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

REPLY BRIEF FOR PETITIONER

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INTRODUCTION

Congress passed the National Voter Registration Act to promote the registration and participation of eligible citizens. 52 U.S.C. §20501(b)(1)-(2). The Ninth Circuit transformed the NVRA into a ban on efforts to keep noncitizens off the voter rolls. It did so by divorcing language from its context and cherry-picking a preferred definition. Plaintiffs offer a longer version of the same approach. They come to the text with a preferred definition and then dismiss contrary context.

The result of Plaintiffs' approach is a statute that looks nothing like what Congress passed. For example, Plaintiffs never explain why their reading of "necessary" wouldn't mean that an attestation suffices for all qualifications. RNC.Br.27. But that reading makes no sense for a scheme that lists a "signature" as just one piece of required information, 52 U.S.C. §20508(b)(1), and reserves the States' ability to have "a more demanding form," *Arizona v. Inter Tribal Council of Ariz.*, 570 U.S. 1, 12 n.4 (2013). Plaintiffs likewise ignore context when they construe the 90-day provision. To avoid absurdity, they tie "registrants" to "applicants." LUCHA.Br.48.* But they deny any link between "registrant[s]" and "ineligible voters," despite strong textual connections. *E.g.*, 52 U.S.C. §20507(a)(4). Even on the *LULAC* consent decree, Plaintiffs selectively disregard context, ignoring that they obtained a new injunction. MFV.Br.37.

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* LUCHA.Br. refers to the Brief for AZ AANHPI for Equity, LUCHA, and Promise Arizona Respondents.

The NVRA's text and context are consistent and clear when viewed without superimposing a predetermined meaning. Both point to the same conclusions: Arizona can require proof of citizenship with its state registration form, and it can remove never-eligible noncitizens from its voter rolls. Ariz. Rev. Stat. §§16-121.01(C), 16-165(A)(10).

ARGUMENT

I. Proof of citizenship is "necessary to assess" a voter's qualifications.

"[T]he meaning of statutory language, plain or not, depends on context." *King v. St. Vincent's Hosp.*, 502 U.S. 215, 221 (1991). Plaintiffs reject every contextual clue that "necessary" "refer[s] to something that is merely important or strongly desired." *Ayestas v. Davis*, 584 U.S. 28, 44 (2018). In place of context, they hammer "the strictest" dictionary definition to the exclusion of other plausible definitions, breaking a host of statutory-interpretation rules along the way. *Id.*

Plaintiffs start with a thumb on the scale for the strictest definition of "necessary." They assert that broader definitions of "necessary" require language "inconsistent with the ordinary 'essential' meaning." MFV.Br.16. But "words are given meaning by their context," Scalia & Garner, Reading Law 56 (2012), especially an "ambiguous term" like "necessary," *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 282 (2022). The word "necessary" "is often used more loosely" "in ordinary speech." *Ayestas*, 584 U.S. at 44. So context informs which ordinary meaning Congress used. *Contra* MFV.Br.16. Plaintiffs invert the interpretive process by labelling the strictest meaning of

an ambiguous term "ordinary" and then using that strictest meaning to construe surrounding context.

Led by their preferred definition, Plaintiffs brush aside context they don't like. For example, they disregard that the relevant provision is aimed at information necessary "to enable" election officials "to assess" eligibility. 52 U.S.C. §20508(b)(1). In similar contexts, necessary means "the information is relevant" to the official's "function." *United States v. Westinghouse Elec. Corp.*, 788 F.2d 164, 171 (3d Cir. 1986). The MFV Plaintiffs' response—that labelling information "essential" "is entirely natural"—is hardly a rebuttal. MFV.Br.22. It ignores Congress's textually grounded purpose of ensuring that officials have the means "necessary" to do their jobs. *Westinghouse Elec.*, 788 F.2d at 171.

Plaintiffs also ignore that "necessary" is more expansive when describing a means to an end. A stricter meaning in this context would "almost annihilate" the authority to "select … means," since some alternative approach can always be imagined. *McCulloch v. Maryland*, 17 U.S. 316, 419 (1819). Plaintiffs have no answer to their position's infinite-regression problem. Instead, they just assert that "name, birthdate, address, mailing address, party affiliation, and so on" are "essential," LUCHA.Br.27, even though election officials could theoretically identify voters and "assess [their] eligibility" without that information, 52 U.S.C. §20508(b)(1).

