Nos. 25-1017, 25-1019

IN THE

Supreme Court of the United States

REPUBLICAN NATIONAL COMMITTEE,
Petitioner,

v.

MI FAMILIA VOTA, *et al.*,
Respondents.

WARREN PETERSEN, IN HIS OFFICIAL CAPACITY AS THE PRESIDENT OF THE ARIZONA SENATE, *et al.*
Petitioners,

v.

MI FAMILIA VOTA, *et al.*,
Respondents.

On Petitions for Writs of Certiorari to the United States Court of Appeals for the Ninth Circuit

MI FAMILIA VOTA AND VOTO LATINO RESPONDENTS' BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

Arizona has a bifurcated voter registration system with a class of "federal-only" registrants who cannot vote in state and local elections. The questions presented are, under Arizona's bifurcated system:

1. Whether the NVRA or a federal consent judgment allow Arizona to reject voter registration applicants who submit a state voter registration form without documentary proof of citizenship, or whether Arizona must register such voters as federal-only voters, as it would if they submitted a federal voter registration form without documentary proof of citizenship, when the same statutory standard applies to both forms. (RNC Question Presented No. 1; Petersen Question Presented No. 1.)

2. Whether the NVRA allows Arizona to penalize federal-only voters who complied with federal voter registration requirements by prohibiting such voters from voting by mail unless they provide documentation that the NVRA exempts them from providing, when that method is broadly available to other eligible Arizona voters. (Petersen Question Presented No. 2.)

Mi Familia Vota and Voto Latino do not address RNC Question Presented No. 2 or Petersen Question Presented No. 3, which relate to claims that Mi Familia Vota and Voto Latino did not assert below.

CORPORATE DISCLOSURE STATEMENT

In accordance with Supreme Court Rule 29.6, Mi Familia Vota and Voto Latino state that they have no parent corporation and that no publicly held corporation owns 10% of more of their stock.

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INTRODUCTION

These Petitions concern implementation details of Arizona's unique voter registration system. Arizona maintains a separate, federal-only voter registration list to avoid having to comply with the National Voter Registration Act (NVRA) when registering voters for state and local elections. Although two other states have recently started using bifurcated systems, Arizona goes further than even those two States in limiting and restricting the rights of federal-only voters who exercise their rights under the NVRA. The Petitions challenge the Ninth Circuit's holding that two aspects of Arizona's voter registration procedures related to its treatment of federal-only voters are preempted by the NVRA. There is no circuit split on either question, and because the provisions in question are unique to Arizona, the matter lacks any nationwide importance. The Court should deny review.

The first challenged provision involves the manner in which voters may register as federal-only voters. After this Court held in *Arizona v. Inter Tribal Council of Arizona, Inc. (ITCA)*, 570 U.S. 1 (2013), that Arizona could not demand documentary proof of citizenship from voters who register for federal elections using the federal voter registration form, Arizona allowed registrants to register as federal-only voters by submitting a federal form without documentary proof of citizenship. But legislation enacted in 2022 requires Arizona to treat registrants who submit a state voter registration form without documentary proof of citizenship differently—rejecting their applications entirely rather than registering them as federal-only

voters. The Ninth Circuit correctly held that the NVRA preempts this provision because Arizona failed to show that documentary proof of citizenship was "necessary" to voter registration using the state form, just as the EAC has concluded Arizona failed to show such proof "necessary" when using the federal form—a question governed by exactly the same statutory text. Petersen App.60–62. The Ninth Circuit also correctly held in the alternative that enforcement of this provision was barred by a never-challenged, never-modified federal consent decree that directly addresses the question. Petersen App.57–60.

The second challenged provision singles out federal-only registrants and disallows them from voting by mail, as nearly 90% of Arizona voters have done in recent elections. Petersen App.39–42. The Ninth Circuit correctly held that this provision is inconsistent with the NVRA's command that Arizona "accept the Federal Form as a *complete and sufficient* registration application," not just to "use [the form] *somehow* in its voter registration process." *ITCA*, 570 U.S. at 9–10. Contrary to Petitioners' arguments, this was not a holding that the NVRA requires States to adopt mail voting, but merely that if they do offer mail voting, they cannot single out federal-form registrants for disfavored treatment simply because they exercised their federal rights to register under the NVRA.

The Ninth Circuit's resolution of both questions presented was correct, did not conflict with any other circuit's decisions, and does not implicate any other State's law. There is no basis for the Court's review.

STATEMENT

I. The National Voter Registration Act

The NVRA "erected a complex superstructure of federal regulation atop state voter-registration systems." *Arizona v. Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1, 5 (2013) (*ITCA*). Congress erected this federal overlay because "the right of citizens of the United States to vote is a fundamental right," and "it is the duty of the Federal, State, and local governments to promote the exercise of that right." 52 U.S.C. § 20501(a). Congress therefore crafted the NVRA to "increase the number of eligible citizens who register[ed] to vote in elections for Federal office" and to "enhance[] the participation of eligible citizens as voters in elections for Federal office." 52 U.S.C. § 20501(b). To do so, Congress among other things "requir[ed] States to provide simplified systems for registering to vote in *federal* elections." *ITCA*, 570 U.S. at 6 (quoting *Young v. Fordice*, 520 U.S. 273, 275 (1997)).

The NVRA supplies two typical paths for registering to vote in federal elections, both of which are relevant here. First, the NVRA requires that States "shall accept and use" a 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 also id.* § 20508(a)(2). Second, the NVRA permits States to "develop and use" their own state voter registration forms as an alternative to the federal form, *id.* § 20505(a)(2). Importantly, however, state forms that are used for registration to vote in federal elections are subject to many of the same requirements as the

federal form, including that they "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). The NVRA also requires public assistance agencies to distribute the federal form to applicants for public assistance or, alternatively, a state form "equivalent" to the federal form. *Id.* § 20506(a)(6).

II. Arizona's Bifurcated Voter Registration System After *ITCA*

In 2004, Arizona enacted a law requiring election officials to "reject any application for registration"—including the federal form—"that is not accompanied" by documentary proof of citizenship like a U.S. passport or birth certificate. Ariz. Rev. Stat. § 16-166(F) [hereinafter A.R.S.]. In *ITCA*, the Court held the NVRA preempts that requirement as to the federal form. *See ITCA*, 570 U.S. at 6–10. The Court explained that as a "straightforward textual" matter, the NVRA "mandate[s] that Arizona 'accept and use' the Federal Form" as is and does not allow Arizona to add additional requirements like documentary proof of citizenship. *Id.* at 9 (citation modified). And while the Court held that Arizona could ask the Election Assistance Commission to add a documentary proof of citizenship requirement to the federal form, the Commission declined that request, and when Arizona and Kansas sued to challenge the Commission's decision, the Tenth Circuit affirmed and this Court denied certiorari. *See Kobach v. U.S. Election Assistance Comm'n*, 772 F.3d 1183 (10th Cir. 2014), *cert. denied*, 576 U.S. 1055.

