C). That is, Arizona reimposed the requirement in place before the LULAC Consent Decree that state-form applicants submit documentary proof-of-citizenship to vote in federal elections. Arizona also imposed a requirement that registrants provide documentary proof-of-citizenship to vote for president or to vote by mail. *Id.* §§ 16-121.01(D)-(E), 16-127(A).

Arizona law also now requires county officials to cancel on a monthly basis the registration of voters if officials cannot confirm they are United States citizens, based on review of various databases maintained by cities, the State, and the federal government. *See id.* § 16-165(A)(10), (G)-(K). "[E]ach month," for instance, Arizona's county recorders are required to cross-check databases maintained by the federal government to "verify the citizenship" of any voters "who the county recorder has reason to believe are not United States citizens." *Id.* § 16-165(I). County recorders are instructed to cancel voter registrations before informing voters their registration will be cancelled. *See id.* § 16-165(L) (providing that, "[a]fter canceling a registration," the county recorder "shall send a notice" to the person whose registration has been cancelled).

4. Respondents—along with other respondents including the United States, Mi Familia Vota, Voto Latino, the Democratic National Committee, and the Arizona Democratic Party—sued the State of Arizona and various Arizona officials, challenging Arizona's new laws across multiple lawsuits. *See* Pet. App. 23a. Petitioner RNC—along with Arizona Senate President Warren Petersen, and Arizona House of Representatives Speaker Ben Toma—intervened as defendants. *Id.* at 245a.

a. The district court consolidated the cases, resolved the key issues presented here at summary judgment, and subsequently held a 10-day bench trial addressing other issues. *Id.* at 23a, 244a-45a.

As relevant, the district court held that Arizona could not impose a documentary-proof-of-citizenship requirement for state-form applicants seeking to vote in federal elections for two independent reasons: (i) the LULAC Consent Decree "makes no carve-out" for state-form applications, and (ii) in the alternative, the "RNC's arguments" under the NVRA "are unpersuasive." *Id.* at 365a-66a & n.13. The court also held that H.B. 2243 violates the NVRA "because [it] allow[s] systematic cancellation of registrations within 90 days of federal elections." *Id.* at 357a. After resolving other issues at a bench trial, the court permanently enjoined Arizona from rejecting state forms without documentary proof-of-citizenship for purposes of registering for federal elections and from

systematically canceling voter registrations within 90 days of a federal election. *See id.* at 428a-29a, 431a.*

b. Petitioner, along with the other intervenor-defendants, sought a partial stay of the district court's injunction, asking the Ninth Circuit to allow Arizona to: (i) require documentary proof-of-citizenship to vote for president, (ii) require documentary proof-of-citizenship to vote by mail in federal elections, and (iii) completely reject state-form registration applications unaccompanied by documentary proof-of-citizenship. *See* Mot. 1, *Mi Familia Vota v. Fontes*, No. 24-3188 (9th Cir. June 25, 2024), ECF No. 50. Nobody sought to stay the injunction as to Arizona's systematic cancellation of registrations within 90 days of a federal election. A motions panel issued a partial stay but only as to (iii); it otherwise declined to disturb the district court's injunction. Pet. App. 387a-88a; Ariz. Rev. Stat. § 16-121.01(C). A merits panel later reconsidered and denied all interim relief. Pet. App. 394a.

Petitioner (and other intervenor-defendants) then sought a stay from this Court. The emergency request pressed the same three issues; again, nobody sought to stay the injunction as to the 90-day issue. *See* Emergency Application for Stay 2-3, *Republican Nat'l Comm. v. Mi Familia Vota*, No. 24A164 (filed Aug. 8, 2024) ("*Mi Familia* Stay Application"). Filed just three months before the November 2024 federal

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* Both the district court, *see* Pet. App. 358a n.9, and the Ninth Circuit, *see id.* at 45a-46a, addressed H.B. 2243 because it superseded a provision of H.B. 2492 that also would have violated the 90-Day Provision. Respondents here, along with another plaintiff not joining any brief in opposition, were the only plaintiffs that brought challenges against H.B. 2243.

elections, the opening line of the application emphasized that "[t]his Court has repeatedly instructed that the *Purcell* principle bars federal courts from enjoining the enforcement of state election laws with an election impending." *Id.* at 1.

This Court granted a partial stay of the district court's injunction, but only as to the requirement that Arizona accept state-form applications to vote in federal elections absent documentary proof-of-citizenship. Pet. App. 426a. Justices Sotomayor, Kagan, Barrett, and Jackson would have denied any interim relief. *See id.*

c. After full merits briefing and argument, the Ninth Circuit affirmed in relevant part.

On registration, the court of appeals reasoned that both the LULAC Consent Decree and the NVRA prevent Arizona from requiring documentary proof-of-citizenship to register to vote in federal elections via Arizona's state registration form. *Id.* at 47a-52a. As the court explained, the appellants had "present[ed] no authority suggesting that Arizona's state legislature may permissibly nullify a final judgment entered by an Article III court." *Id.* at 49a. That alone was reason to affirm, but, the court held, there was also an alternative and independent reason: the NVRA. *Id.* at 50a. Specifically, the court explained that Arizona's documentary proof-of-citizenship requirement for state form applications could not be reconciled with the NVRA, which mandates that state forms require "only" information that is "'necessary'" to assess applicant eligibility. *Id.* (citation omitted). Nor could it coexist with the NVRA's separate provision requiring that "state forms supplied to public assistance agencies be

'equivalent' or 'virtually identical' to the federal form." *Id.* at 51a (first quoting 52 U.S.C. § 20506(a)(6)(A)(ii)).