Plaintiffs are wrong that "a narrower construction is proper" for a provision "used to restrict an agency." MFV.Br.18 (emphasis omitted). Whether a provision is construed as a grant or a restriction,

"necessary" imposes some limit. In *McCulloch*, it defined the limit to Congress's power to enact "legitimate" and "appropriate" laws in aid of the government's powers. 17 U.S. at 421. The NVRA is no different. It gives the Election Assistance Commission the duty to "develop a mail voter registration application form," 52 U.S.C. §20508(a)(2), but constrains the agency's discretion by instructing that the form "may require only … necessary" information, *id.* §20508(b)(1). In both cases, "necessary" cabins officials' determinations about the "means … to an end." *McCulloch*, 17 U.S. at 413. And "necessary" includes many "means calculated to produce the end," not just the "single," narrowest "means." *Id.* at 413-14. That the Commission "has a 'nondiscretionary' duty" to develop the form only reinforces this conclusion. *Contra* MFV.Br.21. Congress would not impose that duty while hamstringing officials from selecting the means to accomplish it. *See McCulloch*, 17 U.S. at 409-10.

Plaintiffs grasp at "only" to limit the reach of "necessary." LUCHA.Br.20-21. But they confuse what "only" modifies. Here, "only" limits what a form "may require" to necessary information. 52 U.S.C. §20508(b)(1). It does not limit what information is "necessary." *Id.* That the provision prevents the form from requiring unnecessary information is no reason to artificially narrow what information is "necessary."

Plaintiffs also rely on their assumed definition to criticize Congress's failure to add other needless words. They claim that, if Congress had intended a more flexible meaning, it would have modified "necessary" with words like "reasonably" or "appropriate." MFV.Br.16-17. While those words can indicate a more expansive meaning, *Ayestas*, 584 U.S. at 44, their

absence is not decisive. "Necessary" can be qualified to limit or expand its reach. *McCulloch*, 17 U.S. at 414. Plaintiffs' demand for modifiers thus proves too much. If Congress had wanted "necessary" to mean "essential," it could have modified it with words like "strictly." Indeed, elsewhere in the statute, Congress qualified "necessary" with "minimum," 52 U.S.C. §20504(c), confirming that the unqualified "necessary" carries a more expansive meaning.

McCulloch does not support Plaintiffs' demand for narrowing adverbs. The MFV Plaintiffs argue that "the term proper 'qualif[ied]' the otherwise 'strict and rigorous meaning' of the term necessary." MFV.Br.17 (alteration in original) (quoting *McCulloch*, 17 U.S. at 419). But the Court stressed that the context of "the whole clause" is "the argument" that "most conclusively demonstrates" the expansive meaning of "necessary." *McCulloch*, 17 U.S. at 419. The key feature of that context was that it addressed the "means adapted to the end." *Id.* That's why *McCulloch* began its construction by explaining that "the means necessary to an end" are "generally understood" to include "means calculated to produce the end, and not as being confined to those single means, without which the end would be entirely unobtainable." *Id*. at 413-14. There, as here, other features of the text provided "some aid" in confirming that general understanding. *Id*. at 418.

On structure, Plaintiffs flout the "meaningful-variation canon." *Sw. Airlines Co. v. Saxon*, 596 U.S. 450, 457 (2022). Consider §20504's "minimum" modifier. Plaintiffs claim that "necessary" and "minimum … necessary" are "synonyms." MFV.Br.20. But where a statute employs "'one term in one place, and a

materially different term in another, the presumption is that the different term denotes a different idea.'" *Sw. Airlines*, 596 U.S. at 458 (quoting Scalia & Garner, *supra*, at 170). The better reading is that "minimum … necessary," 52 U.S.C. §20504(c)(2)(B), "denotes a different idea," *Sw. Airlines*, 596 U.S. at 458, than "necessary" alone, which has a more expansive meaning.

Plaintiffs resist the significance of the statute's other uses of "necessary" that also support a more expansive reading. The Attorney General's litigation duties and the Commission's regulatory duties are cabined by what is "necessary to carry out" the NVRA. 52 U.S.C. §§20510(a), 20508(a)(1). Those provisions, like the registration-form provision, limit officials' discretion in the performance of a duty. Plaintiffs cannot dismiss these provisions because they have "never been litigated." *Contra* LUCHA.Br.29 n.4. There's no previously litigated proviso to the "central tenet" that "a statute is to be considered in all its parts." *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 36 (1998).

Short on textual arguments, Plaintiffs turn to legislative history. "But legislative history is not the law." *Epic Sys. Corp. v. Lewis*, 584 U.S. 497, 523 (2018). Treating it as law "violates the fundamental precept that we are governed by laws, not by the intentions of legislators." *FS Credit Opportunities Corp. v. Saba Cap. Master Fund*, 608 U.S. 608, 621 (2026) (cleaned up).

