No. 25-918

In the Supreme Court of the United States

JOSE A. TREVINO AND ALEX YBARRA,

Petitioners,

v.

STEVEN HOBBS, IN HIS OFFICIAL CAPACITY AS 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

BRIEF OF RESPONDENT STATE OF WASHINGTON

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QUESTIONS PRESENTED

The district court applied this Court's prevailing precedent to find that Legislative District 15 in Washington State's legislative redistricting plan violated Section 2 of the Voting Rights Act by denying Hispanic voters an equal opportunity to elect candidates of their choice. Although the State initially defended against this claim, it ultimately conceded that the plaintiffs had shown that the three *Gingles* preconditions and the totality of circumstances weighed in their favor. The State did not appeal. Three individuals who permissively intervened, however, did. The Ninth Circuit affirmed the district court's order on liability, as well as its order adopting a new, VRA-compliant map. This Court then issued *Louisiana v. Callais*, 146 S. Ct. 1131 (2026), which substantially altered how courts are to address Section 2 claims. Ultimately, the State asks that this Court grant, vacate, and remand for the Ninth Circuit to apply *Callais*. But the petition itself presents the questions:

1. Whether petitioners have standing to appeal the district court's liability judgment when they have no role in enforcing or implementing Legislative District 15 and have provided no evidence that, in reaching its liability determination, the district court classified them based on their race.

2. Whether strict scrutiny applies to a remedial map drawn to comply with Section 2 where the mapmaker did not subordinate traditional redistricting considerations to racial considerations.

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INTRODUCTION

The lower courts correctly applied the law in this case as it existed at the time, but this Court's decision in *Louisiana v. Callais*, 146 S. Ct. 1131 (2026), substantially changed the relevant standards. This Court should therefore grant, vacate, and remand the court of appeals' opinion to the Ninth Circuit.

Washington's Constitution provides for a bipartisan commission to draw legislative and congressional districts. After the Commission finished its work in 2021, a group of Hispanic voters in Washington's Yakima Valley challenged Legislative District 15 in the enacted map, alleging that it violated Section 2 of the Voting Rights Act (VRA) by denying them an equal opportunity to elect candidates of their choice. Months later, Petitioners here were granted permission to intervene in the case to oppose the VRA claim.

After extensive factfinding and a multi-day trial, the district court ruled for Plaintiffs and adopted a remedial map. The State chose not to appeal in light of its own expert's conclusion that the *Gingles* preconditions were satisfied and other recent cases in the same area finding VRA violations. Petitioners, however, appealed.

The Ninth Circuit unanimously affirmed. The court found that Intervenors lacked standing to challenge the Section 2 liability determination because it did not require Petitioners to do anything or refrain from doing anything or otherwise harm them in any way. The court found that one Petitioner did have standing to challenge the district court's

remedial map, but it rejected his claim that the district court had engaged in racial gerrymandering, holding that "[n]othing in the record . . . supports a claim that race predominated in the redistricting process." Pet. App. 21a.

The district court and court of appeals correctly applied the law as it existed at the time they made their decisions, following this Court's precedent and creating no split of authority with other courts. There would thus ordinarily be no basis for certiorari.

After the petition was filed, however, this Court decided *Callais*, 146 S. Ct. 1131, dramatically altering the principles governing Section 2 claims. The lower courts should be given the first opportunity to apply that decision to the facts of this case. This Court should therefore grant the petition, vacate the Ninth Circuit's opinion, and remand to that court for further proceedings consistent with *Callais*.[1]

STATEMENT OF THE CASE

A. The Washington Redistricting Commission and Adoption of Legislative District 15

Washington's Constitution provides for a bipartisan Redistricting Commission to draw state legislative and congressional districts. The Commission consists of four voting members and

[1] Consistent with his position throughout this litigation, Washington Secretary of State Steve Hobbs takes no position on the merits of the Section 2 claim. The Secretary's interest in this litigation is to ensure that election officials are able to meet election deadlines.

one non-voting chairperson. *See* Wash. Const. art. II, § 43(2). The voting members are appointed by the leaders of the two largest political parties in each house of the Legislature. *Id.* Under Washington law, the Commission must agree, by majority vote, to a redistricting plan by November 15 of the redistricting year and then transmit the plan to the Legislature. Wash. Rev. Code § 44.05.100(1); Wash. Const. art. II, § 43(2). Thus, the Commission cannot propose a plan without bipartisan agreement amongst the Commissioners.