In the wake of *ITCA* and Arizona's failed effort to add a request for documentary proof of citizenship to the federal form, Arizona continued to require documentary proof of citizenship from applicants to vote in state and local elections. To accommodate *ITCA*, however, Arizona created a second, "federal-only" tier of voter registration for voters who submit a federal voter registration form without documentary proof of citizenship. As the name suggests, federal-only voters may vote only in federal elections, and not for state and local offices. A.R.S. § 16-127.

In adopting this two-tier system, Arizona initially allowed only registrants who used the federal form and did not provide documentary proof of citizenship to be registered as federal-only voters; registrants who submitted a state form without documentary proof of citizenship had their registrations rejected entirely. Petersen App.23–24. Arizona also registered federal form registrants as full voters if county officials could locate proof of citizenship on file with a state agency, while denying that courtesy to state form registrants. RNC App.475a–76a.

In 2018, however, the League of United Latin American Citizens of Arizona and other organizations sued to challenge that disparate treatment, alleging that Arizona's "arbitrary dual voter registration policies . . . irrationally disenfranchise thousands of eligible Arizona voters" based solely on the registration form they happened to use. Compl., *League of United Latin Am. Citizens of Ariz. v. Reagan*, No. 2:17-cv-4102 (D. Ariz. 2017), Dkt. No. 1. The lawsuit included claims under the First and Fourteenth Amendments

to the U.S. Constitution, and it named as defendants Arizona's Secretary of State and the Maricopa County Recorder. Under Arizona law, the Secretary of State is "[t]he chief state election officer who is responsible for coordination of state responsibilities under [NVRA]," A.R.S. § 16-142(A)(1), and ensuring "the maximum degree of correctness, impartiality, uniformity and efficiency" in Arizona's election procedures, A.R.S. § 16-452(A).

After filing responsive pleadings, the Secretary and Maricopa County Recorder entered into a consent decree (the "*LULAC* Consent Decree") to resolve the litigation. *See* RNC App.474a–94a. The *LULAC* Consent Decree, among other things, obliged the Secretary to instruct Arizona's county recorders to treat federal form and state form applicants similarly, by registering voters who submitted either form as federal-only voters if they did not submit documentary proof of citizenship, after first checking if citizenship could be confirmed in a state database. That remained Arizona's practice until the passage of the statute at issue in these Petitions.

III. H.B. 2492's DPOC Requirements

In early 2022, Arizona enacted H.B. 2492, which contains two provisions relevant here. *First*, H.B. 2492 requires that registrants who submit a state form without documentary proof of citizenship be rejected, rather than be registered as a federal-only voter (or a full voter if state databases contain proof of citizenship). *See* A.R.S. § 16-121.01(C) (providing 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" documentary proof of citizenship); *id.* § 16.121.01(D) (requiring a search of state databases for proof of citizenship only for federal form registrants). Election officials who failed to reject an application in this manner would be guilty of a felony. *Id.* This "state-form rejection" provision therefore sought to restore Arizona's differential treatment of federal form and state form applicants, notwithstanding the *LULAC* Consent Decree, which H.B. 2492 did not mention.

Second, H.B. 2492's "mail-ballot prohibition" penalized federal-only voters by prohibiting them—and only them—from voting by mail. A.R.S. § 16-127(2). Voting by mail is the primary means of voting in Arizona, with nearly 90 percent of Arizona voters having cast their ballots by mail in recent elections. Petersen App.41.[1]

IV. The Present Litigation

On March 31, 2022, Mi Familia Vota and Voto Latino (the "Mi Familia Vota Respondents")—two organizations focused on registering Latinos in Arizona to vote—sued Arizona's Secretary of State, Attorney

[1] H.B. 2492 also prohibited federal-only voters from voting for presidential electors. *See* A.R.S. § 16-127(1). Petitioners do not seek review of the Ninth Circuit's holding that such a restriction runs headlong into the NVRA. *See generally* Petersen Pet.; RNC Pet.

General, and all fifteen county recorders to enjoin enforcement of portions of H.B. 2492, including the state-form rejection provision and the mail-ballot prohibition described above. Petersen App.432.[2] The Mi Familia Vota Respondents alleged that the state-form rejection provision violated the NVRA and the Equal Protection Clause of the Fourteenth Amendment, and that the mail-ballot prohibition violated the NVRA and various constitutional guarantees under the First and Fourteenth Amendments.

The United States and other organizational plaintiffs soon filed their own suits, and the various suits were ultimately consolidated in the *Mi Familia Vota* action. Petersen App.432. The Republican National Committee and the Petersen Petitioners (the Arizona Senate President and House Speaker) intervened as defendants. In doing so, none of the defendants or intervenors filed crossclaims or otherwise sought to modify or set aside the still extant *LULAC* Consent Decree.

The district court resolved the claims at issue here in a September 2023 summary judgment order. Petersen App.466–521. The court held that Arizona could not enforce the state-form rejection provision because the *LULAC* Consent Decree "ha[d] never [been] set aside" and "ma[d]e no carve-out" for state form ap-

[2] Mi Familia Vota and Voto Latino challenged several additional provisions of H.B. 2492 that are not subject to the instant petitions. *See generally* Petersen App.432. Unlike several other Plaintiffs, Mi Familia Vota and Voto Latino did not challenge provisions under H.B. 2293.

plicants, and it therefore prohibited "precisely the conduct" mandated by H.B. 2492. Petersen App.500. In the alternative, the court held that the state-form rejection provision was preempted by the NVRA. Petersen App.501 n.13. And the court held that the NVRA likewise preempted the mail-ballot prohibition. Petersen App.486–89. The court therefore did not reach various alternative constitutional challenges to those provisions. *See* Supp to Joint Pretrial Order, *Mi Familia Vota v. Adrian Fontes*, No. 2:22-cv-00509 (Oct. 31, 2023), Dkt. No. 610.

In February 2024, the court held a 10-day bench trial to address outstanding claims. Petersen App.29. On May 2, 2024, the Court entered a final judgment that granted permanent injunctive relief on the provisions at issue here. Petersen App.355–61.

RNC and Petersen Petitioners asked the Ninth Circuit to stay portions of the injunction, including the prohibition against enforcing the state-form rejection provision and the mail-voting prohibition. A Ninth Circuit motions panel issued a partial stay as to the state-form rejection provision only. But the motions panel made clear that its order was "subject to reconsideration by the [merits] panel," Petersen App.364, and the merits panel subsequently lifted that stay, Petersen App.372–85.