Even if legislative history can sometimes clarify textual ambiguity, it can't here because the history "is ambiguous at best." *Azar v. Allina Health Servs.*, 587

U.S. 566, 580 (2019). Plaintiffs rely on a failed amendment. MFV.Br.29-30. But when Senator Alan Simpson proposed that amendment "[t]o make clear that the bill does not preclude a State from requiring documentary proof of citizenship," Senator Wendell Ford, the bill's floor manager, called the amendment "redundant" because "nothing in the bill … would preclude the State's requiring presentation of documentary evidence of citizenship." 139 Cong. Rec. 5098-99 (Mar. 16, 1993). So Congress never "decided" that proof of citizenship "is not 'necessary.'" *Contra* LUCHA.Br.22. What Congress decided is the text that it enacted.

Plaintiffs' claim that the record is insufficient recasts a legal dispute as a factual one. LUCHA.Br.23-25. The Ninth Circuit committed legal error by limiting States to information "essential" to determining a voter's identity or eligibility. App.50a-51a. So it does not matter whether the record contains evidence that this information is essential. *Contra* LUCHA.Br.23-25. And it's hard to imagine any real dispute that proof of citizenship is "useful" in assessing citizenship. *Contra* MFV.Br.24. In any event, Plaintiffs' objections about the record are misplaced. They won at summary judgment. App.364a-367a. And all parties agreed below that this claim was not at issue at trial. *See* Supp. to J. Pretrial Order (Doc.607) at 1, *MFV v. Fontes*, No. 2:22-cv-509 (D. Ariz.).

II. Plaintiffs do not meaningfully defend the Ninth Circuit's holding that the state form must be identical to the federal form.

The Ninth Circuit erred by requiring state forms supplied by public-assistance agencies to be

"'virtually identical' to the federal form." App.51a. The LUCHA Plaintiffs don't defend that interpretation—or any interpretation—of "equivalent." Instead, they take an even less textually rooted path to the same place: They say "equivalent" means a state-form applicant must be registered if she provides "the *same exact information*" required by the federal form and nothing further. LUCHA.Br.31. But the key question is how the two forms must be similar. And that question is answered by the statutory scheme: A "form is 'equivalent' … when it meets the criteria for the contents of a voter-registration form and has the same effect … when submitted." RNC.Br.29. Plaintiffs never respond. Nor do they provide any counterinterpretation of the surrounding context.

The MFV Plaintiffs commit the same error. They argue that "'[e]quivalent' indisputably refers to something 'alike' or 'identical.'" MFV.Br.30 (quoting *Equivalent*, Black's Law Dictionary (6th ed. 1990)). But they again assume that all the requirements of the two forms must be identical, and make no effort to reconcile this conclusion with less stringent definitions ("alike" or "similar"). They don't offer any contextual support for that reading, arguing only that "equivalent" can't mean "identical *in effect*." MFV.Br.30-31. And they never respond to the RNC's argument that "a form is 'equivalent' … when it meets the criteria for the contents of a voter-registration form." RNC.Br.29. That straightforward interpretation fits the "equivalent" requirement in the NVRA's overall scheme.

Plaintiffs' conclusion—that "identically situated applicants" must be registered—contradicts the caselaw as well. This Court has already said that the

state form can "require information the Federal Form does not." *Inter Tribal Council*, 570 U.S. at 12. States can make the state form "'easier,'" LUCHA.Br.32, but they can also make it "more demanding," *Inter Tribal Council*, 570 U.S. at 12 n.4. They need not make it identical.

Plaintiffs also argue that challenges to the overbroad remedy were forfeited. LUCHA.Br.32-33. But the overbroad remedy is the result of the Ninth Circuit expanding the district court's judgment, *see* App.51a-52a, which didn't enjoin the proof-of-citizenship requirement based on the NVRA, *see* App.428a-432a. And Judge Bumatay explained that the "proper remedy" would be to require "Arizona's 'public assistance agencies' [to] distribute the federal form." App.116a (Bumatay, J., dissenting); *see Lebron v. Nat'l R.R. Passenger Corp.*, 513 U.S. 374, 379 (1995).

* * *

Plaintiffs' interpretations of "necessary" and "equivalent" also fail under constitutional avoidance. They claim that constitutional problems would arise "only if the NVRA prevented States from including requests for information that actually are essential." MFV.Br.22 (emphasis omitted). That response is unsatisfying at best, since Plaintiffs cannot tell the Court what's truly "essential." *See* MFV.Br.21-22. More importantly, Plaintiffs' argument is wrong. Reading the NVRA to limit States to gathering only information deemed "essential" and to producing "identical" forms "raise[s] serious constitutional doubts." *Inter Tribal Council*, 570 U.S. at 17.

III. Plaintiffs do not defend the new injunction that sprang from the consent decree.

Plaintiffs do not defend the judgment below. They defend the *LULAC* decree's finality. But the question is whether a consent decree from a different case supports a new injunction issued in this case, even in circumstances that would require setting the consent decree aside in the original proceeding.