The 2021 Commission carried out its work mindful of the need to comply with Section 2 of the Voting Rights Act. The 2020 Census showed dramatic growth of Washington's Hispanic population, centered in the Yakima Valley region in central Washington. ECF No. 191 at 5-7, *Soto Palmer v. Hobbs*, No. 3:22-cv-5035-RSL (May 24, 2023)[2]; *see also* Pet. App. 3a. In the years leading up to 2021, three separate cases found violations of the federal Voting Rights Act or the Washington Voting Rights Act related to local elections in that region. In *Montes v. City of Yakima*, a federal district court concluded that Yakima's at-large voting system for city council elections violated Section 2 of the VRA. 40 F. Supp. 3d 1377 (E.D. Wash. 2014). The court reviewed evidence regarding the three *Gingles* factors and concluded that each was satisfied with respect to Latino voters in Yakima. *Id*. at 1390-1407. The court also found that the totality of the circumstances demonstrated that the City's electoral process was not equally open to

[2] Filings from the *Soto Palmer* district court docket will be short cited as *Soto Palmer*, ECF No. __.

Latino voters. *Id.* at 1407-14. In *Glatt v. City of Pasco*, a challenge to Pasco's at-large voting system, a federal district court entered a consent decree in which the parties stipulated to each *Gingles* factor as well as a finding that the totality of the circumstances showed an exclusion of Latinos from meaningful participation in the political process. *See* Partial Consent Decree, *Glatt v. City of Pasco*, No. 4:16-CV-05108-LRS, (E.D. Wash. Sept. 2, 2016), ECF No. 16 at ¶¶ 15-22; *see also* Mem. Op. and Order, *Glatt v. City of Pasco*, No. 4:16-CV-05108-LRS, (E.D. Wash. Jan. 27, 2017), ECF No. 40 at 29. And in *Aguilar v. Yakima County*, No. 20-2-00180-19 (Kittitas Cnty. Super. Ct.), a challenge to the at-large voting system used in Yakima County, the court approved a settlement agreement finding that the conditions for a violation of the Washington Voting Rights Act, including a showing of racially polarized voting, had been met in Yakima County. *Soto Palmer*, ECF No. 191 at 18-19.

Against this backdrop, the Commissioners negotiated extensively in an effort to reach bipartisan compromise on a map that would, among many other goals, give Hispanic voters in Legislative District (LD) 15 an opportunity to elect candidates of their choice. Ultimately, on the day of the deadline, the Commissioners voted unanimously to approve a legislative redistricting plan consisting primarily of an agreed set of partisan metrics, which was then translated by staff into a map. *Soto Palmer*, ECF No. 207 (Trial Tr.) at 225:20-226:22, 326:11-21; ECF No. 208 (Trial Tr.) at 495:10-16; ECF No. 209 (Trial Tr.) at 714:9-715:8. In the final map, LD 15 is 73 percent Hispanic and, according to estimates

based on the 2020 American Community Survey, approximately 51.5 percent Hispanic by Citizen Voting Age Population (CVAP). *Soto Palmer*, ECF No. 191 at ¶ 85.

On February 8, 2022, the Legislature passed House Concurrent Resolution 4407, adopting the redistricting plan. H.R. Con. Res. 4407, 67th Leg., Reg. Sess. (Wash. 2022) (enacted). Upon passage, the redistricting plan became State law. Wash. Rev. Code § 44.05.100.

B. The *Soto Palmer* and *Garcia* Lawsuits

In January 2022, Plaintiffs filed this suit, alleging that LD 15 diluted Hispanic voting strength in violation of Section 2 of the Voting Rights Act. Pet. App. 150a-98a. The case was assigned to Judge Robert Lasnik of the Western District of Washington.

