

**In the Supreme Court of the United States**

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

v.

LEAGUE OF WOMEN VOTERS, ET AL.

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**BRIEF OF DEFENDANT-APPELLANT THE STATE OF TEXAS  
IN SUPPORT OF APPLICANTS**

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## INTRODUCTION

Both federal and state law require Defendant-Appellant the State of Texas to implement and maintain a statewide computerized voter registration list to aid the State in ensuring the accuracy of its voter rolls. *See* 52 U.S.C. § 21083(a)(1)(A); Tex. Elec. Code § 18.061(a). In 1996, Congress authorized the federal government to assist the States in this effort by requiring the Department of Homeland Security (“DHS”) to “respond to an inquiry” by a State “seeking to verify or ascertain the citizenship or immigration status” of any individual within the State “by providing the requested verification or status information.” 8 U.S.C. § 1373(c). To fulfill that statutory obligation, DHS maintains an online service, Systematic Alien Verification for Entitlements (“SAVE”), which allows users to verify a person’s citizenship status.

Prior to DHS’s 2025 update to SAVE, Texas faced two significant hurdles to using that service to help ensure that non-citizens do not appear on its voter rolls. First, the State lacked access to the system because SAVE required users to enter identifying information, such as an alien registration number, that the Texas Secretary of State did not maintain and that illegal aliens would not have. Second, the State faced difficulties in obtaining prompt responses to its inquiries from DHS. The latter issue led Texas and its Secretary of State to file a lawsuit against DHS in October 2024 seeking to compel the agency to fulfill its obligations under section 1373. *See* Complaint for Declaratory and Injunctive Relief, *The Att’y Gen. of Tex. v. Mayorkas*, No. 4:24-cv-00049-DC (W.D. Tex. Oct. 22, 2024). That lawsuit remains pending.

In the spring of 2025, DHS addressed the first issue of access. In March, it executed a memorandum of understanding with the Texas Secretary of State authorizing Texas to use SAVE for citizenship-verification purposes. Shortly thereafter, in May, DHS updated SAVE so that a user could now access its database using an individual’s Social Security number. In August, Texas was one of five states to participate in a “soft launch” of SAVE’s

new functionality. Since then, the changes have been, in the words of the Texas Secretary of State's Director of Elections, "transformational." The updates, now disabled following the district court's order, allowed Texas to more efficiently, promptly, and economically ensure the accuracy of its voter rolls. For example, Texas was able to run its entire list of 18 million voters through the SAVE program in bulk and for no cost. That process would have previously required the Secretary to pay DHS to proceed record-by-record—an undertaking that would have been cost-prohibitive even if Secretary had the information required to access the earlier version of the SAVE database in the first place.

The district court's final judgment in this case, requiring DHS to disable the modifications to its SAVE platform, undoes each of these gains in efficiency, accuracy, and accessibility. Texas has a profound interest in this litigation; indeed, it intervened to protect those interests in the district court and will continue to assert them in its separately noticed appeal of the district court's judgment in the D.C. Circuit.

The State agrees that DHS is highly likely to succeed on appeal for the reasons laid out in DHS's Application. Texas does not repeat those arguments but instead offers this brief to highlight the harms that the district court's order visits upon the States that have come to rely on and benefit from DHS's modifications to SAVE.

## **SUMMARY OF THE ARGUMENT**

Texas agrees with DHS that it is highly likely to succeed on the merits for multiple, independent reasons: Plaintiffs lack Article III standing, Appl. 11-18, section 1373 itself authorizes DHS's modifications to the SAVE program, Appl. 18-23, and Plaintiffs' claims under the Privacy Act, Administrative Procedure Act, and Social Security Act are flawed, Appl. 23-33. Texas will not address those merits arguments in this brief but will instead focus on explaining how Texas's interests in maintaining accurate voter rolls has been greatly enhanced by DHS's modifications to the SAVE program and how the district court's judgment significantly impairs those interests. Texas's experiences underscore the

irreparable harm that would greet the States should the district court’s final judgment remain in effect during the pendency of the appeals and further demonstrate why the balance of equities tips in favor of DHS. *See* Appl. 34-37.