Petitioners then asked this Court for an emergency stay under *Purcell* in advance of the upcoming election. *See* Emergency Application for Stay, *Republican Nat'l Comm. v. Mi Familia Vota*, No. 24A164 (filed Aug. 8, 2024). The Court denied the application as to the mail-voting prohibition but granted it as to the

state-form rejection provision. RNC App.426a. That partial stay remains in place pending disposition of these petitions for certiorari and any ensuing judgment of this Court.

After full briefing and oral argument, the Ninth Circuit affirmed the relevant portions of the district court's permanent injunction. Like the district court, the panel concluded that the *LULAC* Consent Decree and NVRA each independently prohibit enforcement of the state-form rejection provision. Petersen App.57–62. The court explained that consent decrees have the effect of a "binding final judgment[] that remain[s] in force" absent an approved request for modification or vacatur. Petersen App.57. Arizona could not, via state legislation, compel the State's election officials "to enforce legislation contrary to the final judgment of [a] federal decree." Petersen App.59. The court also held that the NVRA required registering state form applicants as federal-only voters even if they did not provide documentary proof of citizenship. Petersen App.60–62. And the court held that the NVRA similarly preempted the mail-voting prohibition because it conflicted with Arizona's obligation to "accept and use" the federal form to register federal form applicants to vote in federal elections by mail, and created an obstacle to the NVRA's purposes. Petersen App.39–42. The Ninth Circuit denied Petitioners' petitions for review *en banc*.

REASONS FOR DENYING THE PETITIONS

I. The questions presented could arise only under Arizona's unique voter registration scheme.

The Court should deny the Petitions because they lack nationwide importance. The issues Petitioners raise can arise only under Arizona's one-of-a-kind voter registration system. Forty-six States and the District of Columbia have a single voter registration list, for state and federal elections alike, so questions involving federal-only voter registration never arise (with the exception, in some States, of certain overseas voters).[3] North Dakota has no voter registration

[3] *See* Ala. Code §§ 17-4-1 et seq.; Alaska Stat. §§ 15.05.010 et seq.; Ark. Code §§ 7-1-101 et seq.; Cal. Elec. Code §§ 2100-2124; Colo. Rev. Stat. §§ 1-1-101 et seq.; Conn. Gen. Stat. §§ 9-1 et seq.; Del. Code tit. 15, §§ 101 et seq.; Fla. Stat. §§ 97.01 et seq.; Ga. Code §§ 21-1-1 et seq.; Haw. Rev. Stat. §§ 11-1 et seq.; Idaho Code §§ 34-101 et seq.; 10 Ill. Comp. Stat. 5/1-1 et seq.; Ind. Code §§ 3-1-1-1 et seq.; Iowa Code §§ 39.1 et seq.; Kan. Stat. §§ 25-101 et seq.; Ky. Rev. Stat. §§ 116.005 et seq.; La. Rev. Stat. §§ 18:1 et seq.; Me. Rev. Stat. tit. 21-A, §§ 1 et seq.; Md. Code, Elec. Law §§ 1-101 et seq.; Mass. Gen. Laws ch. 50 et seq.; Mich. Comp. Laws §§ 168.1 et seq.; Minn. Stat. §§ 200.01 et seq.; Miss. Code §§ 23-1-1 et seq.; Mo. Rev. Stat. §§ 115.001 et seq.; Mont. Code §§ 13-1-101 et seq.; Neb. Rev. Stat. §§ 32-101 et seq.; Nev. Rev. Stat. §§ 293.010 et seq.; N.H. Rev. Stat. §§ 652:1 et seq.; N.J.

at all.[4] In those forty-seven States and the District of Columbia, questions like those the Petitions raise about eligibility for federal-only registration and the treatment of federal-only voters never come up.

That leaves Arizona, Utah, and South Dakota. But while Utah and South Dakota recently established federal-only voter registration lists, neither Utah nor South Dakota law contains provisions like those challenged here. *See* Utah Code §§ 20A-1-102(33), 20A-2-104(1)(a), 20A-3a-201.5; S.D. Codified Laws §§ 12-4-1.3, -1.4. To the contrary, in both Utah and South Dakota, *all* new registrants who fail to provide documentary proof of citizenship are registered as federal-only voters, whether they use the state form or the federal form to register. *See* Utah Code § 20A-1-104(a)(1)(a); S.D. Codified Laws § 12-4-1.3. And neither Utah nor South Dakota prevents federal-only voters from voting by mail, or otherwise restricts their manner of voting. *See* Utah Code §§ 20A-3a-201, -201.5, -202; S.D.

Stat. §§ 19:1-1 et seq.; N.M. Stat. §§ 1-1-1 et seq.; N.Y. Elec. Law §§ 1-100 et seq.; N.C. Gen. Stat. §§ 163-1 et seq.; Ohio Rev. Code §§ 3501.01 et seq.; Okla. Stat. tit. 26, §§ 1-101 et seq.; Or. Rev. Stat. §§ 246.011 et seq.; Pa. Stat. tit. 25 §§ 2600 et seq.; R.I. Gen. Laws §§ 17-1-1 et seq.; S.C. Code §§ 7-1-10 et seq.; Tenn. Code §§ 2-1-101 et seq.; Tex. Elec. Code §§ 1.001 et seq.; Vt. Stat. tit. 17, §§ 1 et seq.; Va. Code §§ 24.2-100 et seq.; Wash. Rev. Code §§ 29A.04.001 et seq.; W. Va. Code §§ 3-1-1 et seq.; Wis. Stat. §§ 5.01 et seq.; Wyo. Stat. §§ 22-1-101 et seq.; D.C. Code §§ 1-1001.01 et seq.

[4] *See Voting in North Dakota*, N.D. Sec'y of State, https://www.sos.nd.gov/elections/voter/voting-north-dakota (last visited May 21, 2026).

Codified Laws § 12-19-1. Thus, neither of the questions presented could emerge in Utah or South Dakota, either, because both States already do what the Ninth Circuit ordered Arizona to do in this case.

Petitioners are therefore wrong to frame the Ninth Circuit's decision as "turn[ing] the NVRA into a federal ban on proof of citizenship." RNC Pet. 23. The Ninth Circuit did no such thing. Arizona can keep its federal-only registration list for voters who do not provide documentary proof of citizenship. All the Ninth Circuit decision holds is that Arizona may not (1) entirely reject state form applicants who do not provide documentary proof of citizenship, rather than registering them as federal-only voters, and (2) forbid federal-only voters, alone, from voting by mail. No other State has considered such measures to be necessary or appropriate components of a proof-of-citizenship law.[5]

The Petitions therefore do not pose any recurring questions of nationwide importance. They concern only idiosyncratic requirements of Arizona law that no other State has even attempted to impose—even when adopting otherwise similar voter registration systems in support of similar legislative goals. The Petitions therefore lack national importance, and the Court should deny review for that reason. *See* Stephen Shapiro et al., Supreme Court Practice 265 (10th ed.

