Nos. 25-1017, 25-1019, and 25-1022

In the Supreme Court of the United States

REPUBLICAN NATIONAL COMMITTEE, PETITIONER

v.

MI FAMILIA VOTA, ET AL.

WARREN PETERSEN, PRESIDENT OF THE ARIZONA SENATE, ET AL., PETITIONERS

v.

MI FAMILIA VOTA, ET AL.

ARIZONA, ET AL., PETITIONERS

v.

PROMISE ARIZONA, ET AL.

ON PETITIONS FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF FOR THE UNITED STATES AS RESPONDENT IN SUPPORT OF THE PETITION IN No. 25-1017 AND IN OPPOSITION TO THE PETITIONS IN Nos. 25-1019 AND 25-1022

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QUESTIONS PRESENTED

1. Whether the National Voter Registration Act prohibits a State from implementing a program to remove noncitizens from its voter rolls within 90 days of a federal election.

2. Whether the National Voter Registration Act prohibits a State, or a consent decree prohibits Arizona, from requiring individuals to provide documentary proof of citizenship when registering to vote in federal elections using the state registration form.

3. Whether the National Voter Registration Act prohibits a State from denying individuals who used the federal registration form, which does not require documentary proof of citizenship, the ability to vote by mail.

4. Whether the court of appeals erred in remanding for further proceedings to determine if Arizona H.B. 2243 was unconstitutionally enacted with discriminatory intent.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-154a) is reported at 129 F.4th 691. The order and amended order of the district court (Pet. App. 188a-335a, 336a-384a) are reported at 691 F. Supp. 3d 1077 and 719 F. Supp. 3d 929.[1]

JURISDICTION

The judgment of the court of appeals was entered on February 25, 2025. The petitions for rehearing en banc were denied on September 22, 2025 (Pet. App. 155a-187a). On December 9, 2025, Justice Kagan extended the time within which to file any petition for a writ of certiorari to and including February 19, 2026, and the petitions were filed on that date. The jurisdiction of this Court is invoked under 28 U.S.C 1254(1).

INTRODUCTION

Following the 2020 election, Arizona joined a number of States in amending its laws to better counteract voter fraud. Among other things, Arizona implemented a program to remove noncitizens from its voter rolls, and it imposed a requirement that individuals must provide certain documentary proof of citizenship in order to register to vote using the state voter-registration form.

This case is principally about whether those commonsense election-integrity measures are preempted by the National Voter Registration Act (NVRA or Act), 52 U.S.C. 20501 *et seq*. As this Court preliminarily recognized when it stayed two lower-court orders enjoining such measures ahead of the 2024 election—including in this case—these policies are not preempted and further review is warranted.

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[1] All "Pet. App." references are to the 25-1017 Petition Appendix.

As to the voter-roll question, the NVRA's restrictions on removing individuals from the list of eligible voters do not apply to noncitizens who were never eligible to register in the first place. The Ninth Circuit's contrary decision is badly mistaken, deepens a circuit split, and risks significant harm. Indeed, on the reasoning of the decision below, a State could *never* remove a noncitizen from its voter rolls once registered. That cannot be correct and cries out for reversal.

As to the registration-form question, while the current federal form requires only that applicants attest to their citizenship, the NVRA grants States the flexibility to require on their own forms that applicants supply documentary proof of citizenship. In fact, this Court cited a prior "proof-of-citizenship requirement" in Arizona as an "example" of the rule that "state-developed forms may require information the Federal Form does not." *Arizona* v. *Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1, 12 (2013) (*ITCA*). The Ninth Circuit's contrary decision cannot be reconciled with *ITCA*, and the panel majority below did not even try.

The RNC's petition (25-1017) presents both of these questions and provides a good vehicle to address them. In particular, the petition offers an opportunity to resolve these important election-law issues outside the setting of a contested election. And while the courts below additionally held that Arizona's proof-of-citizenship requirement was unlawful under a federal consent decree, that holding is more feature than bug, because it too is worthy of review. Even though the consent decree was not based on any adjudicated violation of federal law and was expressly premised on consistency with then-existing state law, the courts below extended the decree to bar enforcement of a subsequently enacted

state law. Whether a federal consent decree must yield to democratic self-governance given such significantly changed circumstances is itself a certworthy question—as this Court concluded was likely when it granted the stay pending appeal.

By contrast, the other two petitions—by certain Arizona Legislators (25-1019) and the State of Arizona (25-1022)—raise additional questions that do not warrant this Court's review at this time.

The Legislators challenge the Ninth Circuit's holding that the NVRA preempts Arizona from requiring voters who registered using the federal form—and thus without documentary proof of citizenship—to vote in person rather than by mail. But this Court previously denied a stay on this question, see Pet. App. 426a, and it should not grant certiorari now. The NVRA requires States to "accept and use" the federal registration form, 52 U.S.C. 20505(a)(1), and it is far from clear whether and how States may nevertheless subject federal-form registrants to special voting restrictions. Further percolation would be beneficial, as this is a novel question that, to our knowledge, no other courts have addressed because no other States have enacted such laws.

The Legislators and the State both also challenge the Ninth Circuit's decision to remand for further proceedings to determine if the voter-roll program was enacted with discriminatory intent. Although that decision was plainly wrong, fact-bound error correction of that interlocutory ruling is not immediately necessary. The district court on remand may well affirm its initial judgment correctly rejecting the claim as meritless, and petitioners can seek further review from an adverse final judgment. At any rate, this case would be a poor vehicle to further clarify the law concerning legislative

animus, because the relevant plaintiff also lacks Article III standing. While the State tries to recast that vehicle problem as a distinct certworthy issue, it too is mostly a matter of fact-bound error correction that should await the results of any remand.

This Court should thus grant the RNC's petition and deny the petitions of the Legislators and the State.

STATEMENT

A. The National Voter Registration Act

1. The Constitution vests States with the power to decide who may vote in federal elections, while empowering both States and Congress to regulate how those elections are held. *ITCA*, 570 U.S. at 16. States have the authority to impose voter qualifications for presidential and congressional races. U.S. Const. Art. I, § 2 Cl. 1; Art. II, § 1, Cl. 2; Amend. XVII. And while States have the primary authority over setting the rules for administering those contests, Congress may "pre-empt state legislative choices" in favor of uniform federal rules governing their "Times, Places and Manner." *Foster* v. *Love*, 522 U.S. 67, 69 (1997); see *Buckley* v. *Valeo*, 424 U.S. 1, 90 (1976).