The lower courts treated the *LULAC* decree as a legal rule that entitled Plaintiffs to a new injunction automatically. No complaint sought relief based on that consent decree. When some Plaintiffs moved to transfer their case to the judge who entered the *LULAC* consent decree, the judge denied the motion. Order Denying Transfer (Doc.68), *LULAC v. Reagan*, No. 17-cv-4102 (D. Ariz. Apr. 2022). He noted that although he "approved the consent decree," he "did not otherwise address the merits" and the case "has long been closed." *Id.* No party sought summary judgment based on the consent decree. AZ.Br.9. But the district court granted it anyway, ruling that the LUCHA Plaintiffs' NVRA "claim is resolved by the existing LULAC Consent Decree." App.365a. The final judgment thus enjoins Defendants from "reject[ing] any State Form without accompanying Documentary Proof of Citizenship … given the LULAC Consent Decree." App.428a-429a. And the Ninth Circuit affirmed, concluding that the consent decree "bars Arizona election officials from" rejecting "state-form applications" that lack proof of citizenship. App.49a.

Plaintiffs try to obscure the distinction between the consent decree and the new judgment below, explaining that the decree is a final judgment that the

"parties 'are expected to obey.'" LUCHA.Br.10 (quoting *GTE Sylvania v. Consumers Union of U.S.*, 445 U.S. 375, 386 (1980)). No doubt "persons subject to an injunctive order issued by a court with jurisdiction are expected to obey that decree until it is modified or reversed." *GTE Sylvania*, 445 U.S. at 386. That's why a "citation for contempt" is the classic mechanism to enforce a consent decree. *Lackey v. Stinnie*, 604 U.S. 192, 207 (2025). Obtaining a new judgment is not.

Plaintiffs commit the same error in dismissing the consent decree's termination date for "continuing jurisdiction." Plaintiffs emphasize that the "continuing jurisdiction provision" was limited to "*further* relief." LUCHA.Br.15. But a new injunction is further relief.

Plaintiffs likewise cannot insist that the RNC "or anyone else with standing" must reopen the *LULAC* case. MFV.Br.32. Even while repeating that a "decree should be enforced according to its terms," *Frew v. Hawkins*, 540 U.S. 431, 442 (2004), no Plaintiff attempted ordinary enforcement of the decree, LUCHA.Br.13-14. Instead, they defend the Ninth Circuit treating the consent decree as a legal rule that supplies independent grounds for a new judgment against the enforcement of a state law.

Plaintiffs' (and the State's) insistence that Rule 60(b) is the exclusive mechanism to challenge a decree only highlights these errors. MFV.Br.32; AZ.Br.26. Rule 60(b) provides the "primary response" to enforcement in the original proceeding because it "encompasses the traditional power of a court of equity to modify its" already-final "decree." *Frew*, 540 U.S. at 441. When a party brings a new suit, an injunction may issue "only after taking into account" the same

equitable principles. *Salazar v. Buono*, 559 U.S. 700, 714 (2010) (plurality op.). An injunction entered in a previous case does not excuse the court in a new suit from applying those principles. *See id*. at 714-19.

The LUCHA Plaintiffs come closest to defending the new injunction. They suggest that "collateral enforcement" is proper because "courts are not free to ignore binding judgments." LUCHA.Br.16. But Plaintiffs never explain why a binding judgment in another case guarantees them a new one here.

Plaintiffs stop short of developing a preclusion argument, for good reasons. To start, Plaintiffs can't explain what is precluded: It can't be the NVRA claims (which weren't raised in the *LULAC* case) or the constitutional claim (which the district court here rejected). App.319a, 474a-75a. Even if Plaintiffs could explain what claim is precluded, "changed circumstances" would defeat preclusion. *Whole Woman's Health v. Hellerstedt*, 579 U.S. 582, 601 (2016). Preclusion does not apply to challenges to "two different statutory provisions that serve two different functions." *Id*. at 604. The case for preclusion is much weaker when a plaintiff challenges a new law that undermines the premise of a consent decree. And Plaintiffs' own cases acknowledge that the "'intent of the parties'" decides a decree's "'preclusive effect.'" *Satsky v. Paramount Commc'ns*, 7 F.3d 1464, 1468 (10th Cir. 1993). The language of the *LULAC* decree looks nothing like the language where those cases found preclusion. *Compare United States v. S. Ute Tribe or Band of Indians*, 402 U.S. 159, 161 (1971) (decree "is res judicata"), and *Satsky*, 7 F.3d at 1468 (decree would "finally settle and resolve *all claims*"), *with* App.476a

(denying a federal violation but agreeing to a remedy "consistent with the provisions of Arizona law").