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[5] For the same reasons, the Ninth Circuit's decision does not address the validity of other States' distinct proof of citizenship requirements, which do not involve a federal-only registration list. *See, e.g.*, 2026 Fla. Sess. Law Ch. 2026-26 (C.S.C.S.H.B. 991) (2026); La. Stat. § 18:104(D)(1); N.H. Rev. Stat. § 654:12(I)(a).

2013) (noting as certiorari factor "the impact of the ruling below upon the validity of similar statutes in other states").

II. There is no circuit split.

There is also no circuit split on either question presented. Petitioners do not cite any case anywhere holding that the NVRA allows a State to completely deny registration to a voter who does not provide proof of citizenship with a state voter registration form, even though the voter would have been registered as a federal-only voter had they used the federal registration form. Nor do Petitioners cite any case anywhere holding that a State may prevent federal-only voters, who registered to vote in accordance with federal law, from voting by mail while allowing all other voters to do so. The decision below is the first and only decision to address either question—no doubt because Arizona is the only State to try to adopt either challenged law. There is therefore no circuit split on the merits of the issues Petitioners raise, so this Court's review is both unnecessary and premature.

The RNC's effort to cobble together a circuit split on the subsidiary question of a consent decree's binding force in subsequent litigation also fails. RNC Pet. 19–23. The consent decree issue is not outcome determinative here; for it to matter, the Court would have to reverse the Ninth Circuit's holding that the NVRA requires Arizona to register applicants without documentary proof of citizenship as federal voters regardless of whether they use the state or federal form—an issue that does not even arguably involve a split.

In any event, the supposed split on the force of consent decrees crumbles upon inspection. The only case that Petitioners identify as contrary to the Ninth Circuit's decision is *Carson v. Simon*, 978 F.3d 1051, 1060 (8th Cir. 2020). But *Carson* is procedurally and substantively distinguishable from the decision below, so there is no split at all, merely a different outcome under different circumstances. There are at least four key distinctions.

First, *Carson*—an emergency appeal briefed and decided in a matter of days in the run-up to the 2020 election—says nothing about the propriety of a collateral challenge to a consent decree. The opinion instead focuses entirely on standing, on the substantive merits of the federal-law challenge, and on the equities. *See* 978 F.3d at 1057–62. The court granted relief, so it must have concluded that a collateral challenge was available under the circumstances, but the opinion never explains why. *See id.* It therefore contains no reasoning that is contrary to the Ninth Circuit's reasoning below that the *LULAC* Consent Decree bound the Secretary and precluded Petitioners' arguments. Petersen App.57–60.

Second, *Carson* involved a federal-court challenge to a Minnesota *state-court* consent decree, so the preclusion analysis in *Carson*—which, again, *Carson* did not expressly discuss in any case—was governed by Minnesota law. *See Marrese v. Am. Acad. of Orthopedic Surgeons*, 470 U.S. 373, 380 (1985) (holding that 28 U.S.C. § 1738 requires federal courts to "refer to the preclusion law of the State in which judgment was rendered"). This case, in contrast, involves a federal-

court consent decree, so the preclusion analysis is governed by federal law. *See* Petersen App.59–60 (applying federal preclusion law). There is therefore no possible circuit split, but only—at most—different results from the application of different sources of preclusion law.

Third, *Carson* involved a head-on challenge to a consent decree by plaintiffs who argued that it violated their federal rights. This case is procedurally very different. Petitioners never sued or asserted any claim challenging the consent decree; instead they intervened *as defendants* to make arguments in support of the Secretary of State that, the Ninth Circuit held, the Secretary of State was precluded by the consent decree from making. The question of whether and when a defensive intervenor may make arguments that the principal defendant is precluded by a consent decree from making is central to the preclusion analysis here, but it had no role whatsoever in *Carson*.

Fourth, and finally, *Carson*'s substantive analysis under the "independent state legislature doctrine" was substantially influenced by the fact that—unlike here—only a *state* rather than *federal* consent decree was at issue. *Carson* concluded that the Minnesota Secretary of State "ha[d] no power to override the Minnesota legislature" on questions of federal election procedures. 978 F.3d at 1060. And while *Carson* did not say so, perhaps it concluded that the state court's involvement in issuing the consent decree suffered from the same problem. *But see Moore v. Harper*, 600 U.S. 1, 37 (2023) (holding three years after *Carson*

that "ordinary judicial review" by state courts is consistent with the Elections Clause). A federal consent decree is materially different, because federal courts indisputably have the power to declare state election laws preempted by federal law. *See ITCA*, 570 U.S. at 8–9. And the Arizona Secretary of State, represented by the Arizona Attorney General, had the power to settle contested litigation over that question. *See* A.R.S. § 41-192(B)(4).

Carson's conclusion that a state election official could not change state law via a state-court consent decree—whether correct or wrong—is therefore wholly consistent with the Ninth Circuit's holding that the *LULAC* Consent Decree precluded the Secretary from enforcing the state-form rejection provision. The Ninth Circuit rightly explained that to hold otherwise would wrongly allow a state legislature to "nullify a final judgment entered by an Article III court" on a question of federal law. Petersen App.59. After all, if "the legislatures of the several states may, at will, 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." Petersen App.59 (quoting *United States v. Peters*, 9 U.S. (5 Cranch) 115, 136, 3 L.Ed. 53 (1809)). That federalism issue was entirely absent in *Carson*.

There is therefore no circuit split on either question presented, nor on the subordinate question of the binding effect of a federal consent decree.

III. The Ninth Circuit was correct.

With both questions presented restricted to Arizona's unique voter registration scheme and no meaningful circuit split on any issue, Petitioners seek only error correction. And there is no error—the Ninth Circuit was correct.

A. The NVRA does not allow Arizona to entirely reject state forms without documentary proof of citizenship.

It is undisputed that if a voter submits a federal voter registration form without documentary proof of citizenship, the NVRA requires Arizona to register that voter for federal elections. *ITCA*, 570 U.S. at 15. The Ninth Circuit correctly held that Arizona failed to show a sufficient basis for treating voters who register with the state registration form without documentary proof of citizenship differently, and that the NVRA therefore preempts Arizona law providing that such applicants should have their registrations rejected instead. Petersen App.60–62.