Nearly two months later, in March 2022, a different plaintiff, Benancio Garcia, filed a separate lawsuit alleging that LD 15 was a racial gerrymander in violation of the Fourteenth Amendment. Pet. App. 199a-224a. That case was assigned to a panel comprised of Judge Lasnik and Chief Judge David Estudillo of the Western District of Washington, and Judge Lawrence VanDyke of the Ninth Circuit.

Two weeks after *Garcia* was filed, three individuals—represented by the same counsel as Mr. Garcia—moved to intervene in *Soto Palmer* to defend LD 15 against the Section 2 claim. Pet. App. 225a-42a. The district court denied their request for intervention as of right, finding that Intervenors failed to "identif[y] any direct and concrete injury that has befallen or is likely to befall them if

plaintiffs' Section 2 claim is successful." Pet. App. 90a. Nonetheless, the court granted permissive intervention. Pet. App. 96a. At the same time, the court ordered the State of Washington to be joined as a party "to ensure that the Court has the power to provide the relief plaintiffs request." *Soto Palmer*, ECF No. 68 at 5.

The State of Washington prepared to defend against both challenges to LD 15. To that end, the State sought out a highly respected expert, Dr. John Alford, with a history of working primarily for government defendants in VRA cases, including as an expert witness in recent challenges to Texas's congressional and state legislative maps, Louisiana's congressional map, Georgia's congressional map, and Kansas's congressional map. *See Soto Palmer*, Trial Ex. 601.

After carefully reviewing the evidence, Dr. Alford submitted an expert report concluding that the three *Gingles* preconditions appeared to be met. *Id.* Based on Dr. Alford's conclusions, the factual findings in other recent federal and state VRA cases in the Yakima area, and other record evidence, the State notified the parties and the court that it had concluded that it could no longer "dispute at trial that *Soto Palmer* Plaintiffs have satisfied the three *Gingles* preconditions for pursuing a claim under Section 2 of the VRA based on discriminatory results," or "that the totality of the evidence test likewise favors the *Soto Palmer* Plaintiffs[.]" *Soto Palmer*, ECF No. 194 at 10.

C. The *Soto Palmer* and *Garcia* Liability Orders

On August 10, 2023, the district court judge issued a Memorandum of Decision in *Soto Palmer*, finding that LD 15 had the effect of discriminating against Hispanic voters by denying them an equal opportunity to elect candidates of their choice. Pet. App. 43a-79a. Following this Court's reaffirmance of the *Gingles* framework in *Allen v. Milligan*, 599 U.S. 1 (2023), the district court analyzed the *Gingles* factors and concluded that the *Soto Palmer* Plaintiffs had satisfied them all. Pet. App. 49a-59a.

On the first *Gingles* factor, the district court pointed to numerous "reasonably configured" districts presented by Plaintiffs that afforded Hispanic voters "a realistic chance of electing their preferred candidates[.]" Pet. App. 54a. On the second *Gingles* factor, the court noted that "[e]ach of the experts who addressed this issue, including Intervenors' expert, testified that Latino voters overwhelmingly favored the same candidate in the vast majority of the elections studied[,]" with "statistical evidence show[ing] that Latino voter cohesion is stable in the 70% range across election types and election cycles over the last decade." Pet. App. 56a-57a. And on the third *Gingles* factor, the district court highlighted both Plaintiffs' and the State's experts' conclusion "that white voters in the Yakima Valley region vote cohesively to block the Latino-preferred candidates in the majority of elections (approximately 70%)[,]" and that "Intervenors d[id] not dispute the data or the opinions offered by" either. Pet. App. 57a.