As for Arizona's program of cancelling voter registrations, the court of appeals held that Arizona's "periodic cancellation of registrations violates the 90-day Provision . . . to the extent that [it] authorizes systematic cancellation of registrations within 90 days before a federal election." *Id.* at 47a. As the court explained, "Arizona's law is precisely the type of systematic cancellation program that the 90-day Provision was meant to preclude." *Id.* at 46a.

5. Petitioner and the other intervenor-defendants sought rehearing en banc. The State defendants also petitioned, but did not seek rehearing as to either of petitioner's questions presented.

The Ninth Circuit denied rehearing. Seven judges (Nelson, Callahan, Bennett, Lee, Bumatay, VanDyke, and Collins, JJ.) would have granted en banc review to address both questions petitioner raises. *Id.* at 157a. Four judges (Ikuta, Bress, Bade, and Forrest, JJ.) would have granted to address the state-form issue, but not the 90-day issue. *Id.* at 163a-65a.

REASONS FOR DENYING THE WRIT

Petitioner asks this Court to grant review on two questions. There is no circuit split on either. On the state-form issue, two independent rationales support the judgment below, petitioner alleges a conflict only as to one, and even that split is illusory. Nor is there any conflict on the 90-day issue; every court to consider the question agrees with the Ninth Circuit.

The court of appeals also got both questions right on the merits. On the state-form issue, the court correctly held that Arizona cannot require documentary proof-of-citizenship from state-form

applicants who wish to vote in federal elections—based on the consent decree and the NVRA. The Court must disagree on both to afford petitioner any relief and it should not disagree on either. On the 90-day issue, the NVRA is clear: Arizona cannot engage in systematic efforts to purge ineligible voters from the voting rolls within 90 days of a federal election; during that period, allegedly ineligible voters may be removed only upon individualized inquiry.

This petition is also a bad vehicle. Among other reasons, petitioner likely lacks Article III standing to seek relief in this Court—a difficult issue the Court would need to decide as a threshold matter. And the fact that *only* petitioner—not Arizona and not the Arizona legislators—is seeking review of the 90-day issue says something. The Court should deny review.

I. THERE IS NO CIRCUIT SPLIT ON EITHER QUESTION PRESENTED BY PETITIONER

Petitioner contends this Court's review is needed to resolve a 1-1 split on the state-form issue and a 3-1 split on the 90-day issue, and points to this Court's grant of interim relief as a sign of cert-worthiness. Neither split exists and petitioner misreads the signs.

A. There Is No Circuit Split On The State-Form Issue

There is no split on the state-form issue. The Arizona-legislator petitioners do not claim otherwise. *See* Cert. Pet. 11-25, *Petersen v. Mi Familia Vota*, No. 25-1019 (filed Feb. 19, 2026) (*Petersen* Cert. Pet.). Nor does petitioner claim any conflict when it comes to the independent NVRA ground. All petitioner can identify is a shallow, 1-1 split on the LULAC Consent

Decree—a non-dispositive, case-specific issue that does not hold up on its own terms.

Petitioner argues that "the Ninth Circuit split with" the Eighth Circuit's decision in *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020), when it held "that a state executive official [*i.e.*, the Arizona Secretary of State] can use a consent decree to bind the state's legislature from exercising its constitutional authority to regulate elections." Pet. 19. Petitioner argues that *Carson*, in contrast, held that "the Electors Clause" of the Federal Constitution "vests the power to determine the manner of selecting electors *exclusively* in the 'Legislature' of each state." 978 F.3d at 1059-60. Under that reasoning, "only the [State] Legislature, and not the Secretary, has plenary authority to establish the manner of conducting" a presidential election. *Id.* at 1060. To reach that conclusion, *Carson* put great weight on this Court's decision in *McPherson v. Blacker*, 146 U.S. 1 (1892), reasoning that *McPherson* stripped the Minnesota Secretary of State of any "power to override the Minnesota Legislature" through a state court consent decree and rendered "the Secretary's attempt to re-write the laws governing the deadlines for mail-in ballots in the 2020 Minnesota presidential election . . . invalid." *Carson*, 978 F.3d at 1060.

That is not a cognizable conflict for several reasons. For one, that case involved a state-court consent decree. So *Carson* did not address an argument that a state legislature can act in defiance of a final judgment imposed by an Article III court.

For another, this Court's intervening decision in *Moore v. Harper*, 600 U.S. 1 (2023), undermines any conflict with *Carson*. In *Moore*, this Court distinguished the very case upon which *Carson* relied.

The Court explained that *McPherson* does not insulate state legislatures from the typical bounds of state lawmaking authority: "Our decision in *McPherson* . . . had nothing to do with any conflict between provisions of the Michigan Constitution and action by the State's legislature . . . ." *Moore*, 600 U.S. at 27; *see McPherson*, 146 U.S. at 25 ("The legislative power is the supreme authority *except as limited by the constitution of the State* . . . ." (emphasis added)).