## ARGUMENT

### **I. DHS’s Modifications to the SAVE Program Enhance Texas’s Ability to Ensure the Accuracy of its Voter Rolls.**

A. Both federal and Texas law forbid non-citizens from voting and registering to vote. *See* 18 U.S.C. §§ 611(a), 1015(f); 52 U.S.C. § 20504(c)(2)(C)(i); Tex. Elec. Code §§ 11.001(a)(1), (a)(2), 13.001(a)(2). Because the Constitution assigns the States the primary duty to regulate the time, manner, and place of elections, U.S. Const. art. I, § 4, cl. 1, the task of establishing a system of voter registration falls to the States—subject, of course, to the “complex superstructure of federal regulation” Congress has erected “atop state voter-registration systems” through the National Voter Registration Act. *Husted v. A. Philip Randolph Inst.*, 584 U.S. 756, 761 (2018) (quoting *Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 5 (2013)); *see also* 52 U.S.C. § 21083(a)(4) (requiring the States to “ensure that voter registration records in the State are accurate and are updated regularly”).

In Texas, the minutia of voter registration is typically managed by local county-level officials called voter registrars. *See* Tex. Elec. Code §§ 12.001, 13.071-13.073, 18.001-18.013. But as part of his duty to secure “uniformity in the application, operation, and interpretation” of the Election Code, *id.* § 31.003, the Texas Legislature has charged the Secretary of State with “implement[ing] and maintain[ing] a statewide computerized voter registration list that serves as the single system for storing and managing the official list of registered voters in the State,” *id.* § 18.061(a). To ensure the accuracy of that list, state law requires the Secretary to tend to it regularly, *id.* § 18.068(a), work with the Texas Department of Public Safety (“DPS”) to ensure its accuracy regarding voters’ citizenship status, *id.* § 16.0332(a-1), and exercise oversight over county voter registrars to ensure they are complying with their obligations under the Election Code, *id.* § 18.065. *See La Union*

*del Pueblo Entero v. Nelson*, 163 F.4th 239, 258-59 (5th Cir. 2025) (describing the Secretary’s voter-registration obligations).

Federal law provides Texas with further assistance in maintaining the accuracy of its voter rolls. In 1986, for example, Congress enacted the Immigration Reform and Control Act, part of which instructed the federal government to “implement a system for the verification of immigration status . . . so that the system is available to all the States.” 42 U.S.C. § 1320b-7 note. And in 1996, through the Illegal Immigration Reform and Immigrant Responsibility Act, Congress instructed DHS’s predecessor agency to “respond to an inquiry by a Federal, State, or local government agency seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.” 8 U.S.C. § 1373(c).

**B.** In the lead-up to the 2024 general election, Texas invoked its section 1373 right to obtain federal assistance verifying the citizenship of some 450,000 individuals who had registered to vote in the State but whose citizenship DPS could not confirm because they did not register to vote with DPS-issued driver’s licenses or ID cards. *See* Complaint for Declaratory and Injunctive Relief at 7-10 & Exs. 1, 3, *The Att’y Gen. of Tex. v. Mayorkas*, No. 4:24-cv-00049-DC (W.D. Tex. Oct. 22, 2024). DHS responded by pointing to the SAVE program. *Id.* at 8 & Ex. 2.

SAVE is “an online service administered by U.S. Citizenship and Immigration Services (USCIS) that provides point in time immigration status and U.S. citizenship information to federal, state, local, territorial, and tribal agencies.” USCIS, *About Save*, <https://tinyurl.com/mr3armzb> (last accessed Sept. 15, 2026). At its core, SAVE “[v]erifies a benefit or license applicant’s immigration status or U.S. citizenship.” *Id.* But according to DHS, although SAVE can confirm that its records reflect that a person is a U.S. citizen, it “never definitively asserts that a person is not a U.S. citizen” but instead encourages the user to “contact the [individual] to obtain proof of U.S. citizenship.” Appl. 7.