The LUCHA Plaintiffs claim that no one argued that this is a new case where Plaintiffs are seeking a new injunction. LUCHA.Br.15-16. But no Plaintiff ever sought this relief from the district court. *See* AZ.Br.8-9. And whether this dispute concerns a new suit seeking new relief has never been in dispute. *See* CA9.LUCHA.Br.36 (Doc. 146), *MFV v. Fontes*, No. 24-3188 (9th Cir.) ("[T]his case … seeks to *enforce* the decree."). The distinction became relevant only as Plaintiffs clarified their argument that the decree automatically entitles them to a new injunction unless a party first obtains relief under Rule 60(b). LUCHA.BIO.19-20; MFV.BIO.24-27; RNC.Cert.Reply.11 (Plaintiffs treat "consent decree as a standalone claim in a new case."); *see also Lebron*, 513 U.S. at 379.

Even accepting Plaintiffs' framing, the policy dictated by a consent decree can be challenged in collateral proceedings. *See Martin v. Wilks*, 490 U.S. 755, 768 (1989). And whether Rule 60(b) or general equitable principles apply, the circumstances here more than satisfy them.

First, the decree's continued enforcement is undermined by a change in law. *Cf. Miller v. French*, 530 U.S. 327, 347 (2000). Plaintiffs counter that the "underlying *federal law*" has not changed. MFV.Br.38. But they can't identify what "underlying federal law" was violated. That's because "the basis for the decree" is not a violation of federal law, but "consent alone." App.106a (Bumatay, J., dissenting). If federal courts must "return control to state and local officials as soon as [the] violation of federal law has been remedied,"

Horne v. Flores, 557 U.S. 433, 451 (2009), then they certainly must return control when the decree remedies nothing. That's doubly true because "the Secretary has no power to override the [State] Legislature" in perpetuity when it comes to election laws. *Carson v. Simon*, 978 F.3d 1051, 1060 (8th Cir. 2020). Plaintiffs' alternative—that a purely consent-based judgment is subject to less review than one that remedies a federal violation—"turns federal supremacy on its head." App.108a (Bumatay, J., dissenting).

Second, Plaintiffs brush aside that new state laws can constitute "changed circumstances" that warrant reconsideration of the remedy imposed by a decree. *Rufo v. Inmates of Suffolk Cnty. Jail*, 502 U.S. 367, 391 (1992). The LUCHA Plaintiffs relegate this point to a footnote, claiming without explanation that "state law changes alone do not typically constitute … changed circumstances." LUCHA.Br.18 n.3. But that's a concession that, sometimes, they do. Relief from a decree may be warranted when "the parties ha[ve] based their agreement on a misunderstanding of the governing law." *Rufo*, 502 U.S. at 390. The consent decree not only disclaimed a federal violation, but premised agreement on the Secretary "continuing to comply with Arizona law." App.478a-79a. "Arizona law has materially changed since then." AZ.Br.20. It now requires all county recorders to reject state forms submitted without proof of citizenship. Ariz. Rev. Stat. §16-121.01(C). "As a result, a legal premise underlying the 2018 consent decree became untrue." AZ.Br.6. That change in law breaks the parties' understanding, and thus the consent that provided the whole basis for the decree. *See Rufo*, 502 U.S. at 390.

Third, Plaintiffs embrace rather than rebut the decree's structural problems. "The view that a settlement by a single state executive-branch official may forever curtail the state legislature's lawmaking power presents disturbing separation-of-powers concerns." App.104a (Bumatay, J., dissenting). Yet Plaintiffs call that bug a feature. They fault the Arizona Legislature for "ignor[ing] the decree and pass[ing] new legislation inconsistent with" it. MFV.Br.33. But the Legislature, like the RNC and the Legislative Intervenors, "d[id] not join in the agreement," so the consent decree "cannot possibly 'settle'" their rights and duties. *Martin*, 490 U.S. at 768. Much less can a decree abrogate the Legislature's constitutional authority over elections and voter qualifications. *See Carson*, 978 F.3d at 1060. Enjoining those "areas of core state responsibility" raises heightened federalism concerns that counsel against treating the decree's policy as permanent. *Horne*, 557 U.S. at 448-50.

* * *

Plaintiffs rely on the constant refrain that the consent decree is "final." But Plaintiffs now have two judgments, and they can't explain where the second one came from. They have no support for the Ninth Circuit's novel holding that a consent decree automatically entitles them to a second, independent injunction barring new election officials from enforcing a new state law. No precedent supports the Ninth Circuit's treatment of an old consent decree as a new-injunction-generating machine.