Exercising that power, Congress enacted the NVRA to "require[] States to provide simplified systems for registering to vote in federal elections." *Young* v. *Fordice*, 520 U.S. 273, 275 (1997) (emphasis omitted). The Act does so with twin aims: it seeks to "establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office," while also "ensur[ing] that accurate and current voter registration rolls are maintained." 52 U.S.C. 20501(b)(1) and (4).

2. Starting with the registration of voters, the NVRA provides that "each State shall * * * ensure that

any eligible applicant is registered to vote." 52 U.S.C. 20507(a)(1). It gives citizens who want to vote two options for registering. First, there is a federal voter-registration form, which is issued by the Election Assistance Commission. 52 U.S.C. 20505(a)(1), 20508(a). Second, a State may develop and use its own registration form "[i]n addition" to the federal one. 52 U.S.C. 20505(a)(2).

With respect to these dual registration forms, the NVRA imposes several requirements upon States. Three of them are relevant here.

Section 6 provides that States "shall accept and use" the federal form "for the registration of voters" in federal elections. 52 U.S.C. 20505(a)(1). This Court has interpreted that provision to mean "a State must accept the Federal Form as a complete and sufficient registration application." *ITCA*, 570 U.S. at 9; see *id.* at 10-15.

Section 9 identifies the substantive requirements for any state voter-registration form. 52 U.S.C. 20508(b). Among other things, it provides that the state 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 and to administer voter registration and other parts of the election process." 52 U.S.C. 20508(b)(1). This Court has emphasized, though, that the Act preserves "flexibility" on the part of States "to design and use their own registration forms"—including to "require information [that] the Federal Form does not." *ITCA*, 570 U.S. at 12.

Section 7 requires States to designate "voter registration agencies" (including offices that "provide public assistance"). 52 U.S.C. 20506(a). Such agencies must provide all applicants for services the federal voter-

registration form or "the office's own form if it is equivalent to the [federal] form." 52 U.S.C. 20506(a)(6)(A)(i) and (ii); see 52 U.S.C. 20506(a)(4)(A).

3. Turning to the maintenance of voter rolls, the NVRA obligates States to keep accurate and current registration records. See 52 U.S.C. 20501(b)(4). Among other things, a State must "conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters" due to the registrant's "death" or "change in * * * residence." 52 U.S.C. 20507(a)(4).

Yet the NVRA also includes certain restrictions on States' ability to remove registered voters from their rolls. Section 8 provides that "registrant[s]" can be "removed from the official list of eligible voters" only for certain enumerated reasons—registrant request, criminal conviction, mental incapacity, death, or change in residence. 52 U.S.C. 20507(a)(3) and (4). Section 8 further provides that every State must "complete, not later than 90 days prior to the date of 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). This prohibition, however, does not extend to the "removal of names from [the] official lists of voters" due to registrant request, criminal conviction, mental incapacity, or death. See 52 U.S.C. 20507(c)(2)(B) (citing 52 U.S.C. 20507(a)(3)(A), (3)(B), and (4)(A)).

B. Arizona Law

After the 2020 election, Arizona joined a number of States in amending its election laws to better address voter fraud. Pet. App. 77a-78a. Most relevant here are three changes to Arizona's laws.

First, H.B. 2243, 55th Leg., 2d Reg. Sess. (Ariz. 2022), requires the Secretary of State and county recorders to regularly check available databases to identify, and cancel the registrations of, any noncitizens on state voter rolls. Ariz. Rev. Stat. § 16-165(A)(10), (G), (H), (J), and (K).[2] Specifically, once an Arizona election official identifies as a noncitizen an individual who is registered to vote, the official must notify the individual and then cancel his registration if he does not give proof of citizenship within 35 days. *Id.* § 16-165(A)(10).

Second, H.B. 2492, 55th Leg., 2d Reg. Sess. (Ariz. 2022), mandates that new applicants using Arizona's state voter-registration form must provide documentary proof of citizenship (DPOC)—such as a passport, driver's license, or birth certificate. Ariz. Rev. Stat. § 16-121.01(C), 16-166(F); see Pet. App. 191a-194a. It changed state law by requiring that such DPOC must actually accompany a voter-registration form to be accepted. See 25-1019 Pet. App. 669-670. By contrast, the current federal form does not require DPOC at all; applicants only need to attest to their citizenship by signature. Pet. App. 18a. Under H.B. 2492, state-form applicants without DPOC are rejected; federal-form applicants without DPOC become "[f]ederal only" voters, unable to vote in state or local races, unless state election officials are able to independently verify an applicant's citizenship. *Id.* at 340a-342a.

Third, H.B. 2492 prohibits federal-only voters from voting by mail. Ariz. Rev. Stat. § 16-127(A)(2). Instead, such voters must vote in person during the 27-day period offered by the State. *Id.* § 16-542(C).

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[2] H.B. 2243 superseded a voter-roll program established in a different bill. See Pet. App. 237a-238a & n.37.

C. Procedural History

1. Immediately after Arizona passed its new election laws in 2022, eight suits followed, raising a number of claims under the NVRA (among much else). Pet. App. 13a-15a. Plaintiffs included the Democratic National Committee (DNC), a host of organizations, and the United States. *Id.* at 13a.[3] Defendants included Arizona plus state and local election officials; the Republican National Committee (RNC) as well as Arizona's House Speaker and Senate President intervened as defendants. *Id.* at 14a. The cases were all consolidated before a single district court. *Id.* at 23a.

2. The district court gave plaintiffs "virtually everything they wanted," Pet. App. 78a (Bumatay, J., dissenting), resolving some claims at summary judgment and others after a ten-day bench trial, *id.* at 23a. Four of those rulings are relevant here.

First, the district court held, as the DNC and others had urged, that H.B. 2243's procedures for purging noncitizens from the voter rolls were preempted by Section 8 of the NVRA. Pet. App. 357a-360a; see *id.* at 358a n.9. The court reasoned that the procedures were a "program" to "systematically remove" "ineligible voters" within 90 days of a federal election. *Id.* at 357a.

