No. 25-918

In the Supreme Court of the United States

JOSE TREVINO and ALEX YBARRA,

Petitioners,

v.

STEVEN HOBBS, in his official capacity as Secretary of State of Washington, et. al.,

Respondents.

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

MOTION TO EXPEDITE CONSIDERATION OF PETITION FOR A WRIT OF CERTIORARI AND TO EXPEDITE CONSIDERATION OF THIS MOTION

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Pursuant to Supreme Court Rule 21, Petitioners Jose Trevino and Alex Ybarra ("Petitioners") respectfully move for expedited consideration of their pending petition for a writ of certiorari in *Trevino* v. *Hobbs* (No. 25-918) in light of this Court's decision in *Louisiana* v. *Callais*, 608 U.S. ___ (2026), as well as expedited consideration of this motion.[1] Expedited consideration is necessary to afford the voters of the State of Washington the same opportunity as those of other States to use a state districting map in its upcoming elections that is unburdened by an injunction directly contrary to *Callais*'s construction of Section 2 of the Voting Rights Act ("VRA"), which harmonized that statute with the "Fifteenth Amendment's prohibition on *intentional* racial discrimination." *Callais*, 608 U.S. at ___ (slip op. at 23). Expedited consideration of this motion and the petition for writ of certiorari is warranted because the 2026 elections in Washington, like every other State, are looming.[2] But pursuant to the district court's injunction, absent relief from this Court, Washington's elections are poised to be conducted using a remedial map that is clearly

[1] On May 4, 2026, Petitioners also filed motions in the United States District Court for the Western District of Washington pursuant to Rule 60(b) and Rule 62 for reconsideration of the underlying opinion and requesting an indicative ruling. Mot. for Relief from Judgment Pursuant to Rule 60(b), *Soto Palmer* v. *Hobbs*, No. 3:22-cv-5035 (May 4, 2026), ECF No. 309; Mot. to Expedite Consideration of Intervenors' Mot. for Relief from Judgment Pursuant to Rule 60(b), *Soto Palmer* v. *Hobbs*, No. 3:22-cv-5035 (May 4, 2026), ECF No. 310. Petitioners filed a reply in support of those motions on May 13, 2026, and the motions are currently pending before the District Court. Intervenor-Defendants' Reply in Support of Their Mot. for Relief from Judgment Pursuant to Rule 60(b), *Soto Palmer* v. *Hobbs*, No. 3:22-cv-5035 (May 13, 2026), ECF No. 317.

[2] Washington's 2026 primary election is August 4. *See* Wash. Rev. Code § 29A.04.311. By June 20, ballots must be mailed to military and overseas voters registered in Washington. *See id.* § 29A.40.070(2). For all other voters, ballots must be mailed no later than July 17. *See id.* § 29A.40.070(1). While these deadlines are rapidly approaching, they are significantly further out than Alabama's primary election was when the Court recently granted appellants' motion to expedite and petition for writ of certiorari, vacated the decisions below, and remanded for further consideration in *Allen* v. *Caster*, 608 U.S. ___ (2026) (*per curiam*).

impermissible under Section 2 "as properly construed" by *Callais*. 608 U.S. at ___ (slip op. at 3) (emphasis omitted).

STATEMENT

The district court enjoined the use of a state legislative map drawn by Washington's independent, bipartisan redistricting commission ("Commission"), holding that the map violated Section 2 by diluting Hispanic votes in a single legislative district, LD-15. App. 45. Even though the Commission's version of LD-15 was majority-Hispanic, the court ruled that "LD 15 violate[d] Section 2's prohibition on discriminatory results," and imposed a remedial map, ordering the Secretary of State to "conduct future elections" under it. App. 42, 45. In an unprecedented and profound irony, the court-adopted map—designed to remedy supposed Hispanic vote dilution—actually *further diluted* Hispanic Citizen Voting Age Population ("HCVAP") in LD-15 from 52.6% (under the Commission's map) to 50.2%. App. 314, 316. To achieve this Section 2 "remedy," the district court altered over a quarter of Washington's legislative districts and moved a half-million Washingtonians into new districts, all in the name of remedying racial dilution in a district that was already majority Hispanic by citizen voting-age population. App. 316.

The Ninth Circuit held that Petitioners lacked standing to challenge both the district court's liability determination and its resulting remedial map as a violation of Section 2, but held that "at least one" Petitioner had standing to bring a racial gerrymandering claim against the remedial map. App. 2. It then held that the

"district court's remedial map did not discriminate on the basis of race in violation of the Equal Protection Clause" and affirmed the district court. App. 2.