The NVRA is clear that when a state voter registration form is used for registration in federal elections, that state form, just like the federal form, "may require only such identifying information . . . and other information . . . as is necessary to enable the appropriate State election official to assess the eligibility of the applicant." 52 U.S.C. §§ 20505(a)(2), 20508(b)(1). Exactly the same statutory provision governs the contents of the two forms. *See id.* §§ 20505(a)(2), 20508(b)(1). Courts have consistently rejected Arizona's effort to demand documentary proof

of citizenship as part of the federal form. *See ITCA*, 570 U.S. at 20; *Kobach*, 772 F.3d 1183. The Ninth Circuit correctly held that Arizona identified nothing in the NVRA's text or the factual record that could justify Arizona's differential treatment of state-form and federal-form registrants who do not provide documentary proof of citizenship.

Petitioners' argument that documentary proof of citizenship is "necessary" hinges on an artificially loose construction of "necessary." But as the Ninth Circuit correctly held, "necessary" in this context means "essential." Petersen App.60–61. That definition comes from the Oxford English Dictionary ("OED"), *id.*, "one of the most authoritative on the English language," *Taniguchi v. Kan Pac. Saipan, Ltd.*, 566 U.S. 560, 569 (2012). OED defines "necessary" as "indispensable," "requisite," and "cannot be done without." *Necessary*, Oxford Eng. Dictionary (2d ed. 1989); *see also Cinnamon Hills Youth Crisis Ctr., Inc. v. Saint George City*, 685 F.3d 917, 923 (10th Cir. 2012) (adopting OED's definition of "necessary"). Other contemporaneous dictionaries sing the same tune. *See Necessary*, Webster's Third New International Dictionary (1993) (defining "necessary" to mean logically required, essential, indispensable); *Necessary*, Random House Dictionary (2d ed.1987) ("essential, indispensable, or requisite"). This definition also matches ordinary usage. For instance, "lemon juice is a necessary condition for making lemonade." *Vorchheimer v. Philadelphian Owners Ass'n*, 903 F.3d 100, 106 (3d Cir. 2018). And though a child may claim they "need" candy, "[p]arents remind their children that, while they want candy, they do not need it." *Id.*

To be sure, in other contexts courts have sometimes departed from this plain meaning of "necessary." Petersen Pet. 15 (citing A*yestas v. Davis*, 584 U.S. 28, 44 (2018)). But where they have done so it is because the surrounding language makes clear that Congress did not intend to give the term its common meaning. "[W]hen Congress wants to loosen necessity to mean just 'sufficiently important,' it uses the phrase 'reasonably necessary' . . . [o]r pairs 'necessary' with a looser term," such as "appropriate." *Vorchheimer*, 903 F.3d at 107. *Ayestas*, for instance, read "reasonably necessary" to mean "something less than essential"—but the adverb "reasonably" drove the analysis. 584 U.S. at 44 (citing 18 U.S.C. § 3599(f)). Similarly, *McCulloch v. Maryland* construed not "necessary" standing alone, but rather the phrase "necessary and proper," and in doing so focused heavily on the constitutional context in which that phrase was used. 17 U.S. (4 Wheat.) 316, 412–23 (1819). *McCulloch* certainly does not say that "necessary" *always* means "useful" or "appropriate." *See id.*

In the NVRA, statutory context supports assigning "necessary" its ordinary meaning of "essential," because the statute is consistently restrictive about what information may be demanded of registrants. Section 5 of the NVRA requires motor vehicle authorities to permit applicants to register to vote on forms that require "only the minimum amount of information necessary" to prevent duplicate registrations and assess an applicant's eligibility—an even stricter standard. 52 U.S.C. § 20504(c)(2)(B). And Section 7 requires that state forms supplied to public assistance agencies be "equivalent" to the federal form. 52 U.S.C.

§ 20506(a)(6)(A)(ii). Read together, the NVRA's various provisions therefore reinforce that States may not ask for more information than they actually need when registering voters for federal elections—no matter what form they use. This is not an "odd" result, Petersen Pet. 18, but rather a reflection of Congress's explicit aim to "increase the number of eligible citizens who register to vote in elections for Federal office." 52 U.S.C. § 20501(b)(1).

Petitioners also fight the natural reading of "equivalent" in Section 7—insisting, contrary to the Ninth Circuit, that it must mean something less than "virtually identical." Petersen Pet. 16–17; RNC Pet. 30. But, yet again, the Ninth Circuit merely adopted the contemporaneous and authoritative dictionary definition of the term. Petersen App.47 (citing *Equivalent*, Oxford Eng. Dictionary (2d ed. 1989)). The Ninth Circuit reasonably held that Congress meant what it said: state forms provided at public assistance agencies must be virtually identical—"equivalent"—to the federal form, with perhaps different formatting to support inclusion in a public assistance application. Nothing in the NVRA supports departing from that common understanding.

Once "necessary" is given its ordinary meaning, Petitioners' defense of A.R.S. § 16-121.01(C) collapses. Arizona's form already has applicants attest they are citizens—a requirement in both state and federal law. 52 U.S.C. § 20504(c)(2)(C); A.R.S. § 16-152(A)(14). And attestation "is the presumptive minimum amount of information necessary for state election officials to carry out their eligibility-assessment and

registration duties." *Fish v. Kobach*, 840 F.3d 710, 716–17, 737 (10th Cir. 2016). For that reason, the EAC has consistently concluded that attestation suffices to establish a federal form applicant's citizenship. *Kobach*, 772 F.3d at 1196–98. That determination "acts as both a ceiling and a floor" for federal form applicants, *ITCA*, 570 U.S. at 18, and Arizona failed to offer any reason that more is "necessary" to assess the eligibility of state form applicants. Petitioners do not appear to contest that the law would fail under the Ninth Circuit's (and OED's) definition of "necessary"—their whole argument rests on a looser read of the term.

This Court's observation in *ITCA* that state forms "may require information the Federal Form does not," *id.* at 12, does not help Petitioners. The NVRA does, of course, contemplate States offering their own forms, 52 U.S.C. § 20505(a)(2), but the statutory text is clear that, *when used for federal voter registration*, those forms must still comply with the NVRA's command not to require federal voters to provide more information than "necessary" to assess their eligibility, *id.* § 20508(b)(1). The NVRA does not restrict Arizona from demanding more to register for state and local elections. But for federal elections, Arizona failed to show that demanding documentary proof of citizenship from state form applicants meets the NVRA's standard, and nothing in the text of the NVRA supports Arizona's efforts to treat voters differently based on their use of a different form that is governed by the same legal standard.

