

IN THE

Supreme Court of the United States

JOSE A. TREVINO, ET AL.,

Petitioners,

v.

STEVEN HOBBS, SECRETARY OF STATE OF WASHINGTON, ET AL.,

Respondents.

**On Petition for Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit**

**SOTO PALMER RESPONDENTS' OPPOSITION TO MOTION TO
EXPEDITE BRIEFING AND CONSIDERATION OF PETITION FOR WRIT
OF CERTIORARI**

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Respondents Susan Soto Palmer, et al., oppose Petitioners' Motion to Expedite Briefing and Consideration of Petition for a Writ of Certiorari (the "Motion"). Granting Petitioners' Motion would prejudice Respondents and cause chaos in Washington State's ongoing election. Any urgency here is of Petitioners' own making, as they are responsible for multiple delays but now ask at the eleventh hour to truncate Petitioners' time to respond to their pending cert petition ("Petition") as a result. This Court rarely grants expedited consideration in this posture, and it should not do so here.

Petitioners also take the extraordinary additional step of converting what is styled as a motion to expedite consideration of their pending Petition into a motion for summary reversal of the decision below. They are not just asking that this Court remand for further proceedings in light of *Louisiana v. Callais*, Nos. 24-109 & 24-110, 608 U.S. ___ (2026), but that this Court summarily reverse the Ninth Circuit's considered holding that Petitioners lack standing to appeal the Section 2 liability determination they now seek to have effectively reversed on the merits. This Court should decline these unwarranted and inequitable requests and review the Petition on the timeline this Court ordered just last month. The Motion should be denied.

STATEMENT

The District Court ruled for Respondents (Plaintiffs below) at the liability and remedy stages in this case. The State of Washington did not appeal, but Petitioners (permissive Intervenor-Defendants only below) did. On August 27, 2025, the Ninth Circuit ruled against Petitioners, holding they had no standing to appeal the liability

decision. App. 2. Though the Ninth Circuit held that Petitioners' claim against the remedial map was likely forfeited, the court nevertheless addressed the claim and affirmed the decision below. *Id.*

On October 24, 2025, Petitioners requested a 60-day extension of time to file their Petition, "to allow this Court to perhaps decide *Callais* and for counsel in this matter to conduct additional research and refine the issues considering this Court's decision." Application to Extend Time at 5. Justice Kagan granted the extension, setting their deadline as January 24, 2026. After this Court requested a response to the Petition, on April 8, 2026, Respondent State of Washington requested a similar 60-day extension for all Respondents to file a response to the Petition. Petitioners opposed the 60-day extension but agreed to a 30-day extension. In explaining their reasoning, Petitioners stated that they wanted to ensure their Petition could be considered during the Court's current Term, rather than in the fall. Resp. to Mot. to Extend Time. The response deadline was set for June 2, 2026, an extension only nine days longer than the 30-day extension to which Petitioners had no objection.

This Court issued its decision in *Callais* on April 29, 2026. Six days later, on May 5, Respondents filed a motion in the district court to set aside the judgment under Federal Rule of Civil Procedure 60(b), citing *Callais*.¹ All respondents (Soto Palmer Respondents, the State of Washington, and Secretary Hobbs) filed

¹ Intervenor-Defendants' Mot. for Relief from J. Pursuant to Rule 60(b), *Soto Palmer v. Hobbs*, No. 3:22-cv-5035 (W.D. Wash. May 4, 2026), ECF No. 309. Subsequent ECF citations in this filing are to the *Soto Palmer* district court docket.

oppositions,² and briefing concluded on May 13, 2026. On May 15, the district court denied Petitioners' 60(b) motion, finding that Petitioners lacked Article III standing to seek their requested relief.³

On May 13, Petitioners informed Respondents of their intention to file a motion to expedite in this Court and sought Respondents' position by the following afternoon. Counsel for all parties informed Petitioners that they were opposed to the motion by the requested deadline of May 14 at 12:00 p.m. ET. Nearly 24 hours later, on May 15, a *full 16 days* since *Callais* was decided, Petitioners filed the present motion demanding that this Court alter Respondents' deadline that this Court set just five weeks ago and grant extraordinary relief on an accelerated timeline.