Moore undercuts the only legal rationale *Carson* invoked to support its holding that state officials cannot bind the legislature through state court consent decrees when it comes to federal elections. *See Carson*, 978 F.3d at 1059-60. That is, after *Moore*, "the Elections Clause" does *not* "vest[] state legislatures with exclusive and independent authority when setting the rules governing federal elections." *Moore*, 600 U.S. at 26. The Eighth Circuit has not had an opportunity to reconsider *Carson* after *Moore*. And no other circuit court following *Moore* has adopted *Carson*'s mistaken view.

An inapt and stale 1-1 "split," on a non-dispositive issue, that arises in a different context, and has been undercut by an intervening decision of this Court, does not warrant the Court's review.

B. There Is No Circuit Split On The 90-Day Issue

There is likewise no circuit split on whether a state may systematically remove alleged noncitizens from its voter rolls within 90 days of a federal election. Every court of appeals to consider the question has answered with a definitive no.

1. As petitioner concedes, both the Fourth and Eleventh Circuits agree with the Ninth Circuit that

the NVRA's 90-Day Provision prevents the systematic removal of voters from the voting rolls when an election nears. Pet. 22-23. The NVRA requires that "[a] state shall complete, not later than 90 days prior to" a federal election, "any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters." 52 U.S.C. § 20507(c)(2)(A). As the Eleventh Circuit explained, the NVRA "is premised on the assumption that citizenship is one of the requirements for eligibility to vote" and a "program to remove non-citizens [is] a program to remove 'ineligible voters.'" *Arcia v. Fla. Sec'y of State*, 772 F.3d 1335, 1344 (11th Cir. 2014). The "plain meaning of the 90 Day Provision" thus covers programs to systematically remove noncitizens. *Id.* Reading the NVRA to mean otherwise would "violate[] basic principles of statutory construction." *Va. Coal. for Immigrant Rights v. Beals*, No. 24-2071, 2024 WL 4601052, at *1 (4th Cir. Oct. 27, 2024).

2. Petitioner points to a single, Sixth Circuit decision as evidence of a split. Pet. 21-22, 36 (citing *Bell v. Marinko*, 367 F.3d 588, 591-92 (6th Cir. 2004)). Although *Bell* was about removing ineligible voters, it was *not* about the 90-Day Provision.

Bell concerned a different provision of the NVRA. Section 20507(a)(3) provides that "the name of a registrant may not be removed from the official list of eligible voters except" in three circumstances: "(A) at the request of the registrant;" "(B) as provided by State law," for "criminal conviction or mental incapacity," or "(C) as provided" elsewhere in the NVRA, covering situations involving a registrant's death or change in residence. 52 U.S.C. § 20507(a)(3)-(4). In *Bell*, the appellants challenged the Ohio Board

of Elections' decision to remove them from the voting rolls based on their places of permanent residence. *See* 367 F.3d at 589-91. They argued, among other things, that Section 20507(a)(3) sets forth the "*exclusive* reasons for which a state may remove a voter from a voting precinct's list of registered voters." *Id.* at 591 (emphasis added).

The Sixth Circuit disagreed. The court held that, "[i]n creating a list of justifications for removal, Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote in the first place." *Id.* at 591-92. The court explained that, after conducting an individualized "investigat[ion]" and "examinat[ion]" through "hearings," the Ohio Board of Elections "concluded that the appellants were not residents" of the precinct in which they were registered to vote. *Id.* at 592. Removal after that individualized inquiry had to be permitted under the NVRA: "Were we to find that the Board's removal of these voters does violate the Act, we would effectively grant, and then protect, the franchise of persons not eligible to vote." *Id.*

Bell is both correct and inapposite. The NVRA does not protect ineligible voters from removal at any time. But *Bell* says nothing about what systemic removal programs are permissible, nor did it cite or discuss the 90-Day Provision. That is because *Bell* concerned individualized—rather than systematic—removal of ineligible voters. Nothing in that decision suggests the Sixth Circuit has broken from every other circuit and held that states can systematically purge their voting rolls of alleged noncitizens, without any individualized inquiry, within 90 days of a federal

election. In the face of uniformity, this Court's review is not needed.

C. This Court's Prior Grant Of Interim Relief Does Not Mean Review Is Warranted

Petitioner argues, repeatedly, that the Court should grant review because it previously granted interim relief. Pet. 14, 17-19, 36. The Court's divided and unexplained order should change nothing.

1. To start, the Court did not grant any relief in this case on the 90-day issue. *See RNC v. Mi Familia Vota*, 145 S. Ct. 108, 108-09 (2024). No petitioner even sought a stay on that issue—in this Court or either lower court. Petitioner relies instead on the Court's grant of interim relief in a Fourth Circuit case but, as explained below, that is no help either.

2. In both this case and the Fourth Circuit case, the Court granted interim relief in the "run up to the 2024 elections." Pet. 18. Here, the Court granted a stay on August 22, 2024, roughly 10 weeks before the 2024 presidential election. *See Mi Familia*, 145 S. Ct. at 108-09. In *Beals*, the Fourth Circuit case, the Court granted a stay on October 30, 2024, just days before the 2024 election. *See Beals v. Va. Coal. for Immigrant Rights*, No. 24A407, 2024 WL 4608863, at *1 (U.S. Oct. 30, 2024). That timing makes for a poor predictor of cert-worthiness.

