

IN THE
Supreme Court of the United States

U.S. DEPARTMENT OF HOMELAND SECURITY, ET AL.,
Applicants,

v.

LEAGUE OF WOMEN VOTERS, ET AL.,
Respondents.

**BRIEF OF AMICI CURIAE TRAVIS COUNTY, TRAVIS COUNTY TAX ASSESSOR-
COLLECTOR CELIA ISRAEL, AND TRAVIS COUNTY CLERK DYANA LIMON-MER-
CADO IN OPPOSITION TO THE GOVERNMENT'S STAY APPLICATION**

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INTEREST OF AMICI

Amici—Travis County, Celia Israel in her official capacity as Travis County Tax Assessor-Collector, and Dyana Limon-Mercado in her official capacity as Travis County Clerk—urge this Court to deny the government’s stay application.¹ Travis County, located in central Texas, is the fifth-most populous county in Texas, with a population of 1,290,185 as of the 2020 census.² The county seat and most populous city in the county is Austin, the state capital.

Under Texas law, Amici bear significant responsibility for administering federal elections in Travis County. As Travis County Tax Assessor-Collector, Ms. Israel serves as the voter registrar for Travis County, overseeing voter registration and voter list maintenance. As Travis County Clerk, Ms. Limon-Mercado is responsible for administering elections in the county. The Travis County Commissioners Court—the chief policymaking, administrative, and budgetary authority of the county government—is responsible for ensuring that taxpayer dollars promote fair, efficient, and lawful elections, including by mitigating liability.

Texas is one of the states that has entered into a memorandum of agreement with the U.S. Department of Homeland Security (DHS) to use the modified Systematic Alien Verification for Entitlements (SAVE) system for voter verification purposes. Amici’s involvement with maintaining the Texas voter registration list during Texas’s recent

¹ Pursuant to Supreme Court Rule 37.6, Amici state that no counsel for any party authored this brief in any part, and no person or entity other than Amici or Amici’s counsel made a contribution to fund its preparation or submission.

² See *County Intercensal Population Totals: 2010-2020*, U.S. Census Bureau (rev. Nov. 5, 2024), <https://www.census.gov/data/tables/time-series/demo/popest/intercensal-2010-2020-counties.html>.

efforts to incorporate the modified SAVE gives them firsthand insight into the significant problems with that system. In particular, Amici’s experience using the modified SAVE for voter registration, including their personal observation of the flaws in its data, make them well situated to explain the significant risk that using SAVE data will result in removing lawful voters from voter rolls. Amici voiced their concerns in comments on DHS’s proposed modifications to SAVE.³ Given their obligations to their constituents under federal and Texas law, Amici have a vital interest in protecting voting rights and ensuring free and fair elections.

INTRODUCTION AND SUMMARY OF ARGUMENT

Amici have grave concerns about using the modified SAVE for voter list maintenance. In their experience, that system has introduced flawed data and will continue to do so, causing eligible voters to be erroneously purged from the rolls. Texas’s use of the modified SAVE has caused county officials to expend significant time and resources to verify faulty SAVE data. Their review demonstrated that SAVE’s information was substantially out of date. Indeed, using alternative sources, Travis County verified that at least 10% of the individuals listed as non-citizens were in fact U.S. citizens, and it determined that an additional 21% were highly likely to be U.S. citizens. The true proportion of citizens included in the modified SAVE is likely even higher.

The proximity to the election also strongly disfavors staying the district court’s injunction. Election preparation begins months before the election, and local officials are

³ Travis County Officials Comment Letter on Privacy Act of 1974; System of Records, Docket ID No. USCIS-2025-0337-9354 (Dec. 1, 2025) (“Travis County Comment Letter”), <https://www.regulations.gov/comment/USCIS-2025-0337-9354>.

already engaged in time-consuming, resource-intensive preparations for the November 3 election. The last day to register for the upcoming election in Texas is October 5, 2026, and early voting begins on October 18. Requiring county officials to verify voluminous and flawed SAVE data on top of their election preparations will lead to less verification and more errors. And it will disrupt their efforts to ensure orderly administration of the upcoming election, which are already underway.

In deciding whether to stay the district court’s injunction, this Court considers the balance of equities and public interest. *Nken v. Holder*, 556 U.S. 418, 426 (2009). States’ continued use of unreliable SAVE data poses an unacceptable risk that lawful voters will be disenfranchised. That is contrary to the public interest, as is disrupting local officials’ election preparations. To prevent those harms to the voting public, Amici therefore urge the Court to deny the government’s stay application and allow the district court’s injunction to remain in place.