Second, the district court held, as the League of United Latin American Citizens Arizona (LULAC) and others had urged, that H.B. 2492's DPOC requirement

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[3] The United States filed suit on the grounds that H.B. 2492's restrictions on federal-only voters violated Section 6 of the NVRA, and that another provision not at issue here violated the materiality provision of the Civil Rights Act of 1964 (52 U.S.C. 10101(a)(2)(B)). 22-cv-1124 Compl. 14-16. Following the change in Administration, the United States unsuccessfully sought leave to dismiss its suit. See 22-cv-509 D. Ct. Doc. 778 (May 27, 2025).

for state-form applicants was unlawful. Pet. App. 364a-366a; see *id.* at 365a. The court based its decision mainly on a 2018 consent decree between LULAC plus another nonprofit and the Arizona Secretary of State plus the Maricopa County Recorder. *Id.* at 365a-366a; see *id.* at 474a-494a. Under the LULAC consent decree, the Secretary agreed to issue a binding directive under then-applicable state law for all "County Recorders to accept State Form applications submitted without DPOC." *Id.* at 484a. Notably, while the Secretary agreed to do so to avoid litigating a constitutional claim challenging the disparate treatment of state-form and federal-form applicants, she denied that the then-extant state-law proof-of-citizenship requirements violated any "federal law," and premised her consent on the decree's terms being fully "consistent" with state law at the time. *Id.* at 476a. But because that decree has "never" formally been "set aside," the court here ruled it also precluded enforcement of the new law enacted by the State. *Id.* at 365a-366a. In a cryptic footnote, the court further held that the DPOC requirement was independently barred by the NVRA. *Id.* at 366a n.13.

Third, the district court held, as the DNC and others had urged, that H.B. 2492's ban on federal-only voters using mail-in ballots was preempted by Section 6 of the NVRA. Pet. App. 353a-356a; see *id.* at 353a. The court reasoned that, in light of the NVRA's "text and purpose," *id.* at 353a, the State failed to accept and use the federal registration form "by placing an additional burden" to vote on federal-form registrants, *id.* at 356a.

Fourth, the district court held that H.B. 2243 was *not* intentionally discriminatory. Pet. App. 322a, 333a-334a. After finding standing for Promise Arizona, one of the organizations that brought this claim, *id.* at 269a-270a,

the court applied the factors from *Village of Arlington Heights* v. *Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977), and found the plaintiffs "failed to show" that the State had acted "with a discriminatory purpose," Pet. App. 333a-334a; see *id.* at 322a-333a.

In May 2024, the district court issued its final judgment, enjoining (among other things) enforcement of the three provisions described above that it had deemed unlawful. Pet. App. 427a-429a, 431a.

3. Ahead of the 2024 elections, the RNC and the State Legislators sought a stay pending appeal, limited to H.B. 2492's DPOC-related provisions. A motions panel granted the requested stay in part, Pet. App. 387a, but that stay was vacated by a divided merits panel just two weeks later, *id.* at 393a-404a.

In August 2024, this Court granted partial interim relief, staying the injunction against the state-form requirement but declining to stay the injunction against the mail-voting ban. See Pet. App. 426a. And then in October 2024, this Court stayed an order in a different case enjoining Virginia's program for removing noncitizens from its voter rolls—substantially similar to Arizona's program under H.B. 2243—which another district court had enjoined under the NVRA. See *Beals* v. *Virginia Coalition for Immigrant Rights*, No. 24A407, 2024 WL 4608863 (Oct. 30, 2024).

4. Notwithstanding this Court's stay, the Ninth Circuit affirmed the district court's injunction; and it even went further, vacating the rejection of the intentional-discrimination claim. Pet. App. 13a-76a.

The court of appeals agreed that H.B. 2243's voter-roll program was preempted under Section 8 of the NVRA, Pet. App. 39a-47a, and that H.B. 2492's mail-voting ban for federal-form registrants was preempted

under Section 6 of the NVRA, *id.* at 31a-34a. The court also agreed that H.B. 2492's DPOC requirement for state-form registrants was precluded by the LULAC consent decree. *Id.* at 47a-49a. And the court further held that the requirement was preempted under Section 9 of the NVRA (because DPOC is not "necessary" to assess eligibility) and under Section 7 of the NVRA (because asking for DPOC rendered the state form no longer "equivalent" to the federal form). *Id.* at 50a-52a.

The court of appeals, however, vacated the finding below that H.B. 2243 was not enacted with discriminatory intent. It reasoned that the district court misapplied *Arlington Heights* by looking only for direct evidence of discrimination and failing to take adequate stock of indirect evidence—such as Arizona's history of discrimination, the proponents' use of charged language, and a legislative audit's failure to reveal sufficient voter fraud. Pet. App. 60a-71a. The court remanded for reassessment of the evidence. *Id.* at 71a.

Judge Bumatay dissented on every relevant issue. Pet. App. 77a-154a. He would have held that the NVRA does not preempt any provision of Arizona law discussed here. *Id.* at 96a-102a (mail voting), 109a-118a (DPOC), 119a-127a (voter rolls). And he would have held that the LULAC consent decree cannot disable the State from implementing new and otherwise-valid election legislation. *Id.* at 103a-109a. He also would have affirmed the district court's no-discriminatory-intent holding. In his view, the relevant organizational plaintiffs not only lacked standing, *id.* at 138a-145a, but also offered insufficient circumstantial evidence of an impermissible motive on the State's part, *id.* at 145a-152a.

5. The court of appeals denied rehearing en banc, with eleven judges dissenting. Pet. App. 163a.

DISCUSSSION

I. THIS COURT SHOULD GRANT THE RNC PETITION

The RNC petition (25-1017) presents two questions on which this Court has already granted a stay. The Court thus evidently concluded there was a "reasonable probability" it would "grant certiorari" on both issues. *Hollingsworth* v. *Perry*, 558 U.S. 183, 190 (2010) (per curiam). And it should do so now.

First, the court of appeals held that the NVRA prohibits a State from implementing a program to remove noncitizens from its voter rolls within 90 days of a federal election. But that decision fundamentally misconstrues the Act, which does not restrict a State's power to purge individuals from the rolls who were never eligible to register in the first place. In holding otherwise, the Ninth Circuit deepened a circuit split and jeopardizes the integrity of our elections.

Second, the court of appeals held that the NVRA prohibits a State from requiring DPOC in order to register for federal elections with a state voter-registration form. But that decision eliminates the flexibility the Act promises to States when enforcing their voter qualifications. Indeed, it flouts this Court's guidance to Arizona a decade ago that the State's own form "may require information the Federal Form does not," including a "proof-of-citizenship requirement." *Arizona* v. *Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1, 12 (2013) (*ITCA*). And while the Ninth Circuit alternatively held that Arizona's DPOC requirement is unlawful under an existing consent decree, that improper use of a consent decree to thwart subsequently enacted legislation only reinforces the need for further review, as this Court appeared to recognize when staying the district court's order that rested on the same twin grounds.