ARGUMENT

The motion to expedite should be denied for at least six reasons.

First, the current timeline for consideration of the Petition is a result of Petitioners' own dilatory conduct. Petitioners have known all along that there would be an election in 2026 (and the exact date of said election), and yet deliberately delayed briefing and consideration of their Petition. Lacking any type of urgency, Petitioners utilized the full 90 days allowed for their Petition and then requested an additional 60-day extension before filing their Petition. Petitioners then agreed to a

² Sec'y of State Hobbs's Resp. to Intervenor-Defs.' Mot. for Relief from J. Pursuant to Rule 60(b), *Soto Palmer*, ECF No. 313; State of Wash.'s Resp. to Intervenor-Defs.' Mot. for Relief from J. Pursuant to Rule 60(b), *Soto Palmer*, ECF No. 315; *Soto Palmer* Pls.' Opp'n to Intervenor-Defs.' Mot. for Relief from J. Pursuant to Rule 60(b), *Soto Palmer*, ECF No. 316.

³ Order Denying Intervenor-Defs.' Mot. for Relief from J. Pursuant to Rule 60(b), *Soto Palmer*, ECF No. 318.

30-day extension for Respondents to file a response. Finally, and—most perplexingly—Petitioners waited *over two weeks* since this Court’s *Callais* decision to file the present motion to expedite.⁴ Thus, Petitioners’ own actions contradict the urgent need they now claim exists to truncate Respondents’ response deadline and demand immediate action from this Court.

Second, the *Purcell* principle strongly counsels against Petitioners’ requested relief. *Purcell v. Gonzalez*, 549 U.S. 1 (2006). Petitioners claim that expedition is warranted so that this Court’s decision on their pending Petition (and the underlying merits) could take effect and alter the map under which Washington’s primary elections are currently being held. Mot. at 1. But the candidate filing period closed more than a week ago, *see* Wash. Rev. Code § 29A.24.050, and the primary is actively underway. *See Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418, 419 (2025) (rejecting change to Texas’s 2026 congressional map during “active primary campaign” even before the close of candidate filing); *Merrill v. Milligan*, 142 S. Ct. 879, 880-81 (2022) (mem.) (Kavanaugh, J., concurring). This case is not like *Allen v. Caster*, No. 25-243, 608 U.S. __ (2026) (per curiam), on which Petitioners rely. In that case, the State of Alabama itself requested relief from this Court to alter its election rules, and private plaintiffs suggested it was too close to an election for this Court to intercede. *See Caster Respondents’ Opp. to Mot. to Expedite, Allen v. Caster*, 25-243, 608 U.S. __ (Apr. 30, 2026). Here, the State of Washington and the Secretary of State

⁴ It would be inequitable for Petitioners’ over two-week *delay* to result in an over two-week *expedition* of Respondents’ deadline, from June 2 to May 20. Petitioners dilatory conduct cannot warrant expedition.

are emphatically *opposed* to disrupting the ongoing elections, and it is Petitioners—three individuals with no role in administering elections and who have demonstrated no adverse impact from the current map—who are requesting an unwarranted and disruptive intrusion into the state’s ongoing primary.⁵ “It is one thing for a State on its own to toy with its election laws close to a State’s elections. But it is quite another thing for a federal court to swoop in and re-do a State’s election laws in the period close to an election.” *Merrill*, 142 S. Ct. at 881-82 (Kavanaugh, J., concurring).

Third, while Washington’s elections are ongoing, it is not clear which map Petitioners think should be used. While they claim (at 1-2) that the currently operative remedial map is “impermissible,” and they asked the district court to revert to the currently enjoined 2021 map,⁶ Petitioners also claim (at 3) the 2021 map is unconstitutional. This aligns with what Petitioners previously told this Court: that the 2021 map “constitutes a racial gerrymander that violates equal protection.” Cert. Pet. at 1.⁷ Petitioners’ nonsensical request—that this Court replace one allegedly illegal map with another, remedying no harm at all—cannot support urgent action here. This Court should not become a participant in Petitioners’ contradictory machinations in which they are requesting this Court’s expedited intrusion into an

⁵ See Sec’y of State Hobbs’s Resp. to Intervenor-Defs.’ Mot. for Relief from J. Pursuant to Rule 60(b), *Soto Palmer*, ECF No. 313; State of Wash.’s Resp. to Intervenor-Defs.’ Mot. for Relief from J. Pursuant to Rule 60(b), *Soto Palmer*, ECF No. 315.