BACKGROUND

In Texas, responsibility for administering elections is divided between state and local officials. The Texas Secretary of State is the state’s chief election officer. Tex. Elec. Code § 31.001(a). Among other duties, he “assist[s] and advise[s] all election authorities with regard to the application, operation, and interpretation” of the election code. *Id.* § 31.004(a). County officials, in turn, are responsible for voter registration and administering elections. *Id.* §§ 12.001-12.034, 31.043. The county’s voter registrar oversees voter registration. *Id.* § 12.001-12.007. The tax assessor-collector of a county generally serves as its voter registrar, unless the duties are assigned to another position. *Id.* § 12.001. The county clerk administers elections. *Id.* § 31.043.

SAVE is “an online service for registered federal, state, territorial, tribal, and local government agencies to verify immigration status and U.S. citizenship of applicants seeking benefits or licenses.”⁴ In May 2025, DHS substantially expanded SAVE beyond its traditional use as a system to verify the immigration status of individual non-citizens applying for certain public benefits. Appl. App. 105a (C.A. Op. 2). Before those changes, SAVE generally did not permit searches of U.S.-born citizens, relied primarily on immigration-related records, and could not accept bulk queries encompassing multiple people. *Id.*; Appl. App. 14a-15a (Dist. Ct. Op. 14-15). DHS and the Social Security Administration (SSA) modified the system to incorporate SSA data, permit searches using Social Security numbers, allow bulk verification of large datasets, and facilitate state efforts to verify citizenship for voter registration and voter list maintenance purposes. *See Privacy Act of 1974; System of Records*, 90 Fed. Reg. 48,948 (Oct. 31, 2025). During the notice-and-comment process, Travis County and its election officials warned DHS that using the expanded system for voter verification would likely produce inaccurate citizenship determinations because citizenship information can quickly become outdated and SAVE lacked sufficient safeguards to ensure accuracy.⁵ They further warned that erroneous matches could wrongfully subject eligible voters to burdensome and intimidating investigations and ultimately risk disenfranchising lawful voters.⁶ Those concerns proved well founded when Texas began to use the modified SAVE for voter list maintenance.

⁴ U.S. Citizenship & Immigr. Servs., *SAVE*, <https://www.uscis.gov/save> (last visited Sept. 14, 2026).

⁵ Travis County Comment Letter 1, 8, *supra* note 3.

⁶ *Id.* at 8.

In March 2025, U.S. Citizenship and Immigration Services (a constituent agency of DHS) and the Texas Secretary of State entered into a memorandum of agreement purporting to permit her to use SAVE to “verify the citizenship and immigration status information of noncitizen and naturalized or acquired U.S. citizen registrants and registered voters within [her] jurisdiction for voter registration and voter list maintenance” in Texas.⁷ On October 20, 2025—the first day of early voting for the November 4, 2025 election—the Texas Secretary of State issued a press release stating that her office had “completed a full comparison of the state’s voter registration list against citizenship data in the U.S. Citizenship and Immigration Services’ SAVE database” and that “those voter files were provided to Texas counties, who will now conduct their own investigations into the eligibility of these voters as part of their statutory responsibilities to remove ineligible voters from the rolls” under Texas law.⁸

A day later, the Texas Secretary of State’s office notified Texas counties that they had received a list of registered voters who did not have matching citizenship information in SAVE, and explained that counties should follow Election Advisory No. 2021-11 (List Maintenance Activity Involving Potential Non-United States Citizens) for the individuals flagged as non-citizens on their SAVE list. That advisory requires a voter registrar who has reason to believe a person is no longer eligible for voter registration to notify the

⁷ Memorandum of Agreement between Dep’t of Homeland Sec., U.S. Citizenship & Immigr. Servs., and Tex. Sec’y of State, at 81 (Mar. 25, 2025), <https://americanoversight.org/featured-document/texas-secretary-of-state-communications-concerning-voters-searched-in-save>.