IV. Plaintiffs obscure the 90-day provision's context and structure.

The RNC explained that the NVRA's 90-day provision does not reach removal programs targeting never-eligible noncitizens. RNC.Br.42-52. Statutory context confirms that the "ineligible voters" covered by the 90-day provision are once-eligible registrants who are no longer qualified. Section 20507 moves through sequential steps for registration and roll maintenance. An "eligible applicant" must be "registered." 52 U.S.C. §20507(a)(1). Then she becomes a "registrant." *Id*. §20507(a)(3). And a registrant then becomes either an "eligible vote[r]" or an "ineligible vote[r]." *Id.* §20507(c)(2)(A). Each term describes "a subset of its preceding terms." App.124 (Bumatay, J., dissenting). Noncitizens thus cannot be "registrants" or "ineligible voters." Those terms do not include never-eligible noncitizens because they could never have been "eligible applicants." Paragraph (a)(3)'s restrictions on the removal of a "registrant" confirm this understanding: a "registrant" is removable for only four reasons—change in residence, death, conviction or mental incapacity, or request—each of which is a reason to remove a once-qualified voter. 52 U.S.C. §20507(a)(3).

Plaintiffs try to split the 90-day provision from the rest of the NVRA. They insist that the 90-day provision is not expressly "linked" to the rest of the statutory scheme. LUCHA.Br.42. But reading statutory terms "in their context and with a view to their place in the overall statutory scheme" is a "fundamental canon of statutory construction." *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 133 (2000)

(cleaned up). Congress does not need to expressly tell courts to read terms in context.

In any event, there is no shortage of "ties" between the 90-day provision and adjoining provisions. MFV.Br.44. To name a few, the 90-day provision is part of the same "complex superstructure." *Inter Tribal Council*, 570 U.S. at 5. The 90-day provision is nested between rules that walk through the processes for voter registration and roll maintenance. RNC.Br.42-46. And it uses similar language to the rest of the scheme to describe roll-maintenance efforts: a "program" to "remove … names" from "the official lis[t] of eligible voters." *Compare* 52 U.S.C. §20507(c)(2)(A), *with id.* §20507(a)(3), (a)(4), (b)(2), (d)(1).

Plaintiffs' "plain text" arguments can't sever "ineligible voters" from that scheme. Plaintiffs don't dispute that "voter" can refer to a person with the "qualifications entitling him to vote," or that this meaning makes the most sense in the context of a roll-maintenance statute. *Voter*, Black's 6th, *supra*; DNC.Br. 21; LUCHA.Br.34-35; MFV.Br.39-40. Instead, they argue that the word "ineligible" sweeps "*all* people" not qualified to vote into the 90-day provision. DNC.Br.21. But that reading fails to give meaning to Congress's choice of words. Congress used the broader term "person" elsewhere, *see*, *e.g.*, 52 U.S.C. §20507(b)(2), and it could have used that same language if it wanted the 90-day provision to cover all people. But it chose the narrower term "vote[r]." *Id.* §20507(c)(2)(A); *see Mullin v. Al Otro Lado*, 609 U.S. 258, 271 (2026) (rejecting reading when "Congress chose not to adopt" similar language used in "other provisions").

Still, Plaintiffs argue that the Court must adopt their expansive definition to avoid rendering "ineligible voter" an "oxymoron" or rendering some part of the 90-day provision surplusage (though Plaintiffs don't agree which part). *Compare* LUCHA.Br.38 ("eligible voter" is "surplusage"), *with* DNC.Br.21 ("ineligible" is "superfluous"). But each word bears a sensible meaning in context: "Voters" describes those who registered as qualified applicants. "Ineligible" clarifies that these "voters" are no longer qualified. And "eligible" applies to voters who are still qualified. So "ineligible voters" are once-eligible applicants who are no longer qualified. That's a natural meaning, since "ineligible" modifies a term indicating a qualification.

Consider the United States' "ineligible player." US.Br.37. A school could adopt a policy that "an ineligible player may sit on the bench but not dress in uniform." No one would understand that rule to permit students who were never part of the team to sit on the bench. The "ineligible player" is a team member who is no longer eligible to play.

The MFV Plaintiffs' counterexamples fail. MFV.Br.40. No doubt a term like "unlicensed physician" can describe an unlicensed person who practices medicine. *See* La. Rev. Stat. §37:1284. And in other settings, "ineligible voter" could include people who were never qualified. *See* RNC.Br.42 (Voter can mean one "who gives a vote."). But a "range of meanings" is a reason to "[r]esort to context." *Dubin v. United States*, 599 U.S. 110, 119 (2023). And context does not support Plaintiffs here.

Plaintiffs recognize that their reading has another problem: If "registrant" covers any person on the voter

rolls, then noncitizens (and other never-eligible persons) can never be removed. The NVRA permits removals of registrants for only four statutory reasons, none of which is initial ineligibility. 52 U.S.C. §20507(a)(3). Plaintiffs ask the Court to fix that absurdity in their reading by limiting "registrant"—but not "ineligible voters"—to "those who were never eligible." MFV.Br.42; DNC.Br.26-27; LUCHA.Br.48. They try two appeals to context to support this "narrow construction." MFV.Br.42. But neither works.