A. The Noncitizen Voter-Roll Question Warrants Review

1. H.B. 2243 requires election officials to regularly check their voter rolls against available databases to ensure noncitizens are not registered to vote. Ariz. Rev. Stat. § 16-165(A)(10). The court of appeals held that this provision is preempted under Section 8 of the NVRA, reasoning that it implements a "program" to "systematically remove the names of ineligible voters" within "90 days" of a federal election. 52 U.S.C. 20507(c)(2)(A); see Pet. App. 41a-47a.[4]

The Ninth Circuit erred. The NVRA's protections for registered voters do not apply to those "who were ineligible and improperly registered to vote in the first place." See *Bell* v. *Marinko*, 367 F.3d 588, 591-592 (6th Cir. 2004). Otherwise, the Act would *never* allow for the removal of noncitizens once registered. After all, while the NVRA specifies when "registrant[s]" who become "ineligible voters" may be removed, none of those enumerated bases include noncitizenship. 52 U.S.C. 20507(a)(3) and (4). Thus, if a noncitizen can claim the Act's removal-protections once registered, the Act would effectively become a "congressional ban on removing foreign citizens [from] voting in American elections." Pet. App. 126a (Bumatay, J., dissenting). That "absurd" law is not the one Congress enacted. *Ibid.*

Instead, the NVRA uses distinct language at each step of the registration process, with voter-removal protections given only to those who properly make it past all the gates. Pet. App. 125a (Bumatay, J., dissenting).

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[4] The United States previously construed the NVRA the same way, including in briefing before this Court. See U.S. Response Br., *Beals* v. *Virginia Coalition for Immigration Rights*, No. 24A407 (Oct. 29, 2024). Following the change in Administration and this Court's stay in *Beals*, the United States has reached the opposite conclusion.

At the threshold, the NVRA refers to all people seeking to submit a voter-registration form as "applicant[s]." 52 U.S.C. 20507(a). Within that group, the Act directs States to ensure any "eligible applicant" may register. 52 U.S.C. 20507(a)(1). In modifying "applicant" with "eligible," Congress cabined that class to those "qualified to be registered to vote." Pet. App. 121a (Bumatay, J., dissenting). And from those people, an "eligible applicant" becomes a "registrant" under the Act when he successfully completes one of its modes of registration. 52 U.S.C. 20507(a)(3). Once a "registrant," a person is then an "eligible voter[]" until one of the enumerated removal conditions are satisfied—such as death, conviction, or a change in residence. 52 U.S.C. 20507(a)(3) and (4). If so, the person becomes an "ineligible voter[]," who can be removed, so long as consistent with the Act's removal limits. 52 U.S.C. 20507(a)(4) and (c)(2).

The key error in the decision below is that the Ninth Circuit conflated an ineligible *applicant* with an ineligible *voter*. While the NVRA protects the latter, it does nothing for the former. Again, as registration progresses, the Act uses different language to refer to each new subset: Working backwards, an "ineligible voter" is a "registrant" who gains a disqualifying condition; a "registrant" is an "eligible applicant" who made it through registration; and an "eligible applicant" is an "applicant" who is qualified to vote. But an *ineligible* applicant —*e.g.*, a noncitizen—falls outside this chain at its first link, because he was never qualified to vote at all. See Pet. App. 185a (Nelson, J., dissenting from the denial of rehearing en banc). As such, while a noncitizen is an "ineligible voter" in colloquial terms, he is not one for purposes of the NVRA. Section 8's protections for "ineligible voters" are simply inapplicable: "nothing in the

NVRA prevents [noncitizens'] removal *at any point whatsoever*." *Id.* at 125a (Bumatay, J., dissenting).

It is no answer to observe, as the Ninth Circuit did, that Section 8 still allows the "individualized" removal of certain voters within 90 days of a federal election. Pet. App. 43a. If noncitizens are "ineligible voters" under the NVRA, they are definitionally "registrants" too. But as noted, the Act limits the grounds on which a registrant "may" "be removed" from the rolls—individualized process or not. 52 U.S.C. 20507(a)(3). And those grounds do not include a voter's noncitizenship.

2. The decision below deepens a "circuit split" that merits this Court's resolution. Pet. App. 165a (Nelson, J., dissenting); see *id.* at 126a (Bumatay, J., dissenting). As noted, the Sixth Circuit has correctly held that the NVRA does not preclude States from removing from their voter rolls "persons who were ineligible and improperly registered to vote in the first place." *Bell*, 367 F.3d at 591-592. Instead, the Act "protects only 'eligible' voters from unauthorized removal." *Id.* at 592. Without that reading, the Act "would effectively grant, and then protect, the franchise of persons not eligible to vote" to begin with. *Ibid.*

By contrast, the Eleventh and Fourth Circuits have held the NVRA compels just that. The Eleventh Circuit adopted the same simplistic position as the court below: The Act bars "any program" that removes "ineligible voters" within 90 days of a federal election, subject to exceptions not relevant here; and noncitizens are ineligible voters in the ordinary sense. *Arcia* v. *Florida Secretary of State*, 772 F.3d 1335, 1344-1346 (2014). Indeed, that court recognized its view might bar noncitizens from being removed at all—yet simply left that point for a possible "equitable exception" to the statute

it would address another day. *Id.* at 1347. Likewise, the Fourth Circuit adopted the same reading of Section 8 in a stay-denial ruling before the 2024 election. *Virginia Coalition for Immigrant Rights* v. *Beals*, No. 24-2071, 2024 WL 4601052, at *1 (Oct. 27, 2024). But as noted, this Court granted the requested stay days later. See *Beals*, 2024 WL 4608863.

Thus, the circuit split that existed during *Beals* is now only larger—with the court below joining the "wrong side." Pet. App. 165a (Nelson, J., dissenting).

3. Resolving this split is exceptionally important. "It is fundamental to the definition of our national political community that foreign citizens * * * may be excluded from[] activities of democratic self-government." *Bluman* v. *FEC*, 800 F. Supp. 2d 281, 288 (D.D.C. 2011) (Kavanaugh, J.), aff'd, 565 U.S. 1104 (2012). When noncitizens with no right to shape American government vote in American elections, the ballot box no longer speaks for the People, because its tally no longer reflects their voice.