⁸ Texas Sec’y of State Press Release, *Texas Completes Citizenship Verifications in the SAVE Database* (Oct. 20, 2025), <https://www.sos.state.tx.us/about/newsreleases/2025/102025.shtml>.

person and offer them with an opportunity to provide proof of citizenship.⁹ “The registrar must then cancel the voter’s registration if (1) the voter responds to the notice and the registrar determines upon review of the response that the voter is not eligible for registration; (2) the voter does not respond to the notice of examination within 30 days after the notice is sent; or (3) the notice of examination is returned as undeliverable with no forwarding information available.”¹⁰

ARGUMENT

I. TRAVIS COUNTY’S EXPERIENCE SHOWS THAT USING FLAWED SAVE DATA RISKS DISENFRANCHISING LAWFUL VOTERS

SAVE generated a facially implausible list of non-citizens that required further investigation by Amici. After receiving the list of alleged non-citizens from SAVE, Travis County officials investigated the records of each of the 97 voters listed. Officials researched the origination of each voter’s registration application, reviewed citizenship attestations on those applications, and attempted to obtain citizenship status through alternative means such as other governmental entities that may have received proof of citizenship.¹¹

Of the 97 alleged non-citizens on Travis County’s list, county officials determined that 26 had registered to vote at the Department of Public Safety (e.g., when they applied for a driver’s license), indicating that the applicant provided proof of citizenship to that

⁹ Texas Sec’y of State, *Election Advisory No. 2021-11: List Maintenance Activity Involving Potential Non-United States Citizens* (Sept. 9, 2021), <https://www.sos.state.tx.us/elections/laws/advisory2021-11.shtml>.

¹⁰ *Id.*

¹¹ As noted in the applicable advisory, “[i]n determining whether a voter is eligible for registration in your county, the voter registrar may use any lawful means at the registrar’s disposal.” *Id.* (citing Tex. Elec. Code § 16.033(a)).

agency at the time of registration. An additional 39 people on the list had registered to vote at places other than the Department of Public Safety but had driver's license numbers associated with their voter registration records, meaning that their records had already been run against the Department of Public Safety's own database and screened for non-citizen matches.

After its initial investigation indicated that using SAVE flagged individuals for removal who are in fact U.S. citizens, Travis County attempted to coordinate with the Texas Secretary of State and the Department of Public Safety to resolve these problems. State officials repeatedly showed no interest in expeditiously verifying the accuracy of SAVE records. It was only after Travis County repeatedly raised concerns for two months that the Texas Secretary of State's office finally provided additional information about the individuals on the SAVE list, including whether they had previously provided proof of citizenship to the Department of Public Safety.

Based on this data, Travis County was able to conclusively determine that at least 11 individuals on Travis County's SAVE list (over 10%) were U.S. citizens, because they had previously provided proof of citizenship to the Department of Public Safety. With respect to these individuals, SAVE's data was out of date and flawed.

The Texas Secretary of State also provided details about when individuals listed as non-citizen, lawful permanent residents in the Department of Public Safety's records provided proof of lawful permanent residence to the Department of Public Safety. That timing is critical information because an individual who provided documentation of lawful permanent residence before they registered to vote may well have become a citizen in the meantime. As it turned out, that was the case. An examination of this data showed

that an additional 20 individuals on Travis County’s SAVE list (21%) had registered to vote after their most recent interaction with the Department of Public Safety and therefore could have subsequently become citizens and provided proof of citizenship when registering to vote. So even when supplemented with the Department of Public Safety’s data, SAVE did not produce an accurate picture of which (if any) individuals should be removed from the voter registration list. In total, those two sources of information alone revealed that at least 31 of 97 individuals on Travis County’s SAVE list (32%) had likely been improperly identified as non-citizens. And those are only the false records identified using Department of Public Safety data—the true percentage of U.S. citizens on the county’s SAVE list may be much higher.

Travis County’s experience is not unique. Since the district court entered summary judgment in this case, the Texas Director of Elections has admitted that SAVE provided “inaccurate information” to counties and incorrectly flagged eligible voters as potential non-citizens.¹² As a result, state officials have been forced to reach out to counties to immediately reinstate affected voters.

Relying on the voter registration investigation process to catch errors in SAVE can result in disenfranchising eligible voters. Under Texas law, the registrar must notify voters whose registration is under investigation and inform them that their registration status is being investigated. Tex. Elec. Code § 16.033(b). If the voter does not respond to that notice within 30 days after it is mailed, the voter’s registration must be cancelled.

¹² Contreras, *Texas Confirms Some Flagged As Potential Noncitizens On Voter Rolls Had Provided DPS Proof Of Citizenship*, Votebeat Texas (July 30, 2026), <https://www.votebeat.org/texas/2026/07/30/save-potential-noncitizens-gave-proof-of-citizenship-to-dps>.