Nor does *Crawford* support Petitioners. *See* RNC Pet. 31–32. *Crawford* rejected a constitutional challenge to an Indiana law requiring voters to show photo identification at the polls to vote. *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181 (2008). But *Crawford* was a constitutional case that did not involve the NVRA and said nothing about federal law requirements for voter registration. And requiring documentary proof of citizenship is substantially more burdensome than the ordinary photo identification requirement at issue in *Crawford*. *See Fish v. Schwab*, 957 F.3d 1105, 1115 (10th Cir. 2020) (finding tens of thousands of voters were prevented from voting in Kansas under documentary proof of citizenship law before it was enjoined), *cert. denied*, 141 S. Ct. 965 (2020).

Finally, the Ninth Circuit's NVRA holding is not outcome determinative of the state-form rejection provision. As the Ninth Circuit also held, and as discussed in the next section, enforcement of that provision is also barred by the *LULAC* Consent Decree, which no party sought to challenge. And there are other issues, as well, that the Ninth Circuit had no need to reach. Arizona's law irrationally discriminates against state form applicants, requiring them to provide documentary proof of citizenship to register for federal elections when identically situated federal form applicants do not, in violation of the Equal Protection Clause's guarantee "that all persons similarly situated should be treated alike," *City of Cleburne v. Cleburn Living Ctr.*, 473 U.S. 432, 439 (1985). This independently-sufficient—but as of yet unresolved—basis for affirmance further counsel against granting certiorari.

B. The *LULAC* Consent Decree further supports the Ninth Circuit's judgment.

The Ninth Circuit was also correct to hold that the *LULAC* Consent Decree bars enforcement of the state-form rejection provision, which purports to require Arizona election officials to do precisely what the decree prohibits—refuse to register otherwise qualified state form applicants for federal elections merely because they do not provide documentary proof of citizenship, even though similarly situated federal-form voters would be registered as federal-only voters. Petersen App.58.

A consent decree entered by an Article III court acts as "a final judgment." *Rufo v. Inmates of Suffolk Cnty. Jail*, 502 U.S. 367, 391 (1992). As such, consent decrees are "given the force of law" and can be enforced through contempt. *Lackey v. Stinnie*, 604 U.S. 192, 207 (2025) (citing *Intern. Ass'n of Firefighters v. Cleveland*, 478 U.S. 501, 523 (1986)). Upon achieving finality, such judgments reflect the "last word of the judicial department," *Plaut v. Spendthrift Farm, Inc.*, 514 U.S. 221, 227 (1995), and do not expire at any pre-ordained time. Thus, like any other final judgment, a consent decree—unless modified or vacated—"may grant enduring relief that materially alters the legal relationship between the parties." *Lackey*, 604 U.S. at 207.

If Petitioners wanted to challenge the *LULAC* Consent Decree, they could have sought to reopen and modify it under Federal Rule of Civil Procedure 60(b)(5) on the ground that "applying it prospectively

is no longer equitable." Federal courts retain authority to revisit consent judgments as part of their innate equitable jurisdiction, upon which consent decrees with prospective effect depend. *Milk Wagon Drivers Union v. Meadowmoor Dairies*, 312 U.S. 287, 298 (1941) (Frankfurter, J.) ("Familiar equity procedure assures opportunity for modifying or vacating an injunction when its continuance is no longer warranted"); *see also N.Y. State Ass'n for Retarded Child. Inc. v. Carey*, 706 F.2d 956, 967 (2d Cir. 1983) (Friendly, J.) ("The power of a court of equity to modify a decree of injunctive relief is long-established, broad, and flexible.").

Petitioners, however, never sought to challenge the *LULAC* Consent Decree before the court that issued it or by bringing claims of their own, and it is an elemental aspect of Article III that federal courts *alone* possess authority to modify or vacate their own judgments. Article III "gives the Federal Judiciary the power, not merely to rule on cases, but to *decide* them, subject to review only by superior courts in the Article III hierarchy." *Plaut*, 514 U.S. at 217. Even Congress cannot invade this Article III authority by "retroactively commanding the federal courts to reopen final judgments." *Id.* at 219; *see also id.* at 219–25 (detailing the Framers' concern with ensuring that Article

III "forbade interference with the final judgments of courts").[6]

It is therefore an even more elemental proposition that state officers, including legislators, have no authority to "nullify a federal court order." *Cooper v. Aaron*, 358 U.S. 1, 19 (1958) (rejecting the proposition that "there is no duty on state officials to obey federal court orders"). As Chief Justice Marshall explained more than two centuries ago, "[i]f the legislatures of the several states may, at will, 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." *Peters*, 9 U.S. (5 Cranch) at 136; *cf. Martin v. Hunter's Lessee*, 14 U.S. (1 Wheat.) 304, 347–48 (1816) (describing the "public mischiefs" that would ensue if state courts were not likewise bound by federal judgments as to questions of federal law).

Petitioners quarrel with this "basic constitutional proposition[]," even though it is "settled doctrine." *Cooper*, 358 U.S. at 17. But, as before the Ninth Circuit, they "present no authority suggesting that Arizona's state legislature may permissibly nullify a final judgment entered by an Article III court." Petersen App.59. The RNC points almost exclusively to the Eighth Circuit's decision in *Carson v. Simon*. *See* RNC

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[6] As this Court later made clear in *Miller v. French*, Congress can alter substantive law in a manner that may require amending the prospective effect of final judgments that grant ongoing equitable relief. *See* 530 U.S. 327, 348 (2000). But Congress has passed no relevant "intervening statute" here since the *LULAC* Consent Decree, *id.* at 345, and no party argues otherwise.

Pet. at 20–21. But, as explained, *Carson* is not like this case—it involved an eleventh-hour *state court* injunction, not a federal court order, and it never even addressed the merits of the preclusion question. *See supra* 15–17; *see also* 978 F.3d at 1054. *Carson* therefore does not support the idea that state legislatures, under the Elections and Electors Clauses, can void federal judicial decrees entered, as here, based on claims of federal preemption.

The RNC's other criticisms of the *LULAC* Consent Decree each miss the mark. Citing no authority beyond Judge Bumatay's dissent, the RNC complains that the decree was entered without an express finding that Arizona's prior practices violated the U.S. Constitution. *See* RNC Pet. at 24–25. But "[d]istrict courts have the power to enter consent decrees without first determining that a statutory or constitutional violation has occurred." *Teamsters Loc. 177 v. United Parcel Serv.*, 966 F.3d 245, 254 (3d Cir. 2020); *see also Citizens for a Better Env't v. Gorsuch*, 718 F.2d 1117, 1125 (D.C. Cir. 1983) ("[T]he long-standing rule is that a district court has power to enter a consent decree without first determining that a statutory violation has occurred."). And this Court has held that "a federal court is not necessarily barred from entering a consent decree merely because the decree provides broader relief than the court could have awarded after a trial." *Firefighters*, 478 U.S. at 525. That is because the "parties' consent animates the legal force of a consent decree," *id.*, meaning the "court's duty when passing upon a settlement agreement is fundamentally different from its duty in trying a case on the merits," *Citizens for a Better Env't*, 718 F.2d at 1126.