For that reason, multiple States have adopted laws like H.B. 2243 in an effort to ensure that their voter rolls are composed of Americans alone. See, *e.g.*, RNC Pet. 26-27 & n.5. Yet the decisions on the wrong side of the split would invalidate those commonsense measures, at the cost of preventing voter fraud and preserving the integrity of our electoral processes. Pet. App. 165a (Nelson, J., dissenting). Even more fundamental, in effectively "forc[ing] a State to allow a foreign citizen to vote in its elections," *id.* at 126a (Bumatay, J., dissenting), the decision below strikes directly at a State's constitutional power and duty to "enforce" its "voter qualifications," *ITCA*, 570 U.S. at 17.

This case presents a good vehicle for this Court's review. The voter-roll question was hotly contested by the parties, and it was comprehensively addressed by the district court, the divided panel members, and the en banc dissenters. Importantly, this suit also presents the opportunity for the Court to resolve the issue in a posture where its ruling will not determine the outcome of a contested election.

B. The Question of a DPOC Requirement for State-Form Registrants Warrants Review

1. In *ITCA*, this Court emphasized that the NVRA permits "state-developed forms [to] require information the Federal Form does not"—including a "proof-of-citizenship requirement" that Arizona law had at the time. 570 U.S. at 12; see *id.* at 39 (Alito, J., dissenting) ("[T]he Court does not question Arizona's authority under [the NVRA] to create its own application form that demands proof of citizenship."). Through H.B. 2492, Arizona did "exactly what the Court recognized as possible," by "add[ing] a requirement to its own [voter-registration] form to ensure its ability to verify citizenship." Pet. App. 416a (Bumatay, J., dissenting). Without even mentioning, let alone distinguishing this portion of *ITCA*, the Ninth Circuit erroneously held that the State's law was preempted by the NVRA twice over. *Id.* at 50a-52a.

a. The court of appeals first held that the DPOC requirement for state forms was preempted by Section 9 of the NVRA, which provides that such forms "may require only such identifying information * * * as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration." 52 U.S.C. 20508(b)(1). The court reasoned that "necessary" means "essential," and that

DPOC is not "essential" because the mere "attestation" of citizenship required on the state (and federal) form is sufficient "proof." Pet. App. 50a.

That interpretation of "necessary" is too stringent in the context of the NVRA. While "necessary" sometimes means "essential," its "more common meaning" is akin to "needful." Pet. App. 176a (Nelson, J., dissenting). Indeed, in "legal contexts," "necessary" ordinarily means "appropriate and well adapted to fulfilling an objective," not "*absolutely* necessary." *Cellular Telecommunications & Internet Association* v. *FCC*, 330 F.3d 502, 509 (D.C. Cir. 2003); accord *Ayestas* v. *Davis*, 584 U.S. 28, 44 (2018). Critically, *ITCA* forecloses the narrower construction for the NVRA, both by generally affirming the States' "flexibility" in designing their own forms and by specifically authorizing "information the Federal Form does not" require—by definition, that goes beyond what is essential. 570 U.S. at 12.

The NVRA's statutory structure confirms that "necessary" there cannot mean "essential." The very provision saying that a state form may require only "necessary" information (Section 20508(b)(1)) is followed immediately by a provision mandating the form also require an applicant to "attest[]" he satisfies all eligibility criteria (Section 20508(b)(2)). If "necessary" meant "essential"—and if an attestation is all that is strictly needed—then it is impossible to see how a State could ever ask for *any* additional material, let alone "require information [that] the Federal Form does not." *ITCA*, 570 U.S. at 12. That internal contradiction disappears, though, if "necessary" is read to be "needful." Pet. App. 178a (Nelson, J., dissenting).

Likewise, in a separate provision addressing registration through "motor voter" forms at the DMV, the

Act provides that a State may ask for "only the *minimum amount* of information necessary to * * * enable State election officials to assess the eligibility of the applicant." 52 U.S.C. 20504(c)(2)(B)(ii) (emphasis added). That qualifier would be superfluous if "necessary" meant "essential" across the Act. *Fish* v. *Kobach*, 840 F.3d 710, 734 (10th Cir. 2016). Instead, the better view is that "necessary" retains its flexible definition in the NVRA, unless specifically qualified. Pet. App. 111a-112a (Bumatay, J., dissenting).

b. The court of appeals also held that the DPOC requirement was preempted by Section 7 of the NVRA, which requires any voter registration agency to "distribute with each application for such service or assistance" the federal form or an "equivalent" state form. 52 U.S.C. 20506(a)(6)(A)(ii). The court reasoned that Arizona's form would not be "equivalent" to the federal form simply because it would not be "virtually identical" if it additionally required DPOC. Pet. App. 51a-52a.

That likewise misreads the Act. As discussed, Section 9 spells out the substantive requirements for a state form, 52 U.S.C. 20508(b), and otherwise affords States "the flexibility to design and use their own registration forms, [while] the Federal Form provides a backstop." *ITCA*, 570 U.S. at 12. Reading "equivalent" in Section 7 to mandate a "virtually identical" form is (again) irreconcilable with that "flexibility." Pet. App. 115-116a (Bumatay, J., dissenting). That saps the state form of "any meaningful function," rendering it a state-made replica of the federal form. *ITCA*, 570 U.S. at 13. And that (again) makes it impossible for a State to "require information the Federal Form does not." *Id.* at 12.

"Equivalent" in Section 7 is instead better read to mean "similar in function or effect[,] rather than

identical." Pet. App. 179a (Nelson, J., dissenting). A state form is thus "equivalent" so long as it corresponds to the federal form—*i.e.*, so long as it offers an alternative means of registration in a manner that complies with Section 9. See *ITCA*, 570 U.S. at 12.

Regardless, Section 7 at most requires registration agencies to *also* offer the federal form "if" the state form is *not* "equivalent. 52 U.S.C. 20506(a)(6)(A)(i) and (ii). In no circumstance does Section 7 preempt a State from including additional requirements on the state form. Pet. App. 179a (Nelson, J., dissenting).

2. As this Court evidently concluded when granting a stay pending appeal of this aspect of the district court's judgment, see Pet. App. 426a, certiorari is warranted. Indeed, the Ninth Circuit's decision only confirms the need for further review. As just discussed, its interpretation of the NVRA flouts this Court's decision in *ITCA*. And like the voter-roll holding, the DPOC holding "mangles" the NVRA and makes our "elections less safe," *id.* at 164a, 186a (Nelson, J., dissenting), by infringing on the State's constitutional power and duty to enforce its voter qualifications.