Turning to the totality-of-circumstances analysis, the district court found that seven of the nine Senate Factors "support the conclusion that the bare majority of Latino voters in LD 15 fails to afford them equal opportunity to elect their preferred candidates." Pet. App. 74a. Thus, the court concluded, although "things are moving in the right direction thanks to aggressive advocacy, voter registration, and litigation efforts that have brought at least some electoral improvements in the area, it remains the case that the candidates preferred by Latino voters in LD 15 usually go down in defeat given the racially polarized voting patterns in the area." Pet. App. 74a-75a (footnote omitted). Accordingly, the court entered judgment for Plaintiffs and ordered a remedial process to adopt a new legislative map. Pet. App. 78a-79a.

Intervenors appealed the district court's liability order on the merits in September 2023. *Soto Palmer*, ECF No. 222. That appeal was ultimately consolidated with Intervenors' separate appeal on the remedy, both of which are discussed below.

Meanwhile, Intervenors petitioned this Court for certiorari before judgment. *See* Pet. for Writ of Cert. Before J. 21-35, *Trevino v. Soto Palmer*, No. 23-484 (U.S. Nov. 3, 2023). This Court denied their petition on February 20, 2024. *Trevino v. Palmer*, 144 S. Ct. 873 (2024).

After the district court issued its order invalidating LD 15, the *Garcia* court issued an opinion on September 8, 2023, dismissing the case

as moot. *Garcia v. Hobbs*, 691 F. Supp. 3d 1254 (W.D. Wash. 2023). The Ninth Circuit affirmed. *Garcia v. Hobbs*, No. 24-2603, 2025 WL 2466997 (9th Cir. Aug. 27, 2025). That ruling is subject to a separate petition for certiorari. *See* Pet. for a Writ of Cert., *Garcia v. Hobbs*, No. 25-901 (U.S. Jan. 23, 2026).

The case then moved to the remedial phase.

D. The *Soto Palmer* District Court Adopted a Map Remedying the Section 2 Violation

Following its liability order, the district court first offered the State an opportunity to adopt a new map, but the State Legislature declined to reconvene the Commission to do so. *Soto Palmer*, ECF No. 230. The court then engaged in a lengthy remedial process to adopt a new map, aided by extensive briefing and argument by the parties, an evidentiary hearing, and a respected non-partisan redistricting expert.

On March 15, 2024, the district court ordered a new map, in which the previously enacted LD 15 was reconfigured and redesignated LD 14. In a detailed order, the court explained that the remedy it adopted was necessary to remedy the VRA violation it had previously found. Pet. App. 31a-42a. As the court explained, "the new configuration provides Latino voters with an equal opportunity to elect candidates of their choice to the state legislature, especially with the shift into an even-numbered district, which ensures that state Senate elections will fall on a presidential year when Latino voter turnout is generally higher." Pet. App. 34a.

Following the district court's remedial order, Intervenors filed a second motion for a stay in the Ninth Circuit, which was again unanimously denied. *See* Order Den. Mot. Stay, *Soto Palmer v. Hobbs*, No. 24-1602 (9th Cir. Mar. 22, 2024), DktEntry 18.1. Intervenors then sought a stay from this Court. *See* Em. App. for Stay, *Trevino v. Soto Palmer*, No. 23A862 (U.S. Mar. 25, 2024). This Court denied that stay application with no dissents noted. *Trevino v. Palmer*, 144 S. Ct. 1133 (2024).

E. The Ninth Circuit Unanimously Affirmed the District Court's Liability and Remedial Orders

The Ninth Circuit unanimously affirmed the district court's rulings. On the liability order, the Ninth Circuit concluded that "none of the Intervenors has standing to challenge the liability determination" because none alleged any harm that flowed from that order. Pet. App. 10a. Reviewing the record, the panel found that "Intervenors have not provided any evidence that, in reaching its liability determination, the district court classified them based on their race," nor "that the liability determination 'required [them] to do anything or to refrain from doing anything' because of [their] race or otherwise." Pet. App. 11a-12a (quoting *Food & Drug Admin. v. All. For Hippocratic Med.*, 602 U.S. 367, 385 (2024)); *see also* Pet. App. 13a-14a. The panel also rejected Intervenors' argument that Petitioner Trevino's standing to challenge the remedial map perforce gave him standing to challenge the liability determination

because, as he claimed, "racial classification is 'inherent to Section 2 remedies' and so 'inexorably' results from Section 2 liability determinations." Pet. App. 12a. Instead, the panel held, Trevino "has not plausibly alleged that the specific method or substance of" the district court's liability "determination somehow made race-based treatment in the remedial phase more likely." *Id.*