Here, the Arizona Legislature entrusted the State's executive officers with litigating and settling cases on the State's behalf. While Petitioners are free to raise the absence of a merits finding in pursuit of modification of the *LULAC* Consent Decree through a Rule 60(b)(5) motion or otherwise, *see Horne v. Flores*, 557 U.S. 433, 447–48, 445–56 (2009), the absence of such a finding does not diminish the binding effect of the decree so long as it remains in place.[7]

Finally, the RNC also contends that the Ninth Circuit impermissibly expanded the *LULAC* Consent Decree to bind non-parties. *See* RNC Pet. 25. That argument about the scope of the decree—which appears nowhere in the RNC's Ninth Circuit brief, reply, or petition for rehearing—is forfeited before this Court. *See OBB Personenverkehr AG v. Sachs*, 577 U.S. 27, 37 (2015) (holding that an "argument [that] was never presented to any lower court" is "forfeited"). It is also wrong—the panel's opinion expressly recognized that the decree merely "cabins the authority of parties to the decree, specifically the Secretary of State of Arizona and the Maricopa County Recorder." Petersen App.58. The Court's NVRA holding then supplied an independent basis for binding Arizona's remaining county recorders. Petersen App.60–62. Any broader

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[7] The Petersen Petitioners cite *Milliken v. Bradley*, 433 U.S. 267 (1977), for the proposition that federal courts cannot enter consent decrees without adjudicating the merits. *See* Petersen Pet. 24. But as subsequent cases make clear, *Milliken* does not concern the authority of federal courts to *enter* decrees in the first instance; rather it clarifies when federal courts are obliged to modify them when a proper motion is made under Rule 60(b)(6). *See Horne*, 557 U.S. at 450.

language in the opinion merely recognizes that the Secretary of State has a statutory duty to maintain election uniformity, *see* A.R.S. § 16-452(A), as well as duties under both federal and state law to ensure compliance with the U.S. Constitution and the NVRA, *e.g.*, U.S. Const. art. VI, cl. 2; A.R.S. § 16-142(A). Thus, the Secretary was obliged—to the extent of her authority—to ensure that all of Arizona's county recorders acted in a manner compliant with federal law.

The Petersen Petitioners, for their part, argue that changes in underlying law can modify the prospective effect of a consent decree. *See* Petersen Pet. 19–20 (citing *Miller*, 530 U.S. at 347). But the prospective effect of a federal consent decree "must be 'modified if, as it later turns out, one or more of the obligations placed upon the parties has become impermissible *under federal law*." *Miller*, 530 U.S. at 347 (quoting *Rufo*, 502 U.S. at 388) (emphasis added). The Petersen Petitioners point solely to an intervening change in *state* law, *see* Petersen Pet. 20–21, and cite nothing suggesting that a state law change can invalidate a federal decree based on federal claims. *E.g.*, *Cooper*, 358 U.S. at 18–19; *Peters*, 9 U.S. (5 Cranch) at 136. To allow such invalidation would punch a mile-wide hole in both the Supremacy Clause and Article III, permitting recalcitrant state legislatures to create doom-loop litigation by purporting to nullify federal judgments they dislike. And even if an amendment to state law could justify modification, the Petersen Petitioners should have sought modification by bringing their own claim, rather than raising the issue in defense of a separate lawsuit.

The Petersen Petitioners also note that, under Arizona's constitution, the Secretary possesses only delegated authority, whereas the Legislature retains all power not expressly granted to another branch. *See* Petersen Pet. 22 (citing Ariz. Const. art. V, § 9). But the Arizona Legislature *has* delegated relevant authority to both the Attorney General and Secretary of State to act on Arizona's behalf in litigation—precisely what led to the *LULAC* Consent Decree. A.R.S. § 41-192(B)(4); A.R.S. § 16-142(A); A.R.S. § 16-452(A). That leaves the Petersen Petitioners to rely solely on hyperbolic assertions that the Secretary "bargain[ed] away" the Legislature's "sovereign authority," Petersen Pet. 22, or sought to "reorder [Arizona's] constitutional structure," *id.* at 22–23. But the *LULAC* Consent Decree did no more than what *all* federal decrees do—bind the parties thereto until the decree is modified or set aside. *See Frew (ex rel. Frew v. Hawkins)*, 540 U.S. 431, 440 (2004) ("Once entered, a consent decree may be enforced.").

Finally, the Petersen Petitioners insinuate the consent decree is deficient because the Legislature itself was never made a party to it. *See* Petersen Pet. 25. That makes no sense—state legislators are rarely, if ever, the appropriate defendants in suits seeking injunctive relief. *See Ex parte Young*, 209 U.S. 123, 157 (1908) (making clear equitable relief requires a defendant to have "some connection with enforcement of" the challenged law); *cf. Berger v. N. Carolina State Conf. of the NAACP*, 597 U.S. 179, 184 (2022) (explaining that "usually a plaintiff will sue the individual state officials most responsible for enforcing the law in question and seek injunctive or declaratory relief

against them"). In Arizona, the Attorney General, Secretary of State, and various county officials are typically responsible for enforcing election rules. The Legislature may seek to intervene in such actions against those officers. *See* Fed. R. Civ. P. 24; A.R.S. § 12-1841. But federal consent decrees cannot be invalid in Arizona simply because the Legislature (or individual legislators) chose to forego intervention, as it did in *LULAC*.

C. The NVRA does not allow Arizona to penalize federal voters who take advantage of its protections.

Finally, the Ninth Circuit also correctly rebuffed Arizona's attempt to circumvent this Court's holding in *ITCA* by singling out voters who register using the federal form without providing proof of citizenship—as *ITCA* holds they may—and prohibiting them from voting by mail, the default method of voting in the State. Petersen App.39–40. The NVRA requires a State to "accept and use the [federal form] for the registration of voters in elections for Federal office." 52 U.S.C. 20505(a)(1). As this Court held in *ITCA*, this means the State must "accept the Federal Form as a *complete and sufficient* registration application," not just to "use [the form] *somehow* in its voter registration process." 570 U.S. at 9–10 (emphases added).