Before 2025, the SAVE program was afflicted by several limitations that prevented Texas from using it. *See* App.135a (Katsas, J., dissenting). For one thing, to access the SAVE system’s database, a user was required to enter a unique DHS-issued immigration identifier, such as an alien registration number, that the Texas Secretary of State does not maintain and which illegal aliens would not possess anyway. *See* D. Ct. Doc. 43-2, at ¶ 7 (Oct. 27, 2025). For another, SAVE required users to submit a verification request one by one, making its use impractical for a user like Texas, who was seeking to verify the citizenship of millions of voters. *Id.* SAVE also previously “charged users a fee for each verification submitted to the SAVE system,” which was cost-prohibitive for a large-volume user like Texas. *Id.* Given these shortcomings, in October 2024 Texas sued DHS seeking to compel the agency to comply with its statutory obligations to provide citizenship-verification assistance; the State contended that the SAVE program in its current form did not satisfy DHS’s obligations under section 1373. Complaint for Declaratory and Injunctive Relief at 8-10, *The Att’y Gen. of Tex. v. Mayorkas*, No. 4:24-cv-00049-DC (W.D. Tex. Oct. 22, 2024). That lawsuit remains pending.

C. In the spring of 2025, in response to Texas’s lawsuit and separate lawsuits of several other States,<sup>1</sup> DHS began making changes to the SAVE system. In March, President Trump signed an executive order acknowledging that federal law “require[s] States to maintain an accurate and current Statewide list of every legally registered voter in the state” and confirming that DHS “is required to share database information with States upon request so they can fulfill this duty.” Executive Order 14,248, *Preserving and Protecting the Integrity of American Elections*, 90 Fed. Reg. 14,005, 14005-06 (Mar. 25, 2025). The President further instructed that the “Commissioner of Social Security shall

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<sup>1</sup> *See Indiana v. DHS*, No. 25-cv-732 (S.D. Ind. filed Apr. 16, 2024); *Florida v. DHS*, No. 24-cv-00509 (N.D. Fla. filed Oct. 16, 2024); *Ohio v. DHS*, No. 24-cv-283 (S.D. Ohio filed Oct. 24, 2024); *Bird v. Noem*, No. 24-cv-423 (S.D. Iowa filed Dec. 3, 2024).

take all appropriate action to make available the Social Security Number Verification Service, Death Master File, and any other Federal databases containing relevant information to all State and local election officials engaged in verifying the eligibility of individuals registering to vote or who are already registered.” *Id.* at 14,007.

Thereafter, on April 22, DHS announced that it had begun “a comprehensive optimization of the Systematic Alien Verification for Entitlements (SAVE) database to ensure a single, reliable source for verifying non-citizen status nationwide.” USCIS Press Release, *DHS, USCIS, DOGE Overhaul Systematic Verification for Entitlement Database* (Apr. 22, 2025), <https://tinyurl.com/37448fa2>. One key change was that DHS “eliminate[d] fees for database searches.” *Id.* Another, relevant here, was that DHS would now permit users to search the SAVE database using Social Security numbers and to do so “in bulk” rather than record by record. USCIS, *Optimizing SAVE: New Options to Create Cases with a Social Security Number and by Bulk Upload* (May 22, 2025), <https://tinyurl.com/4wfpvhyv>. DHS later formalized these modifications by publishing a notice in the Federal Register. *See* Notice of a Modified System of Records, 90 Fed. Reg. 48,948 (Oct. 31, 2025).