Federal court orders altering voting rules close to an election present unique circumstances distinct from the ordinary criteria governing interim relief. *See Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006) (per curiam). "As the Court has often indicated . . . [the] traditional test for a stay does not apply (at least not in the same way) in election cases when a lower court has issued an injunction of a state's election law in the

period close to an election." *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., joined by Alito, J., concurring in grant of applications for stays), *vacated sub nom.*, *Allen v. Milligan*, 143 S. Ct. 2607 (2023). That unique context was not lost on petitioner: the opening line of its stay application emphasized that "[t]his Court has repeatedly instructed that the *Purcell* principle bars federal courts from enjoining the enforcement of state election laws with an election impending." *Mi Familia* Stay Application 1. Shorn of the circumstances giving rise to relief close to a federal election, this Court should give a fresh look to the cert-worthiness of the questions presented.

3. Even without *Purcell*, the grant of interim relief does not guarantee a cert grant. *See, e.g.*, *Herbert v. Kitchen*, No. 13A687 (Jan. 6, 2014) (granting application for interim relief); *Herbert v. Kitchen*, No. 14-124 (Oct. 6, 2014) (denying certiorari); *McQuigg v. Bostic*, No. 14A196 (Aug. 20, 2014) (granting application for interim relief); *McQuigg v. Bostic*, No. 14-251 (Oct. 6, 2014) (denying certiorari). Nor should it. With the benefit of full briefing, and without the risk of irreparable harm and the time pressure that comes with requests for emergency relief, it may become clear there is no divide among the lower courts or that certiorari is otherwise unwarranted. That is the case here.

II. THE NINTH CIRCUIT'S DECISION IS CORRECT

The Ninth Circuit held that Arizona cannot (A) require documentary proof-of-citizenship for state-form registrants seeking to vote in federal elections, or (B) systematically remove voters from

the rolls within 90 days of a federal election. Both rulings are correct, and the first doubly so: it is supported by two independent grounds, either of which would be sufficient to affirm the judgment.

A. Arizona's State-Form Voting Rules Violate Both The LULAC Consent Decree And The NVRA

The Ninth Circuit held that Arizona's documentary proof-of-citizenship requirement for state-form applicants seeking to vote in federal elections violates the LULAC Consent Decree and the NVRA. To get relief, then, petitioner would have to show the Ninth Circuit was wrong, twice over. It cannot show error on either ground, let alone both.

1. Arizona's Secretary of State entered into the consent decree to "make it easier for Arizona's citizens to register to vote, while also providing important safeguards to prevent unlawful registration." Pet. App. 476a-77a. The decree expressly requires the Arizona Secretary of State to provide guidance to county officials to register applicants who fail to submit documentary proof-of-citizenship as federal-only voters, whether using federal or state registration forms. *Id.* at 19a, 484a.

The Ninth Circuit correctly held that the consent decree prevents Arizona from now requiring exactly what it promised not to require: documentary proof-of-citizenship for state-form applicants to vote in federal elections. "[A] consent decree is a final judgment that may be reopened only to the extent that equity requires." *Rufo v. Inmates of the Suffolk Cnty. Jail*, 502 U.S. 367, 391 (1992). The Arizona Legislature has authorized Arizona's Attorney General to represent the State "in any action in

federal court," including by "[c]ompromis[ing] or settl[ing] any action or claim by or against" the State. Ariz. Rev. Stat. §§ 41-193(A)(3), 41-192(B)(4). The Attorney General represented the Secretary of State in *LULAC* and exercised that authority to enter into the LULAC Consent Decree. *See* Dkt. 36, *LULAC v. Reagan*, No. CV17-4102-PHX DGC (D. Ariz.). The LULAC Consent Decree binds Arizona and prevents the State from violating the decree by requiring documentary proof-of-citizenship for state-form applicants seeking to vote in federal elections.

Petitioner argues the consent decree cannot "displace the Arizona Legislature's authority to make election rules." Pet. 31. As petitioner sees it, changed circumstances warrant revisiting consent decrees, and that principle applies "with special force when state legislatures set election rules," *id.*, such that "the *LULAC* decree must yield to the legislature's intervening law," *id.* at 32. The Ninth Circuit correctly rejected this argument. As the court explained, petitioner "present[ed] no authority suggesting that Arizona's state legislature may permissibly nullify a final judgment entered by an Article III court." Pet. App. 49a. Petitioner still points to no such authority. For good reason: If state legislatures could "annul the judgments of the courts of the United States, and destroy the rights acquired under those judgments, the constitution itself becomes a solemn mockery." *United States v. Peters*, 9 U.S. (5 Cranch) 115, 136 (1809).