While this question presented does not arise out of a circuit split—unsurprisingly given *ITCA*'s clear guidance—this Court has often reviewed consequential election-law issues without a split, including in *ITCA* itself and other cases under the NVRA. See, *e.g.*, *Husted* v. *A. Philip Randolph Inst.*, 584 U.S. 756 (2018). The same course is appropriate here, where the Ninth Circuit has misinterpreted a federal statute to bar States from taking commonsense steps to protect the "right[s] of citizen voters." Pet. App. 165a (Nelson, J., dissenting); see

Kansas Amicus Br. 5-6. All the more so since a number of States have laws similar to Arizona's.[5]

3. The Ninth Circuit's alternative holding based on the LULAC consent decree, Pet. App. 47a-49a, does not make this case a bad vehicle to resolve the state-form DPOC question. To the contrary, that holding itself presents an important issue worthy of further review.

a. As this Court has explained, consent decrees often "raise sensitive federalism concerns," because they involve a federal court superintending policy judgments that ordinarily are resolved through the state political process. *Horne* v. *Flores*, 557 U.S. 433, 448 (2009). Given that intrusion, "continued enforcement of [such] orders is not only unnecessary, but improper," when they are no longer necessary to remedy the alleged violation of federal law that prompted their issuance. *Id.* at 450. And more generally, a consent decree must yield when changed conditions warrant returning an issue to "a State's democratic processes." *Id.* at 453; see *Frew ex rel. Frew* v. *Hawkins*, 540 U.S. 431, 441 (2004).

Applying these principles, this Court has held that a consent decree should ordinarily give way to a "significant change[]" in law. *Rufo* v. *Inmates of Suffolk County Jail*, 502 U.S. 367, 380 (1992). As such, where a change in "statutory" law "make[s] legal what the decree was designed to prevent," the decree may no longer "bind all future officers of the State" to operate under the court-sanctioned policies of their predecessors. *Id.* at 388, 392.

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[5] See, *e.g.*, Ala. Code § 31-13-28(c); 2026 Fla. Laws ch. 26 5-8; Ga. Code § 21-2-216(g); Kan. Stat. § 25-2309(a); La. Rev. Stat. § 18:104(D)(2); N.H. Rev. Stat. § 654:12(I)(a); Ohio Rev. Code § 3503.11(A)(1); Wyo. Stat. § 22-3-102(a)(i).

b. If a consent decree should yield when an intervening change in law makes "legal" what the decree prohibited, then it likewise should give way when, as here, a new state law requires conduct that was not found illegal to start *and* the decree was premised on its consistency with the old state law. The LULAC consent decree arose out of a challenge where the plaintiffs argued that it was unconstitutional to subject state-form and federal-form applicants to different policies with respect to proof of citizenship. Pet. App. 474a-476a. Despite agreeing to issue a binding directive under then-applicable state law for all "County Recorders to accept State Form applications submitted without DPOC," *id.* at 484a, the Secretary of State denied that the contrary practice was "illegal under state or federal law." *Id.* at 476a. To the contrary, she was explicit that she consented to the decree's terms *because* they were entirely "consistent" with state law as it stood at the time. *Ibid.* In other words, the decree was not based on *any* violation of federal or state law; instead, it was premised on a decision by the Secretary to exercise her discretion to make local election practices uniform under state law.

H.B. 2492 thus marks a "significant change" in state law for purposes of the LULAC consent decree, *Horne*, 557 U.S. at 453, because it undermines that premise and now requires what the decree forbids. And as between the two, it is the decree that must give way. Because the decree was justified by "consent alone," and because a premise of that consent has been overtaken by intervening state law, a federal court may no longer enforce its terms to "override" the State's democratic processes. Pet. App. 106a-107a (Bumatay, J., dissenting) (brackets omitted).

The Ninth Circuit nevertheless applied the LULAC consent decree here because neither the Secretary of State nor the Maricopa County Recorder—the parties to that decree, as well as defendants below—had moved to set it aside under Federal Rule of Civil Procedure 60(b)(5). Pet. App. 48a-49a. But that procedural objection makes no sense given the procedural posture. After the "[c]ontinuing [j]urisdiction" of the court that entered the consent decree terminated on December 31, 2020, *id.* at 494a, the plaintiffs invoked the decree as part of a *new suit before a different court*. See 22-cv-509 Compl. 59-69. In that context, the defendants surely are allowed to collaterally challenge the "continued enforcement" of that decree, *Horne*, 557 U.S. at 447, without having to run to the entering court to seek formal relief under Rule 60(b)—especially since the RNC and the State Legislators were not parties to that consent decree to begin with. Cf. *Martin* v. *Wilks*, 490 U.S. 755, 768-769 (1989).

c. The alternative consent-decree holding thus presents an important issue that itself warrants certiorari. Extending federal consent decrees beyond their legitimate justifications intrudes on fundamental aspects of state sovereignty. See *Horne*, 557 U.S. at 448-449; see also Kansas Amicus Br. 19-25. Such an intrusion is especially pernicious in cases like this one, because the LULAC consent decree displaces state law in an area "where state legislatures enjoy express constitutional authority to act." Pet. App. 104a (Bumatay, J., dissenting). The court below gravely erred in holding that a consent decree premised on consistency with state law can properly preclude the enforcement of subsequently enacted and otherwise-valid state laws like H.B. 2492's DPOC requirement.

That grave error continues to merit this Court's attention. Indeed, when this Court granted an interim-docket stay of this portion of the district court's judgment, the LULAC consent decree was the focus of the stay decisions below (and the briefing here). See, *e.g.*, Pet. App. 396a-399a. And the case for review has only strengthened since then: just as with the noncitizen voter-roll question, the parties fiercely disputed this issue below, and it was exhaustively addressed by the panel majority and the ensuing dissents.

4. While the State Legislators also raise the state-form DPOC question, there is no reason to grant that petition too. As intervenor-defendants below, the Legislators are respondents by rule to the RNC's petition, and thus they would be able to file full briefs in support of the RNC as if a top-side party. Sup. Ct. R. 12.6, 25.1, 25.3. Redundantly adding them as formal petitioners would needlessly complicate the proceedings and would not serve any substantive end. Even without the Legislators as co-petitioners, the RNC plainly has Article III standing to challenge the Ninth Circuit's invalidation of H.B. 2243 and 2492 at the behest of the DNC and LULAC: the voter-roll program and state-form DPOC requirement both concern "the rules that govern the counting of votes in [the] election[s]" of the RNC's "candidates," and the RNC claims that the improper invalidation of those rules "undermine[s] the 'integrity of the electoral process.'" *Bost* v. *Illinois State Board of Elections*, 607 U.S. 71, 77-78 (2026). And because the Legislators do not raise the voter-roll question, while raising two additional questions that do not warrant this Court's review (as discussed next), denial of their petition is the most appropriate course.