The Democratic and LUCHA Plaintiffs halfway endorse the RNC's approach. Because paragraph (a)(1) instructs States "to ensure that any eligible applicant is registered," Plaintiffs argue that "registrants" must be limited to "applicants" who were "eligible." LUCHA.Br.48; DNC.Br.27. That's right. But the same approach confirms that "ineligible voters" refers to once-eligible registrants, since the NVRA uses "ineligible voters" as a subset of "registrants."

Plaintiffs object that no language "links" "ineligible voters" with "registrants." LUCHA.Br.48. But the very next paragraph connects them. Paragraph (a)(4) lays out one of the approved reasons for "registrant" removals. 52 U.S.C. §20507(a)(3). This paragraph requires States to "conduct a program … to remove … ineligible voters from the official lists of eligible voters." Removals under this program are limited to "*the registrant*" who has moved or died. *Id.* §20507(a)(4) (emphasis added). On Plaintiffs' reading, this provision would implicitly shift between two groups. It would start by casting a broad net covering all ineligible persons. But by listing only reasons to remove "the registrant," it would limit removals to once-eligible voters. *Id.* The more sensible reading is that the

"ineligible voters" targeted and "registrant[s]" who can be removed are the same. *Id.*

The MFV Plaintiffs advance a different argument, pointing to what the NVRA's removal limits "seem to be focused" on. MFV.Br.42. But their admission that the focus is "on eligible voters who become ineligible, rather than never-eligible voters," MFV.Br.42, only raises the question: Is paragraph (a)(3) unique in its focus on once-eligible registrants? Plaintiffs don't try an answer. But their concession on "registrants" confirms that the entire scheme shares the same focus. As explained, the very next paragraph addresses removals of "the registrant"—even while equating removable registrants with "ineligible voters." 52 U.S.C. §20507(a)(4). The paragraph before the 90-day provision similarly addresses the removal of "registrants." *Id.* §20507(c)(1). As do the two subsections following the 90-day provision. *See id.* §20507(d)-(e). Plaintiffs' interpretation would require the 90-day provision—nested between a series of rules for the removal of once-qualified voters—to depart from that focus.

Plaintiffs' reading would render the statutory scheme "remarkably convoluted." DNC.Br.22. It would require whiplash-inducing shifts from removal efforts limited to once-qualified voters back to any ineligible persons, and back again. *See* 52 U.S.C. §20507(a)(3) ("registrant"), (a)(4) ("ineligible voters" and "registrant"), (c)(1) ("registrant"), (c)(2) ("ineligible voters"), (d)-(e) ("registrant"). This winding path would be mapped out by the NVRA's instruction to "ensure that any eligible applicant is registered." *Id.* §20507(a)(1). Yet no connection would be drawn when a "program … to remove … ineligible voters" is limited only to "registrant[s]." *Id.* §20507(a)(4).

In short, Plaintiffs know that "registrant" must be limited to once-qualified voters to avoid the absurdity of a categorical ban on removing noncitizens. But they haven't found a coherent way to limit only "registrants" and not "ineligible voters." Their failure confirms that "ineligible voters," as a subset of "registrants," refers to once-qualified registrants.

Plaintiffs point to a few contextual features to advance their expansive reading of the 90-day provision. Even if correct, these arguments wouldn't be enough to compel the absurdity of prohibiting noncitizen removals or the incoherence of limiting only "registrants" to once-eligible applicants. But each of their arguments fails anyway.

First, the RNC's reading doesn't conflate "ineligible voters" and "registrants." *Contra* LUCHA.Br.41. "Registrant" is a broader term that encompasses both "eligible" and "ineligible" voters—that is, voters who are or were eligible. The NVRA thus uses both terms to describe who can be removed from "the official list of eligible voters." 52 U.S.C. §20507(a)(3) ("registrant"), (a)(4) ("ineligible voters" and "registrant[s]"), (c)(2) ("ineligible voters"), (d)(1) ("registrant"). But it typically couples "registrant" with a specific ground for removal. *See id.* §20507(a)(4) ("death" and "change in … residence"). That approach makes sense because it would be confusing to couple "ineligible voters" with the very event that causes the ineligibility, *e.g.*, "death of the [ineligible voter]." *Id.* Even if this reading caused some overlap, the rule that different language indicates a different meaning applies only when a statute can sensibly "be read in multiple ways." *Sebelius v. Auburn Reg'l Med. Ctr.*, 568 U.S. 145, 156 (2013). And overlap between terms

describing people at sequential stages of the registration process is far more sensible than limiting only "registrant" to once-eligible applicants.