Nor can the Arizona Legislature set the State's election rules free from the other constraints imposed by Arizona law. Pet. 21, 31-32. This Court in *Moore* expressly rejected the argument that state legislatures have exclusive authority to set the rules

governing federal elections; state legislatures must still comply with "restrictions imposed under state law." 600 U.S. at 9-10. Here, Arizona law expressly vests the Attorney General with the authority to represent the State and settle claims against the State in federal court. *See* Ariz. Rev. Stat. §§ 41-193(A)(3), 41-192(B)(4). Having assigned the Attorney General the authority to enter into the LULAC Consent Decree in the first place, the Arizona Legislature cannot now seek refuge in the Federal Constitution to unwind that prior grant.

Even if the Arizona Legislature's later enactment of the voting laws at issue could provide a reason to revisit the consent decree, the proper procedure for addressing such a change would have been Rule 60(b). But petitioner made no attempt to seek that form of relief. And it is no answer to say that petitioner was not a party to the case resulting in the LULAC Consent Decree. *See* Pet. 33; Pet. App. 474a-94a. That was also true in *Horne v. Flores*, 557 U.S. 433, 449 (2009), a case on which petitioner relies. *See* Pet. 31. There, leaders of the Arizona Legislature intervened and sought to modify a consent decree under Rule 60(b). 557 U.S. at 443. Petitioner simply failed to pursue that established process here.

Petitioner finally suggests the Ninth Circuit "applied the consent decree's limitations beyond the parties to the decree." Pet. 25. That argument is both new and wrong. Petitioner never raised this argument before the Ninth Circuit—even in its en banc petition. *See Cutter v. Wilkinson*, 544 U.S. 709, 718 n.7 (2005) ("[W]e are a court of review, not of first view . . . ."). And it is not a fair reading of the panel decision. The court correctly recognized that the consent decree bound only the Secretary of State and

Maricopa Recorder, both in their official capacities. *See* Pet. App. 48a. The court's further statements merely reflect that the consent decree required the Secretary to give guidance to all county recorders and that guidance has been in effect for years. Pet. App. 49a. Nothing about the Ninth Circuit's order extends the consent decree to nonparties.

2. The Ninth Circuit also correctly held Arizona's state-form requirements impermissible under the NVRA, which would provide a separate and independent reason to affirm. The NVRA allows states to require in state forms only information that is "necessary" to "assess the eligibility of the applicant." 52 U.S.C. § 20508(b)(1). And because Arizona provides state forms to public assistance voting agencies, *see* Pet. App. 191a, such forms must be "equivalent to" the federal form, which does not require documentary proof-of-citizenship, 52 U.S.C. § 20506(a)(6)(A)(ii).

The Ninth Circuit correctly applied the NVRA. Pet. App. 50a. Its textual analysis looked, as it should, to the ordinary, contemporary meaning of the word "necessary," which—in this context—means "essential." *Id.* So understood, "something is 'necessary' only if it is essential." *Ayestas v. Davis*, 584 U.S. 28, 44 (2018); *see also Vorchheimer v. Philadelphian Owners Ass'n*, 903 F.3d 100, 105-06 (3d Cir. 2018) (Bibas, J.) ("'Necessary' means required, indispensable, essential" (emphasis omitted)); *Kloth v. Microsoft Corp. (In re Microsoft Antitrust Litig.)*, 355 F.3d 322, 327 (4th Cir. 2004) (Niemeyer, J.) ("Because a fact that is 'supportive of' a judgment may be consistent with it but not necessary or essential to it, the term 'supportive of' is a broader term than 'critical and necessary.'"). Dictionaries

contemporaneous with the passage of the NVRA say the same. *See Webster's Third New International Dictionary* 1510-11 (1993) (defining "necessary" as logically required, essential, indispensable); *Random House Dictionary* 1283-84 (2d ed. 1987) (defining "necessary" to mean "essential, indispensable, or requisite").

Guided by the plain meaning of "necessary," and on this record, the NVRA does not allow Arizona to require voting applicants to submit documentary proof-of-citizenship. There is no evidence that such proof is essential to determining an applicant's "eligibility" to vote. 52 U.S.C. § 20508(b)(1). And while "[t]he term [necessary] is sometimes used" to "refer to something that is merely important or strongly desired," *Ayestas*, 584 U.S. at 44, the NVRA uses it differently by providing that States "may require *only* such identifying information . . . as is necessary to enable the appropriate State election official to assess . . . eligibility." 52 U.S.C. § 20508(b)(1) (emphasis added). It would make little sense to constrict state authority by limiting states to "only" necessary information, yet read the word "necessary" to encompass any information that would be merely helpful to state officials. *Contra* Pet. 29; *see Vorchheimer*, 903 F.3d at 105-06. The better reading is that the NVRA more strictly limits the information state officials may demand. And Arizona presented no evidence that requiring documentary proof-of-citizenship is somehow "necessary" for the State to assess voting eligibility.

The NVRA's "necessary" "only" limit is also not the only problem: a separate provision requires actual equivalence on the facts of this case. As the Ninth Circuit separately concluded, Arizona's law

independently violates the NVRA's requirement that forms provided to public assistance agencies be "equivalent" to the federal form. 52 U.S.C. § 20506(a)(6)(A)(ii); *see* Pet. App. 38a, 51a. "Equivalent" means "virtually identical." *Black's Law Dictionary* (6th ed. 1990) (defining equivalent as "[e]qual in value, force, measure, volume, power, and effect or having equal or corresponding import, meaning or significance; alike, identical"). Requiring documentary proof-of-citizenship renders Arizona's state form materially different from the federal form.