On January 23, 2026, Petitioners filed a petition for a writ of certiorari with this Court. A response was due March 6, 2026, but on that date, Respondents filed waivers of their right to respond and the petition was distributed for conference of April 2, 2026. On March 25, 2026, however, this Court requested that Respondents respond to the petition, setting a due date of April 24, 2026. On April 8, 2026, Respondents filed a motion to extend the time to file their response to June 23, 2026. The next day, this Court granted Respondents' motion in part, extending the time to file their response to and including June 2, 2026.

Petitioners respectfully ask this Court to: (i) expedite its consideration of this motion; (ii) expedite its consideration of the petition for certiorari and direct Respondents to file any response to the petition and this motion by May 20, 2026; (iii) grant the petition and rule that Petitioners have standing to challenge both the district court's VRA liability determination and its remedial map; (iv) vacate the judgment and remedial order (App. 31-42) of the United States District Court for the Western District of Washington; and (v) remand to the United States Court of Appeals for the Ninth Circuit with instructions to remand to the district court for further consideration of Respondents' VRA claim and Petitioners' equal protection claim in light of *Callais*.

ARGUMENT

The district court's Section 2 rationale directly contravenes this Court's ruling in *Callais* in four important respects.

First, *Callais* held that Section 2 "imposes liability only when the evidence supports a strong interference that the State *intentionally* drew its districts to afford minority voters less opportunity *because of their race*." 608 U.S. at ___ (slip op. at 26) (emphasis added); *accord id*. at 35. Here, however, the district court held that "the focus of the analysis [in Section 2] is the impact of electoral practices on a minority, *not discriminatory intent* towards the minority." App. 77 (emphasis added). It thus concluded "that LD 15 violate[d] Section 2's prohibition on discriminatory results" and it therefore "need not decide plaintiffs' discriminatory intent claim." App. 45.

Second, *Callais* held that to satisfy the first *Gingles* precondition, "in drawing illustrative maps, plaintiffs cannot use race as a districting criterion." 608 U.S. ___ (slip op. at 29). Moreover, "illustrative maps must meet all the State's legitimate districting objectives, including traditional districting criteria and the State's specified political goals." *Id*. This is necessary because "only by meeting all of the State's legitimate objectives can the illustrative maps help 'disentangle race' from politics and other constitutionally permissible considerations." *Id*. at ___ (slip op. 29–30).

Here, Respondents' three illustrative maps presented to the district court at trial were drawn with race as a criterion, for the express purpose of unifying the "Latino voters in the Yakima Valley." App. 40, 54; *see also* Pls.' Closing Statement at

5, *Soto Palmer* v. *Hobbs*, No. 3:22-cv-5035 (July 12, 2023), ECF No. 214 ("Plaintiffs' expert . . . presented three demonstration plans that include a majority-HCVAP district in the Yakima Valley region."). The record does not establish—and Respondents made no attempt to show—that any of their proffered illustrative maps could achieve the same result without using race as a districting criterion. The three illustrative maps presented as part of Respondents' attempt to satisfy the first *Gingles* precondition therefore "ha[ve] no value in proving" their Section 2 case. *Callais*, 608 U.S. at ___ (slip op. at 29). And the district court did not require Respondents to show that their illustrative maps "me[]t all the State's legitimate districting objectives, including . . . the State's specified political goals." *Id.* As the district court acknowledged, "[t]he boundaries that were drawn by the bipartisan and independent commission reflected a difficult balance of many competing factors and could be justified in a number of rational, nondiscriminatory ways." App. 70. One important consideration of the Commission, aside from its own race-based goal for LD-15, was to hit certain partisan performance targets in particular districts. The Commission's version of LD-15 thus exemplified its delicate, bipartisan approach toward reaching the necessary consensus to adopt a map, by achieving both its goal of drawing a majority-minority Hispanic district and simultaneously making the district lean slightly Republican to achieve its partisan goals. Trial Tr. Day 3 at 449:23–450:7, 495:10–12, *Soto Palmer* v. *Hobbs*, No. 3:22-cv-5035 (June 29, 2023), ECF No. 208 (Fain: "[The] framework for the Legislative District map . . . was a combination of relative political performances, in certain areas."); Trial Tr. Day 4 at

736:18–737:2, 743:24–744:1, *Soto Palmer* v. *Hobbs*, No. 3:22-cv-5035 (June 29, 2023), ECF No. 209 (Graves: "The two predominant [metrics] we were discussing [with respect to LD 15] were the racial composition of the district, and its partisan performance."); *id.* at 799:12–20 (O'Neil: "It was an agreement upon . . . the partisanship numbers in . . . four, five districts."); *see also* App. 3, 46 (Commission is independent and bipartisan); *id.* at 47–48 n.4 (district court acknowledging that Commission "endeavored to reach a bipartisan consensus on maps which not only divided up a diverse and geographically complex state . . . . but also promoted competitiveness in elections."). Despite this, the record is also absent of any effort by Respondents to show that their illustrative maps attempted to honor these legitimate, partisan political goals of the Commission.