Id. § 16.033(d)(2). In Amici's experience, this process burdens voters by requiring them to provide proof of citizenship in a short time. Amici have observed that for some voters the time required to gather the required information alone is prohibitive, while for others the process itself is a deterrent. For example, Assessor-Collector Israel's voter registration director has interacted with voters in the past who felt intimidated when they received a government document informing them that they must provide proof of citizenship. Many individuals did not understand why they had to provide proof of citizenship again when they had already provided it to other state agencies like the Department of Public Safety. Amici are therefore understandably concerned that sending out such investigation notices will deter eligible voters from voting altogether.

Moreover, not all counties have the time or resources to conduct thorough investigations of the type launched by Travis County in response to the Texas Secretary of State's transmission of the SAVE list. Many counties lack the time or resources to (1) undertake extensive research or (2) acquire additional information from the Texas Secretary of State and the Department of Public Safety. Voters in those counties may be removed from the voter rolls improperly and very likely will not learn of their removal until they arrive at the polls. This ultimately creates a greater likelihood that those voters have been and will continue to be unfairly disenfranchised as a result of the modified SAVE.

Travis County takes its responsibility to maintain an accurate list of voters seriously. The county voter registration office's efforts to process the SAVE list, request additional information from the Texas Secretary of State and the Department of Public Safety, and carefully determine next steps involved untold hours of work.

Travis County’s voter investigation efforts demonstrate, at a minimum, that the SAVE data is out of date and flawed and that using it creates a significant risk of disenfranchising eligible voters. Requiring voters who have already demonstrated citizenship to one state entity to prove citizenship *again* based on flawed SAVE data burdens not only Travis County but also Texas voters and may lead many to lose their right to vote.

II. A STAY NOW WOULD GENERATE CONFUSION AND INTERFERE WITH PREPARATIONS FOR THE UPCOMING ELECTION

Staying the district court’s injunction is particularly inadvisable given the proximity to the November 3 election. The National Voter Registration Act provides that states may not carry out “any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters” within “90 days prior to the date of a primary or general election for Federal office.” 52 U.S.C. § 20507(c)(2)(A). This 90-day period, known as the “quiet period,” is now in effect for the November 3 election. A stay permitting states to carry out list maintenance using SAVE before the November elections would contravene the policies behind the NVRA’s quiet period.

The NVRA imposes a 90-day quiet period during which states may not systematically remove eligible voters for good reason. Like the *Purcell* principle—that late-breaking judicial intervention must be weighed against the risk of “voter confusion and consequent incentive to remain away from the polls,” *Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006) (per curiam)—the NVRA’s quiet period reflects Congress’s judgment that states’ efforts to purge voter rolls should occur well before any corresponding election. At this stage, local election authorities across the country have already begun preparing for the upcoming election. Election preparation is a time- and resource-intensive process, doubly so

when local authorities balance other nonelection responsibilities, as Ms. Israel and Ms. Limon-Mercado do in their capacities as Tax Assessor-Collector and County Clerk. In Travis County, voter registration officials are currently working around the clock to process voter-registration applications ahead of October 5, 2026, Texas's registration deadline for the November election. Among other tasks, officials must enter data for new and updated voter registrations, check for duplicate entries, and verify addresses and districts, sharing new information with the Texas Secretary of State's office and Elections Division. That work is particularly time-intensive because much of voter registration in Texas requires processing paper applications. In total, Travis County officials will spend thousands of hours on these tasks in the months preceding the voter registration deadline.

A stay will permit states like Texas to require local election officials to undertake onerous voter list investigations in the coming weeks based on demonstrably flawed SAVE data, thereby inevitably injecting last-minute confusion and errors. As Travis County's experience shows, verifying SAVE data is a time-consuming, burdensome, and expensive activity. Accurately updating voter rolls using SAVE will require Travis County to divert staff and resources away from critical election preparation to voter list investigations. And that tradeoff will be even more severe in the many counties across the country with fewer staff and resources than Travis County. Imposing these burdens on county officials alongside other critical duties on a compressed timeline will necessarily result in more eligible voters being disenfranchised than ineligible voters being removed. This is not how free, open, and fair elections should be run.

Rather than disrupt election preparations now by authorizing a confusing scramble by the states to incorporate flawed SAVE data before November 3, this Court should allow the regular appellate process to play out and wait to address this issue when the burdens on election administration are less acute.

CONCLUSION

The Court should deny the government's stay application.

September 15, 2026

Respectfully submitted,

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I, Kevin M. Lamb, a member of the bar of this Court, certify that on September 15, 2026, counsel for all parties required to be served have been served copies of the foregoing brief via first-class mail and electronic mail at the addresses below.

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