Petitioner suggests the panel should have rested on the "obvious[]" truth that proof-of-citizenship is necessary. Pet. 29 (citation omitted). But petitioner does not explain why an attestation entered under penalty of perjury is not sufficient. 52 U.S.C. § 20508(b)(2). Nor does petitioner point to any evidence in the record showing that it is not.

Petitioner relies (at 29) on a D.C. Circuit case to argue that "necessary" does not mean "absolutely required or indispensable," *Cellular Telecomm. & Internet Ass'n v. FCC*, 330 F.3d 502, 509-10 (D.C. Cir. 2003). But that case addressed the word in a different statutory context. *Cellular* noted, as did this Court in *Ayestas*, that "there are many situations in which the use of the word 'necessary,' in context, means something that is done, regardless of whether it is indispensable, to achieve a particular end." 330 F.3d at 510. But the context here, as explained above, does not support a loose reading of the word, else the NVRA would not have restricted States to requiring "only" the information that is necessary to assess eligibility. 52 U.S.C. § 20508(b)(1). Petitioner's capacious definition of "necessary" would read that stricter limitation out of the statute. "The point is

simple: it is critical to understand the context in which the word is used in order to comprehend its meaning." *Cellular*, 330 F.3d at 510.

Nor does *ITCA* undercut the Ninth Circuit's holding. This Court explained that "state-developed forms may require information the Federal Form does not." *ITCA*, 570 U.S. 1, 12 (2013). And, the Court noted in a parenthetical, "([f]or example, unlike the Federal Form, Arizona's registration form includes [a] proof-of-citizenship requirement . . . .)" *Id.* But the Court in *ITCA* did not have occasion to address the question presented. It did not specify whether or when a documentary proof-of-citizenship requirement could apply to federal elections. It did not address whether Arizona's documentary proof-of-citizenship requirement could be squared with the NVRA's plain text. And it did not address Arizona's showing (or lack thereof) of necessity. Petitioner puts far too much weight on a parenthetical aside. *Cf. Boechler, P.C. v. Commissioner*, 596 U.S. 199, 206 (2022) (noting that "parenthetical[s]" are "typically used to convey an 'aside' or 'afterthought'" (citation omitted)).

B. Arizona's Voting Rules Allowing The Systematic Removal Of Voters From The Voting Rolls Within 90 Days Of A Federal Election Violate The NVRA

The Ninth Circuit correctly held that Arizona's effort to systematically purge voters from the voting rolls within 90 days of a federal election is squarely prohibited by the NVRA.

1. Within 90 days of an election, the NVRA prohibits states from carrying out: (i) "any program," (ii) "the purpose of which is to systematically remove," (iii) "the names of ineligible voters." 52 U.S.C.

§ 20507(c)(2)(A). Arizona's voter removal policy meets all three conditions.

As the Ninth Circuit explained, "any program" has a broad meaning. *See United States v. Gonzales*, 520 U.S. 1, 5 (1997) ("Read naturally, the word 'any' has an expansive meaning, that is, 'one or some indiscriminately of whatever kind.'" (citation omitted)). By requiring officials to periodically obtain citizenship information from various databases and purge voters based on those periodic data dumps, *see* Ariz. Rev. Stat. § 16-165(A)(10), (G)-(K), Arizona has enacted a "program" to remove voters.

The program is "systematic" because it does not rely "on 'individualized information or investigation' but rather comparisons to databases." Pet. App. 45a; *see also Arcia*, 772 F.3d at 1344 (characterizing a voter removal program as "systematic" because it "did not rely upon individualized information or investigation to determine which names from the voter registry to remove").

Arizona's program also targets "ineligible voters." All agree the State is seeking to remove noncitizens, and that noncitizens are "ineligible" to vote. *See* 18 U.S.C. § 611. As the Eleventh Circuit explained, the NVRA "is premised on the assumption that citizenship is one of the requirements for eligibility to vote." *Arcia*, 772 F.3d at 1344. By precluding the systematic removal of "ineligible" voters within 90 days of a federal election, the NVRA's plain text covers systematic removal efforts targeted at noncitizens. *See id.*; *Beals*, 2024 WL 4601052, at *1-2.

The 90-Day Provision's exemptions confirm that states cannot systematically remove alleged noncitizens when an election nears. The provision

exempts a few different kinds of actions—namely, those concerning removals (i) at the request of the registrant, (ii) "as provided by State law, by reason of criminal conviction or mental incapacity," and (iii) "upon death of the registrant." *Arcia*, 772 F.3d at 1345. In other words, the NVRA allows certain kinds of "ineligible" voters to be systematically removed close to an election. But that list does not include alleged or suspected noncitizens, suggesting that Congress made a deliberate choice to disallow the systematic removal of such duly registered voters within 90 days of an election. *Andrus v. Glover Constr. Co.*, 446 U.S. 608, 616-17 (1980) ("Where Congress explicitly enumerates certain exceptions to a general prohibition, additional exceptions are not to be implied, in the absence of evidence of a contrary legislative intent.").