II. THIS COURT SHOULD DENY THE OTHER PETITIONS

The additional questions raised by the State Legislators (25-1019) and the State (25-1022) do not warrant review at this time. Those petitions should be denied.

The Legislators challenge the Ninth Circuit's holding that the NVRA prohibits a State from requiring federal-form registrants to vote in person rather than by mail. But this Court already denied a stay on that question in this case. The Legislators do not identify any intervening development that has rendered the issue certworthy. Indeed, it does not appear that any other State has passed a law like Arizona's that subjects federal-form registrants to special voting restrictions.

The Legislators and the State both also challenge the Ninth Circuit's decision to remand for further proceedings to determine if H.B. 2243 was enacted with a discriminatory purpose. Although that court clearly erred in vacating the factual finding below that the plaintiffs had failed to prove discriminatory intent, it would be premature for this Court to engage in fact-bound error correction of that interlocutory ruling. The district court may well affirm its original finding on remand, and if not, petitioners can seek further review at that time. Moreover, a serious obstacle to this Court's review is that the organizational plaintiff upon whom the Ninth Circuit based its jurisdiction plainly lacks Article III standing. The State tries to rebrand that vehicle problem as virtue not vice, but it is another fact-bound issue that this Court need not address now.

A. The Question Of A Mail-Voting Ban For Federal-Form Registrants Does Not Warrant Review At This Time

H.B. 2492 bars federal-only voters—*i.e.*, those voters permitted to register for federal elections without providing DPOC—from voting by mail. Ariz. Rev. Stat.

§ 16-127(A)(2). The court of appeals held that this voting restriction is preempted by Section 6 of the NVRA, which mandates that States "accept and use" the federal form "for the registration of voters in elections for Federal office." 52 U.S.C. 20505(a)(1); see Pet. App. 31a-32a. A majority of this Court declined to stay the district court's parallel holding pending appeal, see Pet. App. 426a, and the Legislators identify no reason for the Court to grant certiorari now.

In *ITCA*, this Court held that the NVRA's "accept and use" phrase requires States to "accept the Federal Form as a complete and sufficient registration application." 570 U.S. at 9. It is a novel question whether States nevertheless may subject federal-form registrants to special voting restrictions. To our knowledge, no other court of appeals has addressed the question, as it appears that no State besides Arizona has ever enacted such a law. Moreover, even Judge Bumatay's dissent seemed to recognize that States must at least allow federal-form registrants to engage in "traditional in-person voting" without DPOC, Pet. App. 98a, because it would nullify both Section 6 and *ITCA* if a State could require federal-form registrants to provide at the voting booth (as a condition of voting) the same evidence of voter qualifications that it cannot require to be provided with the federal form (as a condition of registering). Yet if Section 6's protection of federal-form "registration" prohibits some special restrictions on the ability of federal-form registrants to vote in-person, the Legislators have not offered any textual theory for why it permits such restrictions for voting by mail. Cf. *Haaland* v. *Brackeen*, 599 U.S. 255, 279-280 (2023). Nor have the Legislators explained why, if Section 6 does not generally preempt such restrictions, it was necessary for the

provision to say that "a State may by law require a person to vote in person" in certain other, narrower contexts. See 52 U.S.C. 20505(c)(1). In these circumstances, further percolation is warranted.

B. The Discriminatory-Intent Question Does Not Warrant Review At This Time

After a bench trial, the district court rejected the claim that H.B. 2243's voter-roll program was enacted with a discriminatory purpose in violation of the Equal Protection Clause. Pet. App. 334a. The court of appeals vacated and remanded for the district court to redo its analysis and reweigh the evidence. *Id.* at 71a.

The Ninth Circuit badly erred. But correcting that error is unnecessary—at least for now. The district court can and should reaffirm its original decision on remand. And regardless, the relevant plaintiff's lack of Article III standing is a significant vehicle problem militating against review at this interlocutory stage.

1. The district court held a ten-day bench trial that addressed (among other things) this claim of intentional discrimination. See Pet. App. 188a. In rejecting the claim, the court properly applied the factors in *Village of Arlington Heights* v. *Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977).

Historical Background: The district court accepted that Arizona had a "history of discriminating against people of color." Pet. App. 324a. But it reasonably found that such distant discrimination shed little light on the motives behind H.B. 2243. *Id.* at 324a-325a.

Preceding Events and Legislative History: As for the next two factors, the district court traced what prompted H.B. 2243 and reasonably found the law was responding to the "public's concerns" that foreigners were voting in our elections. Pet. App. 327a. Even

though a legislative audit of the 2020 election did not reveal extensive voter fraud, the court noted that the State had been trying to eliminate the potential for noncitizen voting since 2004. *Id.* at 191a, 325a-326a. Those longstanding efforts did not betray any "motive to discriminate against voters based on race or national origin." *Id.* at 326a. They were sincere prophylactic measures to forestall a possible peril. *Id.* at 327a.

In its analysis, the district court acknowledged that an outside organization that helped draft the bill used language some consider offensive ("illegals"), and one legislator had accused another of making "derogatory comments about Latino voters." Pet. App. 327a-328a. But the court sensibly declined to attach much weight to these remarks, chiefly because there was no sound basis to impute any animus to the legislature as a whole, or to infer the State intended to "prevent anyone other than non-citizens from voting." *Id.* at 328a-329a.

Departures from Norms: The district court further analyzed how H.B. 2243 was passed, reasonably finding that the plaintiffs had marshaled "no persuasive evidence" the law was enacted in any suspicious manner. Pet. App. 332a. In particular, the court attached little significance to the speed with which H.B. 2243 passed, because it built on past bills; similarly, the court did not treat H.B. 2243 as a novel deviation, given that the State had sought to require proof of citizenship in voting for decades (on and off). *Id.* at 333a.