Third, *Callais* held that to satisfy *Gingles*' second and third preconditions, "plaintiffs must provide an analysis that controls for party affiliation" because they "must show that voters engage in racial bloc voting that cannot be explained by partisan affiliation." 608 U.S. at ___ (slip op. at 30). Here, the district court found that Respondents had shown that "voting in the Yakima Valley region is racially polarized" but incorrectly assumed that partisanship "does not inform the [*Gingles*] political cohesiveness or bloc voting analyses." App. 59, 62. It thus failed to require Respondents to "disentangl[e] race and politics" in voting patterns even though, as *Callais* recognized, "simply pointing to *inter*-party racial polarization proves nothing." 608 U.S. at ___ (slip op. at 30).

Fourth, *Callais* held that *Gingles*'s "totality of the circumstances" inquiry "must focus on evidence that has more than a remote bearing on what the Fifteenth Amendment prohibits: present-day intentional racial discrimination regarding voting." *Id.* at ___ (slip op. at 30). Discrimination that "occurred some time ago" and "ongoing 'effects of societal discrimination' are entitled to *much less weight*." *Id.* at 30–31 (emphasis added) (quoting *Shaw* v. *Hunt*, 517 U.S. 899, 909–10 (1996)). But the district court placed substantial weight on past discriminatory practices, beginning its analysis with "an evaluation of the history of official discrimination . . . ." App. 60–61. It concluded that Respondents had "provided ample historical evidence" of discriminatory election practices against Latinos, such as English-only election materials. *Id.* at 61. While "progress has been made," the court reasoned, such progress had been "hard won" and followed "a half century of blatant anti-Latino discrimination." *Id.* When Petitioners argued that such past discrimination did not indicate that Hispanics today are denied full political participation, the court "disagree[d]," noting that "[s]eemingly small, everyday municipal decisions, like which neighborhoods would get sidewalks, as well as larger decisions about who could vote, were for decades decided by people who owned property." *Id.* It credited testimony by Respondents' witnesses who "opined that decades of discrimination against Latinos in the area has had lingering effects" on income, unemployment, poverty, education, housing, health, criminal justice—and voter participation. *Id.* at 64–64. Under *Callais*, however, these "ongoing effects of societal discrimination" are entitled to very little weight. 608 U.S. at ___ (slip op. at

30–31) (internal quotation marks omitted). What is "far more germane" to Section 2 analysis is *current* data that can "shed light on current intentional discrimination." *Id.* at ___ (slip op. at 31). That is because Section 2's focus is "on 'current conditions,' not on 'decades old data relevant to decades old problems.'" *Id.* at ___ (slip op. at 35) (quoting *Shelby County* v. *Holder*, 570 U.S. 529, 553 (2013)). However, Respondents submitted little-to-no evidence of such current conditions at trial. Instead, as in *Callais*, "none of the historical evidence presented by [Respondents] came close to showing an objective likelihood that the State's challenged map was the result of intentional racial discrimination." *Id.*

As a result of these errors, the district imposed a remedial map for race-based purposes. App. 37, 37 n.7 (describing "unit[ing] the Latino community" as a "fundamental goal of the remedial process"). However, as *Callais* now makes clear, only "[c]ompliance with § 2, *as properly construed*, can provide" a compelling reason for race-based districting. 608 U.S. ___ (slip op. at 2–3). Since the district court did not properly construe Section 2 when reaching its liability holdings, its race-based remedial map cannot survive strict scrutiny.

CONCLUSION

Accordingly, Petitioners respectfully ask this Court to: (i) expedite consideration of this motion; (ii) expedite its consideration of Petitioners' pending petition for a writ of certiorari and direct Respondents to file any response to the petition and this motion by May 20, 2026; (iii) grant the petition and rule that Petitioners have standing to challenge both the district court's VRA liability

determination and its remedial map; (iv) vacate the judgment and remedial order of the United States District Court for the Western District of Washington; and (v) remand to the United States Court of Appeals for the Ninth Circuit with instructions to remand to the district court for further consideration of Respondents' VRA claim and Petitioners' equal protection claim in light of *Callais*.

May 15, 2026

Respectfully submitted,

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