2. Petitioner does not dispute that Arizona has enacted a "program" to "systematically" remove ineligible voters. *See* Pet. 34-36. In petitioner's view—echoing Judge Bumatay's reasoning in dissent—Arizona's law does not run afoul of the 90-Day Provision because noncitizens are not "ineligible" voters. *See id.* at 35-36. As petitioner sees it, noncitizens do not so qualify "because they were never eligible applicants in the first place." *Id.* at 35 (quoting Pet. App. 124a-25a (Bumatay, J., dissenting)). That argument requires some linguistic gymnastics that run counter to the NVRA's plain text and broader statutory context.

The 90-Day Provision, by its own terms, envisions the existence of "official lists of eligible voters" that will include only two kinds of voters—"ineligible" voters and "eligible" voters. 52 U.S.C. § 20507(c)(2)(A). And the provision assumes state

officials may try to remove certain voters from that list for being "ineligible," for whatever reason. The provision in no way limits the reasons *why* a voter may be "ineligible," whether due to their residence, age, or, as relevant here, citizenship status. By referring broadly to all "ineligible" voters, therefore, the 90-Day Provision covers noncitizens.

The NVRA's other provisions make clear Congress considered "noncitizens" "ineligible" to vote. For example, the provision addressing registration "as part of an application for a State motor vehicle license" provides that the "voter registration application portion of an application for a State motor vehicle driver's license . . . shall include a statement that . . . states the *eligibility* requirement (including *citizenship*)" for voting applicants. *See* 52 U.S.C. § 20504(c)(1), (2)(C)(i) (emphases added). Other provisions do the same. *See id.* § 20506(a)(6)(A)(i)(I) (likewise referring to "citizenship" as an "eligibility requirement"); *id.* § 20508(b)(2)(A) (same).

In his dissent, Judge Bumatay acknowledged that the term "ineligible voters" is "seemingly capacious." Pet. App. 119a. But he reasoned that it nevertheless refers only to "'registrant[s]' who have lost eligibility to vote because of" an "intervening event" like death, change in residence, and so on. *Id.* at 122a-23a (citation omitted). In the dissent's view, both "ineligible voters" and "eligible voters" are subsets of a larger umbrella category—"registrants." *Id.* at 124a-25a. And because, according to the dissent, only "eligible applicants" can ever become "registrants," *in*eligible applicants like noncitizens never progress to the point of becoming "ineligible voters." *Id.*

The dissent's tortured reading does not hold up. A "registrant" is most naturally understood as any

person who is registered to vote. *See U.S. Student Ass'n Found. v. Land*, 546 F.3d 373, 383 (6th Cir. 2008) ("[A] person becomes a 'registrant,' for purposes of the NVRA, from the first moment that he or she is actually able to go to the polls and cast a regular ballot."); *see also Webster's Ninth New Collegiate Dictionary* 992 (1990) (defining "registrant" as "one that registers or is registered"). Just as eligible applicants can become registrants, so too can ineligible applicants when the process goes awry. Procedures exist to remove ineligible voters from the rolls not just because circumstances change, but because Congress understood the registration process is not perfect. *See, e.g.*, 52 U.S.C. § 20507(a)(4) (requiring voter list maintenance). The reality that states make mistakes when registering applicants was not lost on anyone—except, perhaps, the dissent and petitioner.

That states must "ensure that any eligible applicant is registered to vote in an election," *id.* § 20507(a)(1), does not suggest otherwise. That provision discusses the timing for election officials to process voter registration applications. *Id.* And it nowhere says *only* eligible applicants can become registrants. *Contra* Pet. App. 121a (reasoning that "foreign citizens—as *ineligible* applicants—are weeded out of the statutory process at this stage and may never go further down the regulatory scheme" to become "registrants"). Nor does anything else in the NVRA support petitioner's view that "ineligible voters" are only those who have been "properly registered," *see* Pet. 35, because they were, in fact, eligible when registering. *See, e.g.*, *Bell*, 367 F.3d at 591-92 (affirming individualized removal of properly

registered voters who were never eligible to register using their seasonal address).

3. Reading the NVRA to prevent the systematic removal of noncitizens also accords with the purpose of the 90-Day Provision, which is to protect "eligible" voters from being unlawfully purged from the voter rolls due to mistake or neglect. "At most times during the election cycle, the benefits of systematic programs outweigh the costs because eligible voters who are incorrectly removed have enough time to rectify any errors." *Arcia*, 772 F.3d at 1346; *see* 52 U.S.C. § 20503(b) (exempting states with same-day polling place voter registration from NVRA requirements). But "[i]n the final days before an election . . . the calculus changes." *Arcia*, 772 F.3d at 1346.

Petitioner frames the decision below as hamstringing "the States' ability to prevent noncitizens from voting in their elections," thereby "effectively 'forc[ing] a State to allow a foreign citizen to vote in its elections.'" Pet. 25 (citation omitted). Not at all. That officials may not systematically purge voters close to an election does not mean they cannot undertake individualized assessments to remove noncitizens from the voting rolls during that same period. *See, e.g.*, *Bell*, 367 F.3d at 589-91.