In reality, only Plaintiffs' reading gives different terms the same meaning. Plaintiffs define "ineligible voter" as "a person who is ineligible to vote." LUCHA.Br.40. But if that's what Congress meant, it could have barred removals of "ineligible persons," as it barred removals of "any person from the official list of voters" because of "failure to vote." 52 U.S.C. §20507(b)(2). On Plaintiffs' reading, "ineligible persons" would have made just as much sense, since "voter" can't be clearer while also meaning "*all* people." *Contra* DNC.Br.21, 28.

Second, Plaintiffs object that limiting the 90-day provision to once-qualified voters means it would cover removals only for change of residence, since all the other grounds for removal are excepted. But as the United States explained, the 90-day provision's limitation to registrants who have moved makes sense for a statute where exceptions were added to a categorical prohibition. U.S.Br.40; H.R. 2190, 101st Cong., 1st Sess. §6(e) (as introduced in House, May 1989); S. 250, 102d Cong., 1st Sess. §8(c) (as introduced in Senate Jan. 1991). And retaining this structure ensures that any removal grounds added to the statute would be covered. *See* U.S.Br.40-41. Nor does Congress's use of "any program" "foreclose" a reading where the 90-day provision reaches only removals based on change of residence. *Contra* DNC.Br.33; LUCHA.Br.39; MFV.Br.44. "Any" clarifies which change-of-residence programs are covered—all of them.

Third, limiting "ineligible voters" to those previously qualified doesn't render the "official lists of eligible voters" "nonsensical." DNC.Br.23; LUCHA.Br.43. No doubt these lists won't be perfect under any interpretation. That's why the NVRA, including the 90-day provision, addresses efforts to remove "ineligible voters" who should no longer be on the list. But the impossibility of a perfect list doesn't change that "eligible voters" means those qualified to vote. There would be no reason for the NVRA to provide for the removal of "ineligible voters" if "eligible voters" includes "*all* persons whom the states have deemed eligible to vote during the registration process." LUCHA.Br.43.

Apart from the text, Plaintiffs contend that the 90-day provision shouldn't permit noncitizen removals even if it is limited to once-qualified voters. DNC.Br.20-21; LUCHA.Br.46. They observe that denaturalized citizens or citizens who renounce might have been qualified at some point. DNC.Br.20-21; LUCHA.Br.46. But the 90-day provision turns on the "purpose" of a roll-maintenance program, not its application to a particular voter. 52 U.S.C. §20507(c)(2)(A). No Plaintiff contends that fringe cases transform a program targeting noncitizens into a program "the purpose of which" is to remove once-eligible voters. *Id.* And denaturalization and renunciation are rare. *See Justice Department Files Record 25 Denaturalization Cases*, USCIS (Aug. 2026), perma.cc/925D-TY4W ("123 civil denaturalization complaints" filed since the beginning of this Administration were "the most in recorded history"); Ward, *Why Thousands of Americans Are Giving Up Their Citizenship*, CNN (Jun. 2026), perma.cc/J38M-7KVF

(4,889 renunciations in 2025). These exceptional cases don't convert a program aimed at noncitizens into one whose "purpose" is removing formerly eligible voters.

Finally, the 90-day provision's "broader purpose," LUCHA.Br.36, does not bar removal of noncitizens. Plaintiffs surmise that Congress wanted to protect citizens against "*erroneous* removals." DNC.Br.35; MFV.Br.35; LUCHA.Br.36. But Congress rarely "pursue[s] any single purpose at all costs." *Martin v. United States*, 605 U.S. 395, 408 (2025) (cleaned up). In striking a "balance," DNC.Br.37, Congress promoted the registration and participation of "eligible citizens" and "protect[ed] the integrity of the electoral process," 52 U.S.C. §20501(b)(1)-(3). Removing noncitizens advances those purposes. Plaintiffs object that removal programs may not be "perfect," DNC.Br.35 (cleaned up), but Congress didn't require perfection. After all, the 90-day provision bars only programs with a specific "purpose," and exempts even many of those. 52 U.S.C. §20507(c)(2). Plaintiffs' concern that programs in other States might flag eligible citizens is an argument for protections like Arizona's thirty-five-day notice. Ariz. Rev. Stat. §16-165(A)(10). But it doesn't transform the goal of removing noncitizens into a prohibited purpose. In any event, Plaintiffs' criticisms of these removal programs don't establish that Congress meant to constrain a State like New Jersey—where no one disputes that thousands of registered noncitizens were correctly identified—to undertake thousands of "individualized" proceedings.

CONCLUSION

The Court should reverse the Ninth Circuit's judgment.

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Respectfully submitted,

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