⁶ Mot. for Relief from J. at 5, 11, *Soto Palmer*, ECF No. 309.

⁷ Petitioners’ attorneys said the same thing on behalf of their other client in another currently pending cert petition regarding the same legislative district. *Garcia v. Hobbs*, No. 25-901 (cert. filed Jan. 23, 2026).

ongoing election to resurrect a legislative district that they are simultaneously claiming is unconstitutional.

Fourth, the present Motion is not the proper vehicle for the relief Petitioners request. The Ninth Circuit ruled that Petitioners lacked standing to appeal the district court’s liability order, App. 2, and Petitioners’ disagreement with that ruling forms the basis of the first Question Presented in their Petition. Cert. Pet. at i. But in this Motion, Petitioners ask this Court to summarily reverse the Ninth Circuit’s holding on standing and get straight to the merits, while *presenting no argument* about why the Ninth Circuit’s standing decision was wrong. Article III standing is a threshold jurisdictional requirement meriting careful consideration because a standing deficiency is reason alone to deny certiorari. Instead, Petitioners ask this Court to apply special rules to them and forgo that foundational consideration to instead rush to an effectively expedited merits decision. Indeed, Petitioners appear to recognize the fatal jurisdictional flaw caused by their own lack of standing but attempt to sidestep it by asserting interests on behalf of “the voters of the State of Washington.” Mot. at 1. But it is the State that represents its people—and opposes the election chaos Petitioners seek—not Petitioners Mr. Trevino or Mr. Ybarra, who lack standing to bring this challenge.⁸

Fifth, Respondents prevail even under the updated Section 2 framework announced in *Callais*. Though styled as a motion to expedite consideration of the

⁸ Below, there was a third Intervenor, Mr. Campos, who the Ninth Circuit held “provided no clue” as to what harm he suffered. App. 15. Mr. Campos’s absence from Petitioners’ Motion suggests he is not seeking relief.

pending Petition, Petitioners' Motion is essentially a premature reply in support of that Petition, arguing their case under the *Callais* framework. Indeed, the entirety of the Argument section of the Motion is dedicated to that purpose. Mot. at 4-8. This is obviously not the appropriate forum for this argument, and Petitioners lack standing to challenge the liability decision. But even applying the new framework, Plaintiffs prevail.

With respect to the first *Gingles* precondition, there are multiple maps in the record that meet its requirements, even as altered by *Callais*. Every single proposed remedial map (including the ultimately selected "Map 3B") was drawn without considering race.⁹ Additionally, the remedial map, Map 3B, meets the State's districting objectives: it is "consistent with . . . state law and traditional redistricting criteria," and it "preserve[s] the integrity of the [Yakama] Reservation and all off-Reservation trust lands designated by the U.S. Census," App. 35-36, a key consideration in the redistricting process. Map 3B was also drawn without reference to political data, in accordance with state law, App. 40-41 (quoting RCW 44.05.090(5)), and maintains the partisan breakdown negotiated by members of the Commission, including in LD 14, which elected a Republican senator and two Republican representatives in the 2024 election. The overall political balance of the map also aligns with the Commission's stated goals. App. 41.

⁹ Oskooii Report ¶ 13, *Soto Palmer*, ECF No. 245-1; Oskooii Rebuttal ¶ 37, *Soto Palmer*, ECF No. 254-1; Oskooii Testimony at 29:4-8, 32:1-6, *Soto Palmer*, ECF No. 297.