Arizona *can*, in other words, remove noncitizens. It can do so systematically before the 90 days and on an individualized basis during the 90 days. What it cannot do is implement a program to systematically remove such voters without individualized assessments during the 90-day period preceding a federal election. That provision "strikes a careful balance" and recognizes that the 90 days leading up to an election "is when the risk of disenfranchising eligible voters is the greatest." *Arcia*, 772 F.3d at

1346. Just as this Court hesitates before invalidating state election laws in the lead-up to federal elections, Congress designed the NVRA to avoid dramatic changes to the voter rolls during the same period.

III. THIS PETITION IS A BAD VEHICLE

Even if the Court's review were otherwise warranted, this case is an exceptionally bad vehicle to address the questions presented.

1. The state-form issue (petitioner's first question presented) comes to the Court in an atypical posture. The judgment below is supported by two, independent grounds. Each is adequate standing alone. Neither implicates any division of authority among the circuits. And the LULAC Consent Decree issue is specific to Arizona with no apparent implications nationwide. If the Court is inclined to address the NVRA issue, it should not grant in a case that presents a bespoke, state-specific, and dispositive consent decree alternative ground for affirmance.

2. The 90-day issue (petitioner's second question presented) arises in an equally, if not more, problematic posture. The RNC is the *only* petitioner seeking review of this question; petitioner appears to lack standing to proceed in this Court; and the Court would have to resolve that unresolved and complex question before granting petitioner any relief.

Petitioner was an intervenor-defendant in the proceedings below, but no court has addressed whether petitioner has standing. The Ninth Circuit did not address standing because at least "the Legislative Parties ha[d] standing to bring their appeal." Pet. App. 27a; *see also id.* at 78a n.1 (Bumatay, J., dissenting) ("At least the Arizona legislators have standing to bring this appeal.").

Those circumstances have changed. Only petitioner seeks review of the 90-day issue. And an intervenor must have Article III standing to pursue relief in this Court. *Diamond v. Charles*, 476 U.S. 54, 68 (1986); *see Wittman v. Personhuballah*, 578 U.S. 539, 543-44 (2016) (similar). If the Court wishes to review the 90-day issue, it would have to decide, in the first instance, that threshold question. *Cf. Cutter*, 544 U.S. at 718 n.7.

The answer to that threshold question is likely no. Petitioner does not have any concrete or particularized interest in the outcome of this appeal. In the district court, petitioner argued that it has a generalized "interest in protecting [its] members, candidates, voters, and resources from Plaintiffs' attempt to upend Arizona's duly elected laws." Mot. Intervene 2, *Living United for Change in Ariz. v. Fontes*, No. 22-cv-519 (D. Ariz. May 12, 2022), Dkt. 23; Mot. Intervene 2, *Mi Familia Vota v. Fontes*, No. 22-cv-509 (D. Ariz. May 12, 2022), Dkt. 24. But other courts have rejected the "diversion-of-resources" argument as "unduly speculative" without concrete allegations of *how* the RNC's resources will be diverted. *RNC v. Benson*, No. 24-1985, 2025 WL 2731704, at *1 (6th Cir. Sept. 25, 2025) (per curiam) (Sutton, C.J., Gibbons, White, JJ.). And petitioner fails to explain how enforcing Arizona's laws will "protect" its candidates or voters more generally. Article III standing requires more than "concerned bystanders" who will seek to use federal litigation as a "vehicle for the vindication of value interests." *Diamond*, 476 U.S. at 62 (citation omitted).

Even if petitioner could show otherwise, there is an additional impediment to standing in this case. The Court has not allowed third parties to enforce

state laws when state officials have declined to pursue an appeal. *See, e.g.*, *Hollingsworth v. Perry*, 570 U.S. 693, 701-02, 707 (2013). That applies equally to political parties—particularly when "the state election officials" have not "expressed opposition" to the "challenged decree." *RNC v. Common Cause R.I.*, 141 S. Ct. 206, 206 (2020). Both the State and certain Arizona legislators have filed separate petitions asking the Court to review other aspects of the Ninth Circuit's judgment. *See Petersen* Cert. Pet.; Cert. Pet., *Arizona v. Promise Arizona*, No. 25-1022 (filed Feb. 19, 2026). But neither has asked this Court to vacate the injunction so the State can purge voter rolls during the 90-day, pre-election period. Petitioner "lack[s] a cognizable interest in the State's ability to 'enforce its duly enacted' laws" and, here, the State has made an independent judgment that review is not warranted on the 90-day issue. *Common Cause R.I.*, 141 S. Ct. at 206.

Bost v. Illinois State Board of Elections, 607 U.S. 71 (2026), is not to the contrary. *Bost* concerned only whether "political *candidates*" have standing, *id.* at 74, and held they do when challenging "the rules that govern the counting of votes in [their] election," *id.* at 76. *Bost* did not concern the far broader question whether political *parties* have standing when it comes to a state's efforts to enforce its own voting qualification laws. Nor did *Bost* address whether a political party may intervene to defend such rules when the State officials charged with enforcing them decline to pursue such relief in this Court.

At the very least, the Court would need to decide those thorny issues to afford relief to petitioner on the 90-day issue. If the Court is inclined to grant review on that question, respondents urge the Court to add a

question presented to determine whether petitioner has standing to seek relief from that aspect of the Ninth Circuit's judgment. The more straightforward approach, though, would be to deny review.

CONCLUSION

The petition for a writ of certiorari should be denied.

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