On the remedial order, the Ninth Circuit concluded that Petitioner Trevino had standing to challenge that order as a racial gerrymander since he was moved into the remedial district, but it held that he failed to show that the district court's remedial map unconstitutionally sorted him by race. Pet. App. 17a-18a, 20a.[3] Applying prevailing precedent, the Ninth Circuit held that "[n]othing in the record . . . supports a claim that race predominated in the redistricting process." Pet. App. 21a. "To the contrary," the court explained:

> The district court accomplished three distinct, non-racial objectives when it adopted a map that: (1) starts with, and avoids gratuitous changes to, the enacted map while remedying the Voting Rights Act violation at issue; (2) keeps the vast majority of the lands that are of

[3] The Ninth Circuit concluded that Mr. Trevino failed to raise his racial gerrymandering argument during the remedial phase in the district court but nonetheless exercised its discretion to consider the argument for the first time on appeal. Pet. App. 19a-20a.

> interest to the Yakama Nation together; and (3) is consistent with the other state law and traditional redistricting criteria.

Pet. App. 21a (internal quotation marks omitted). The Ninth Circuit thus affirmed the district court's remedial map on the merits.

Petitioners then filed this petition for certiorari.

F. This Court's Decision in *Louisiana v. Callais*

On April 29, while this petition was pending, this Court decided *Louisiana v. Callais*, substantially altering how courts are to address claims under Section 2 of the VRA. *See Callais*, 146 S. Ct. at 1152-60; *see also id.* at 1165 (Kagan, J., dissenting) ("The majority claims only to be 'updat[ing]' our Section 2 law, as though through a few technical tweaks . . . . But in fact, those 'updates' eviscerate the law[.]" (first alteration in original)). In particular, the Court modified the first *Gingles* condition such that "in drawing illustrative maps, plaintiffs" may no longer "use race as a districting criterion[,]" and must "meet all the State's legitimate districting objectives, including . . . the State's specified political goals." *Id.* at 1159. And on the second and third *Gingles* conditions, plaintiffs now "must provide an analysis that controls for party affiliation." *Id.*

DISCUSSION

The Ninth Circuit correctly applied this Court's prevailing precedent to the extremely thin factual record Petitioners presented and concluded that Petitioners had failed to demonstrate standing to

challenge the district court's liability finding and failed to demonstrate that the remedial map was a racial gerrymander. *Callais*, however, fundamentally altered the framework for determining both liability and an appropriate remedy under Section 2 of the Voting Rights Act. The Ninth Circuit should therefore apply the analysis prescribed by this Court in *Callais*.

The petition in this case should be granted, the Ninth Circuit panel's opinion vacated, and this case remanded to the Ninth Circuit for further proceedings consistent with *Callais*. *See, e.g.*, *Allen v. Caster*, No. 25-243, 2026 WL 1282800 (U.S. May 11, 2026) (granting petition for a writ of certiorari before judgment, vacating the judgment, and remanding for further consideration in light of *Callais*); *Turtle Mountain Band v. Howe*, No. 25-253, 2026 WL 1377069 (U.S. May 18, 2026) (granting the petition, vacating the judgment, and remanding case to the Eighth Circuit for further consideration in light of *Callais*): *Bd. of Election Comm'rs v. NAACP*, No. 25-234, 2026 WL 1377105 (U.S. May 18, 2026) (similar and remanding to three-judge district court).

CONCLUSION

The petition for a writ of certiorari should be granted, the judgment of the Ninth Circuit vacated, and the case remanded to the Ninth Circuit for further proceedings in light of *Callais*.

RESPECTFULLY SUBMITTED.

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