

No. 25–1017

In the Supreme Court of the United States

REPUBLICAN NATIONAL COMMITTEE,
Petitioner,

v.

MI FAMILIA VOTA, ET AL.,
Respondents.

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

**BRIEF OF ARIZONA SENATOR
JAKE HOFFMAN AS *AMICUS CURIAE* IN
SUPPORT OF PETITIONER**

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INTEREST OF *AMICUS CURIAE*¹

Amicus curiae Arizona Senator Jake Hoffman was the prime sponsor of H.B. 2492, enacted as 2022 Arizona Session Laws, chapter 99. He supports petitioner's requested reversal. As the legislation's sponsor, he offers the Court a concrete account of its design: enforceable citizenship verification, distinct registration pathways, and an Election Day cure that protects qualified citizens' access to a full ballot.

Amicus curiae has a unique perspective as a lawmaker who has long observed that exclusive reliance on heavier penalties is not as effective in securing observance of the law as preventative measures that stop crime from occurring and continuing.

SUMMARY OF ARGUMENT

The Court should reverse. Arizona's authority to require citizenship means little without authority to verify it. *Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 17 (2013). Congress expressly preserved State Forms, and Arizona legislated within that framework. 52 U.S.C. §20505(a)(2); 2022 Ariz. Sess. Laws, ch. 99, §4. The Legislature also coupled proof with a cure extending through Election Day. *Id.*, §6. A former executive's settlement cannot supply a permanent veto over that legislative choice. See *Horne v. Flores*, 557 U.S. 433, 448–50 (2009). The Court

¹ No counsel for a party authored this brief in whole or in part. No party or counsel for a party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus curiae* or his counsel made such a monetary contribution.

should restore Arizona’s authority to verify citizenship and remove noncitizens from its voter rolls.

ARGUMENT

I. Arizona may demand proof of citizenship, not merely an assertion of it.

The State Form requirement should be upheld. The power to establish voting qualifications includes a meaningful power to enforce them; this Court recognized the serious constitutional doubts raised by denying States information necessary to do so. *Inter Tribal Council*, 570 U.S., at 16–17. Counting only eligible votes is an unquestionably legitimate and important state interest. *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 196 (2008) (opinion of STEVENS, J.).

Congress authorized State Forms meeting 52 U.S.C. §20508(b), in addition to the Federal Form. 52 U.S.C. §20505(a)(2). *Inter Tribal Council* expressly explained that State Forms may require information the Federal Form does not, identifying Arizona’s citizenship-proof requirement as an example. 570 U.S., at 12. The Federal Form alternative preserves access to federal registration; it does not erase the statutory authority to require proof on the State Form.

An assertion of citizenship and evidence of citizenship do different work. Section 20508(b)(2) requires an attestation; subsection (b)(1) separately authorizes information necessary to assess eligibility and administer elections. Reading the attestation as categorically sufficient would collapse those distinct provisions. The statute’s structure permits corroboration, not an irrebuttable presumption that every assertion

is true. See 52 U.S.C. § 20508(b)(1)–(2); *Inter Tribal Council*, 570 U.S., at 15, 17.

H. B. 2492’s evolution confirms the precision of the Legislature’s approach. The introduced bill required an unverified Federal Form applicant to supply citizenship proof within thirty days or face rejection. The enacted law omitted that rejection rule while retaining the State Form proof requirement and its express Federal Form exception. Cf. H. B. 2492, 55th Leg., 2d Reg. Sess. § 2 (Ariz. 2022) (as introduced) (proposed § 16–121.01(E)), with 2022 Ariz. Sess. Laws, ch. 99, § 4 (enacting § 16–121.01(C)–(E)). The Court should enforce that distinction, not invalidate the State Form safeguard because a different rule governs the Federal Form.

The law also directs officials to search available resources for citizenship evidence and requires registration when the search verifies citizenship and the applicant otherwise qualifies. Ariz. Rev. Stat. § 16–121.01(D)–(E). Verification thus does more than exclude noncitizens: it enables officials to establish eligible citizens’ qualifications. That is election administration, not a departure from it.

II. The Legislature’s Election Day cure defeats the premise that the decree must control future legislation.

The State Form requirement is an integrated verification-and-cure rule. Section 16–121.01(C) expressly directs notice under § 16–134(B); the same enactment amended that provision to include information required by subsection (C). 2022 Ariz. Sess. Laws, ch. 99, §§ 4, 6. The requirement must be read

with its cure, not in isolation. See *Davis v. Mich. Dep't of Treasury*, 489 U. S. 803, 809 (1989).

The recorder must identify missing information within ten business days. When the applicant supplies it before 7:00 p.m. on Election Day, registration relates back to the original receipt date. Ariz. Rev. Stat. §16–134(B). For an otherwise-qualified citizen who applied on time, missing citizenship proof can therefore be cured through Election Day without sacrificing the timely application. *Ibid.*

The decree chose an earlier cutoff. Paragraph 3(A) provides full-ballot status when a timely State Form applicant's valid proof and submission form arrive by 5:00 p.m. Thursday before the election; paragraph 3(C) denies full-ballot status for that election when proof arrives later. Pet. App. 487a–488a, ¶ 3(A), (C). An otherwise-qualified citizen who timely applied and supplies valid proof on Monday before Election Day meets the Legislature's cure deadline but misses the decree's cutoff. Cf. Ariz. Rev. Stat. §16–134(B), with Pet. App. 488a, ¶ 3(C).

That concrete difference matters: the Legislature paired verification with an additional opportunity to establish full-ballot eligibility. Treating the decree as the exclusive permissible arrangement would displace a legislative protection for qualified citizens along with the verification requirement. The State's elected representatives need not surrender that policy choice merely because an earlier executive negotiated a different timetable. See *Horne*, 557 U. S., at 448–50.

Horne warned that institutional-reform injunctions can bind successors to their predecessors' preferences and improperly deprive future officials of their legislative and executive powers. *Id.*, at 449. The decree

is not the NVRA. Its negotiated terms cannot substitute for deciding what Congress actually required. The Court should reject the decree’s asserted legislative veto and uphold the verification-and-cure system under the governing statute. See *id.*, at 448–50; 52 U.S.C. §§20505(a)(2), 20508(b).

III. The NVRA does not require Arizona to retain noncitizens on its rolls during the ninety days before an election.

Amicus curiae also supports reversal on the second question presented. The NVRA protects eligible citizens’ registration while expressly seeking electoral integrity and accurate rolls. 52 U.S.C. §§20501(b)(1), (3)–(4), 20507(a)(1). Read in that setting, its provisions addressing removal of registrants who lose eligibility do not shelter persons who lacked citizenship when registered. See *id.*, §20507(a)(3)–(4), (c)(2)(A); Br. for Pet’r 44–46. An erroneous registration cannot manufacture a citizenship qualification. See Ariz. Rev. Stat. § 16–101(A)(1). Additionally, it is Senator Hoffman’s position that it is desirable and within the state’s prerogative to prevent an ineligible voter who has already violated state law in terms of registering to vote from compounding their unlawful activity by committing the second offense of illegally casting a vote. The ninety-day rule should not be transformed into a requirement that Arizona preserve registrations that were unlawful from inception. The Court should adopt petitioner’s construction and reject that result.

CONCLUSION

The judgment of the court of appeals should be reversed.

Respectfully submitted.

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