Far from accepting the federal form as "complete and sufficient," "Arizona's statute would require federal-only voters"—and *only* such voters—"to provide *more* information than what the federal form requires." Petersen App.39 (emphasis added). That can-

not be squared with the NVRA, which "precludes Arizona from requiring a Federal Form applicant to submit information beyond that required by the form itself." *ITCA*, 570 U.S. at 20.

Petitioners' lead argument is that the NVRA only governs voter *registration* and says nothing about what "post-registration" burdens a State may impose on voters. Petersen Pet. 27. But registration is not an end in itself—it exists only so that people can cast a ballot that will be counted. Because "[r]egistration is indivisible from election," States may not, "by separating registration from voting, . . . undermine the power that Article I section 4 grants to Congress." *Ass'n of Cmty. Organizations for Reform Now (ACORN) v. Edgar*, 56 F.3d 791, 793 (7th Cir. 1995). Arizona's prohibition on mail voting unless federal form registrants provide exactly what the NVRA precludes Arizona from demanding is, in reality, a regulation of registration itself.

Petitioners' contrary theory—that States may circumvent the NVRA's protections for voter registration by making it harder for voters who invoke those protections to actually vote—would gut the NVRA. If this view prevails, the federal form would protect only a second-class right to vote in federal elections. Nothing in the NVRA even hints at such a limited scope, and such a protection would "ceas[e] to perform any meaningful function, and would be a feeble means of 'increasing the number of eligible citizens who register to vote in elections for Federal office.'" *ITCA*, 570 U.S. at 13 (quoting 52 U.S.C. 20501(b)(1) (citation modified)).

Petitioners complain that this is a "slippery-slope" analysis, Petersen Pet. 28, but if there is a slippery slope, Arizona is already most of the way down the hill. Voting by mail is the default in Arizona; nearly nine out of every ten voters in the State cast their ballot that way. Petersen App.41. Yet the mail ballot prohibition bars federal form voters from voting in that manner unless they do exactly what *ITCA* holds the NVRA does not allow Arizona to require them to do—provide documentary proof of their citizenship that the federal form does not ask for. As the Ninth Circuit correctly held, permitting this result would undermine Congress's goals in enacting the NVRA of "increas[ing] the number of eligible citizens who register to vote in elections for Federal office" and "enhanc[ing] the participation of eligible citizens *as voters*." 52 U.S.C. §§ 20501(b)(1), (2) (emphasis added).

Petitioners criticize the Ninth Circuit for looking to the NVRA's purpose, claiming Congress's "generic paeans to voter participation" cannot "expand or contract" the plain meaning of the statute. Petersen Pet. 31. But here, the plain meaning of the statute is that Arizona must treat the federal form as a "complete and sufficient registration application." *ITCA*, 570 U.S. at 9–10. It is *Petitioners* that seek to deviate from that plain meaning by permitting Arizona to treat the federal form as only a uniquely disfavored halfway step to full registration. The NVRA's purpose counsels against Petitioners' reading and instead reaffirms that Congress meant what it said when it required States to accept and use the federal form. Indeed, purpose is particularly informative here because Congress explicitly stated its findings and aims in the

statute itself. *See* Scalia & Garner, Reading Law 218 (2012) ("[T]he preamble of a statute is a key to open the minds of the makers[.]" (quoting Joseph Story, Commentaries on the Constitution of the United States § 459, at 326 (2d ed. 1858))).

Nor did the Ninth Circuit "cherrypick[]" Congress's purposes. Petersen Pet. 31. Congress's three findings in support of the NVRA all relate to promoting voting. *See* 52 U.S.C. § 20501(a)(1)–(3). Likewise, its first two stated purposes are keyed to expanding participation in federal elections. *Id.* § 20501(b)(1)–(2). True, Congress also sought to "protect the integrity of the electoral process" and "ensure accurate and current voter registration rolls are maintained." *Id.* § 20501(b)(3)–(4). But those aims are served by other provisions in the NVRA—such as the requirement that States create programs that make reasonable efforts to remove certain categories of ineligible voters from their rolls, *id.* § 20507(a)(4)—*not* the requirement that States accept and use the federal form. *That* provision is meant to create a "backstop" that "guarantees . . . a simple means of registering to vote in federal elections." *ITCA*, 570 U.S. at 12–13. Arizona would take away that backstop by depriving federal form applicants of the mail-voting option used by most other voters in the State unless they jumped through additional hoops. As this Court already held, Arizona may not "demand of Federal Form applicants every additional piece of information the State requires on its state-specific form," because permitting that would undermine the very "purpose" behind the federal form requirement. *Id.* at 12–13 n.4.

Petitioners also attack a strawman, claiming "there is no semantic, textual, or historical support for the novel proposition that the NVRA secures federal rights to vote *by mail*." Petersen Pet. 29. That misses the point entirely. The question is not whether Arizona could eliminate or limit mail voting in general, but only whether Arizona may penalize voters who exercise their federal right to register using the federal form by demanding that they do precisely what the federal form says they need not do, if they wish to vote by mail like the vast majority of other Arizonans. *ITCA* is clear on this point: the NVRA demands that Arizona treat federal form applicants as *fully* registered for purposes of federal elections. *ITCA*, 570 U.S. at 9–10. The mail-ballot prohibition does the opposite—by demanding additional information from federal only voters, and only them, it treats the federal form as less than a "complete and sufficient registration application." *Id.*[8]

[8] Petitioners' discussion of *McDonald v. Board of Election Commissioners of Chicago*, 394 U.S. 802 (1969), is beside the point. *McDonald* involved a challenge to an Illinois law that allowed only very narrow categories of voters to vote absentee: those absent from their home county, the physically disabled, those with a religious conflict, and poll watchers. 394 U.S. at 803–04. The Court held that the Equal Protection Clause did not require Illinois to expand absentee voting to also include prisoners detained in their home counties, based in large part on the lack of any record support showing that such prisoners could not vote in person, as the vast majority of Illinois voters were then required to do. *Id.* at 807. Nothing about that holding suggests that Arizona, having chosen to offer mail voting to all eligible voters, may single out federal-form registrants and deny them that right.

Contrary to Petitioners' arguments, the Ninth Circuit did not hold the NVRA requires all States to permit federal form applicants to vote by mail, but only that States may not single out such applicants and prohibit them from voting in a manner that is otherwise open to every other voter in the State. The Ninth Circuit therefore did not "reconceptualiz[e] . . . the NVRA as a mail-in voting statute." Petersen Pet. 32. It merely applied the NVRA's plain requirement that States accept and use the federal form as a "complete and sufficient registration application," *ITCA*, 570 U.S. at 9–10. That straightforward and correct application of *ITCA* to bar Arizona's attempt to circumvent the NVRA's requirements does not warrant this Court's review.

CONCLUSION

The Court should deny the Petitions.

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