Disparate Impact: Finally, the district court reasonably found that H.B. 2243 would not have "any significant discriminatory impact based on naturalization status, race, or ethnicity." Pet. App. 329a. The court explained that the law does not automatically remove anyone from voter rolls, but instead does so only after a

voter (i) is flagged as a noncitizen, (ii) does not have proof of citizenship in an available database, and (iii) fails to supply DPOC once asked. See *id.* at 329a-330a. The evidence revealed that "just 0.001% of all voters" would likely be flagged incorrectly under that scheme (and thus be asked to provide DPOC even though they were U.S. citizens). *Id.* at 330a. And while that tiny subset would disproportionately be made up of naturalized, non-white voters, that was attributable to the basic reality that naturalized citizens may have indicia of noncitizenship in their records in a way that natural-born citizens do not. *Id.* at 330a-331a. More important, nothing hinted that the legislature passed H.B. 2243 *because of* this miniscule differential burden. *Id.* at 330a.

Totality: Properly taking the full weight of evidence together, the district court concluded that the plaintiffs had failed to establish any discriminatory intent on the part of the State's legislature. See Pet. App. 333a-334a.

2. There is no sound argument that those factual findings were not "plausible." *Brnovich* v. *Democratic National Committee*, 594 U.S. 647, 687 (2021). In nevertheless reversing, the court of appeals faulted the district court for applying what it called a "heightened version" of *Arlington Heights* that demanded a "direct[] link" to animus at "every prong." Pet. App. 61a, 63a. The Ninth Circuit caricatured the district court as essentially seeking a smoking gun, while ignoring a possible inference of discrimination that could be discerned from circumstantial evidence. See *id.* at 62a-71a.

But there is a basic difference between disregarding circumstantial evidence and appropriately discounting its probative weight. And as Judge Bumatay detailed, the district court's decision falls entirely on the latter side of that line. Pet. App. 149a-152a. Worse, the bulk

of the panel majority's criticisms run headlong into this Court's precedents. For instance, the panel faulted the district court for minimizing Arizona's history. See *id.* at 62a-63a. But this Court has explained that "unless historical evidence is reasonably contemporaneous with the challenged decision, it has little probative value." *McCleskey* v. *Kemp*, 481 U.S. 279, 298 n.20 (1987). Likewise, the panel insisted that the district court should have viewed as indicative of animus what it deemed to be inadequate evidence of voter fraud in the legislative record. See Pet. App. 64a-65a. But this Court has emphasized that "it should go without saying that a State may take action to prevent election fraud without waiting for it to occur and be detected within its own borders." *Brnovich*, 594 U.S. at 686. Simply put, even in its fact-specific rebukes of the district court's analysis, the Ninth Circuit flouted this Court's legal direction. See *id.* at 689-690.

Indeed, the Ninth Circuit's errors are even more glaring in light of this Term's election-law decisions. In *Louisiana* v. *Callais*, 146 S. Ct. 1131 (2026), the Court reiterated that "[d]iscrimination that occurred some time ago" is generally "entitled to much less weight," compared to "current data and current political conditions," in ascertaining whether "current intentional discrimination" exists. *Id.* at 1160 (quotation marks omitted). And in *Abbott* v. *League of United Latin American Citizens*, 146 S. Ct. 418 (2025), the Court reaffirmed that the presumption of good faith bars courts from "construing ambiguous direct and circumstantial evidence against the legislature." *Id.* at 419. Remarkably, the court of appeals here did not even *mention* that presumption—let alone explain how it was consistent with the presumption to vacate the district court's findings.

3. Even so, while the decision below is plainly wrong, this Court's intervention would be premature. On remand, the district court could and should reaffirm its initial decision. The Ninth Circuit's central criticism was that the district court required "direct evidence" of discrimination at every turn. Pet. App. 63a; see *id.* at 68a, 70a. That, of course, would be an error. But as explained, that charge bears no resemblance to the district court's actual opinion. *Id.* at 152a (Bumatay, J., dissenting). The court thus should have no trouble reaching the same result based on an even more express analysis of the circumstantial evidence, measured against the presumption of good faith that this Court's cases require (and that the Ninth Circuit ignored).

To be sure, Judge Bumatay remarked that the majority's discussion of the record "all but" found a "discriminatory purpose" on the part of Arizona's legislature. Pet. App. 137a. But even setting aside whether that pessimistic characterization was accurate at the time, it is beside the point now. As noted, this Court's intervening decisions in *Callais* and *Abbott* give the district court ample justification for reaffirming its initial judgment, despite the panel opinion.

There is thus no immediate need to add this fact-intensive and interlocutory question to this Court's review. Should the lower courts hold that H.B. 2243 is tainted by a discriminatory purpose, this Court would be able to summarily reverse (or grant plenary review) at that time.

4. Interlocutory review of this question would be particularly unwise because of a threshold vehicle problem. The Ninth Circuit rested its jurisdiction over the intentional-discrimination claim on the cross-appeal of a single plaintiff (Promise Arizona), Pet. App. 30a,

whom the court held has Article III standing simply because the organization has at least some naturalized-citizen members, any one of whom "may" be kicked off the state voter rolls erroneously, *id.* at 28a-30a. But that showing is obviously inadequate. See *id.* at 145a (Bumatay, J., dissenting).

Of its 1043 members, Promise Arizona did not even specify how many naturalized citizens are in its ranks. Pet. App. 143a (Bumatay, J., dissenting). And had it done so, any harm to those persons would depend on a series of "hypothetical screw-ups," with election officials first wrongly flagging a member, and that member then failing to provide DPOC upon the State's request. *Id.* at 143a-144a. "This is the kind of speculation that stretches the concept of imminence of harm beyond recognition." *Id.* at 144a; see *Clapper* v. *Amnesty International USA*, 568 U.S. 398, 409 (2013).

The State's petition tries to rebrand this patent standing defect as a benefit, insisting (at 25-30) that it presents another certworthy issue. But the decision below likely would not present an opportunity to resolve the circuit split that the State alleges (at 25-27). Regardless of the extent to which an organization must "identif[y]" one of its individual members for purposes of associational standing, see *Summers* v. *Earth Island Institute*, 555 U.S. 488, 498 (2009), the more fundamental problem with Promise Arizona's standing is the utter lack of an imminent harm to *any* of its members, see Pet. App. 144a (Bumatay, J., dissenting). At any rate, should this Court need to revisit any animus ruling post-remand, the standing issue would remain in the case, and the Court could address it then.

CONCLUSION

The petition for a writ of certiorari in No. 25-1017 should be granted, whereas the petitions for writs of certiorari in Nos. 25-1019 and 25-1022 should be denied.

Respectfully submitted.

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[*] The Solicitor General and the Assistant Attorney General for the Civil Rights Division are recused in this case.