In meeting the second and third preconditions, race and party were disaggregated, as *Callais* requires. The State’s expert, Dr. Alford, testified that there is “a real ethnic effect on voting in this area” as distinct from a partisan one. Alford Testimony, Trial Tr. at 853:15-854:15, *Soto Palmer*, ECF No. 209. Additionally, Respondents’ expert Dr. Collingwood demonstrated that Latino preferred candidates were defeated by white bloc voting in numerous nonpartisan races, further distinguishing race from party. Collingwood Report at 15-16, *Soto Palmer*, ECF No. 104-1. Petitioners’ own expert, Dr. Owens, identified evidence of Latino voters cohesively voting for a Republican candidate rather than a Democrat, yet that candidate still lost due to white voting patterns, App. 56 n.8 & 77 n.14, further “disentangl[ing] race and politics.” *Callais*, slip op. at 30. And Mr. Garcia, another client of Petitioners’ counsel, testified about the racial discrimination he faced running as a candidate in the Republican primary,¹⁰ strong evidence of “intra-party racial-bloc voting,” demonstrating that minority voters have “less opportunity than their majority counterparts because of race, not just because of partisan affiliation.” *Callais*, slip op. at 30 (internal quotation omitted).

Regarding the totality-of-the-circumstances analysis, while the district court acknowledged the history of racial discrimination in the Yakima Valley and the disparities that have persisted because of it, the court also described discriminatory “official election practices and procedures” that were used “as recently as the last few years,” App. 61, and noted that Latino voters in the region have faced official

¹⁰ Garcia Dep. at 75:9-77:13, 90:12-91:13, *Soto Palmer*, ECF No. 191-7.

discrimination that “continues to impact their rights to participate in the democratic process.” App. 62. The district court also cited racial appeals and the use of racial “dog whistles” in recent campaigns, very limited success of Latino candidates, and elected officials’ lack of responsiveness, all totality factors *Callais* did not alter and which further demonstrate the centrality of race rather than partisanship in voting behavior. *Thornburg v. Gingles*, 478 U.S. 30, 40 (1986) (noting that racial appeals “encourage[] voting along color lines by appealing to racial prejudice”); *Meek v. Metro. Dade Cty.*, 985 F.2d 1471, 1487 (11th Cir. 1993) (holding that racial appeals “divide[] the community,” creating “animosities” that fuel voting based on race); App. 65-70; *see also* Estrada Report at 63-77, *Soto Palmer*, ECF No. 104-2. Though the district court did not have to reach Petitioners’ discriminatory intent claim, the evidence in the record, “give[s] rise to a strong inference that intentional discrimination occurred.” *Callais*, slip op. at 23. Respondents thus prevail even under the *Callais* test.

Sixth, and finally, Respondents would be severely prejudiced by a late-breaking change in the timeline to respond to the pending cert petition. Respondents have been preparing their brief in opposition in reliance on this Court’s order issued on April 9, 2026, setting the deadline as June 2. There is no justification for accelerating Respondents’ deadline by two weeks when Petitioners delayed filing their Petition, sought and were granted their own extensions, and waited over *two*

weeks after *Callais* to request expedition.¹¹ Petitioners' lack of diligence cannot be used to shorten the time this Court has already provided to Respondents.

CONCLUSION

For the foregoing reasons, this Court should deny Petitioners' Motion to Expedite and consider the pending petition for a writ of certiorari in the normal course and according to the existing briefing timeline.

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¹¹ Petitioners point to this Court's recent grant of a motion to expedite and a grant of the pending cert petition in *Caster*, No. 25-243, as support, but there are fundamental differences. First, unlike here, the *Caster* petition was fully briefed, and thus expedition caused no prejudice to Respondents who had already had an opportunity to fully address the merits of the petition. Second, Alabama filed its motion to expedite the *day after* the *Callais* decision, while Petitioners here waited 16 days to do so. Third, as explained *supra*, *Caster* concerned a petition on the merits of the Section 2 ruling below and which the State of Alabama itself challenged. Here, the cert petition presents antecedent jurisdictional questions, and the challenge is brought not by the State but by private—and unaffected—individuals with no role in administering Washington elections. *Caster* provides no support for Petitioners' requested relief.