D. DHS’s changes to the SAVE program were, in the words of the Texas Secretary of State’s Director of Elections, “transformational” for the State’s efforts to maintain the accuracy of its voter rolls. D. Ct. Doc. 43-2, at ¶ 8 (Oct. 27, 2025). In March 2025, Texas entered into a Memorandum of Understanding with DHS allowing the State to use SAVE for voter-verification purposes. Motion to Dismiss for Lack of Subject Matter Jurisdiction at 6 & Ex. 2, *The Att’y Gen. of Tex. v. Mayorkas*, No. 4:24-cv-00049-DC (W.D. Tex. Dec. 23, 2025). In April, Texas submitted its first SAVE verification request, in May it submitted its first bulk upload request, and in August Texas participated in a “soft launch” of SAVE’s new functionality using Social Security numbers. *Id.* at 6 & Ex. 1, ¶¶ 37-40.

Since then, Texas has become “the most prolific SAVE user in the United States—having submitted more than double the number of requests of the second-place user.” *Id.* at 6 & Ex. 1, ¶¶ 45. The changes to the SAVE system “allowed the Texas Secretary of State to run the entire statewide list of more than 18 million Texas voters through the system” “at no charge” rather than pay DHS to “go through a cumbersome process of searching one record at a time.” D. Ct. Doc. 43-2, at ¶¶ 9-10 (Oct. 27, 2025). This has made Texas’s process for verifying the accuracy of its voter rolls more efficient and economical. By “mak[ing] the [SAVE] system functional for use by Texas,” the federal government has supplied Texas with “another effective tool to use in fulfilling its obligation to maintain clean, up to date voter registration rolls.” *Id.* at ¶¶ 8, 10.

Travis County tells this Court that SAVE’s database is “substantially out of date” and riddled with “flawed data” and “erroneous matches” that will “likely produce inaccurate citizenship determinations.” Travis County Br. 1, 2, 4. And it says that that the Texas Secretary of State’s Director of Elections has “admitted that SAVE provided ‘inaccurate information’ to counties and incorrectly flagged eligible voters as potential noncitizens.” *Id.* at 8 (quoting Contreras, *Texas Confirms Some Flagged As Potential Noncitizens On Voter Rolls Had Provided DPS Proof of Citizenship*, Votebeat Texas (July 30, 2026), <https://tinyurl.com/45y2tr4v>). But this partial quote is misleading. The Director of Elections stated that “most of the data that we got out of SAVE was consistent with what DPS had,” though she acknowledged there was “some inaccurate information.” Contreras, *supra*. “[I]naccurate information,” however, was a reference to 2,724 individuals—out of 18 million—whom SAVE identified as potential noncitizens. But as DHS has explained, SAVE does not make citizenship determinations. *Compare* Appl. 7 (“SAVE never definitively asserts that a person is not a U.S. citizen.”), *with* Travis County Br. 4 (explaining that it “warned DHS” that using SAVE “for voter verification would likely produce inaccurate citizenship determinations”). And as Travis County admits (at 8-9), registered voters identified by SAVE as potential noncitizens are not automatically stricken from the voter

rolls but instead under Texas law are afforded an opportunity to provide proof of citizenship after a county voter registrar notifies them that he or she “has reason to believe that [the] voter is no longer eligible for registration,” Tex. Elec. Code § 16.033(b). *Id.* § 16.033(d).

## **II. The District Court’s Order Impairs Texas’s Interest in Maintaining Accurate Voter Rolls.**

The district court’s order in this case, which “sets aside and vacates the SAVE ‘modified system,’” App.75a, reverses the gains in efficiency, accessibility, and accuracy achieved by DHS’s 2025 updates to SAVE. The court’s order makes the citizenship-verification process more cumbersome, more expensive, and less accessible to states attempting to discharge their legal obligations to maintain accurate voter-registration records. *See* 52 U.S.C. §§ 21083(a)(4), 20501(b)(4). Moreover, Texas, like other states, has relied on the SAVE database to ensure accurate voter rolls in past election cycles. D. Ct. Doc. 43-2, at ¶ 10 (Oct. 27, 2025).

This Court has noted that the States have an “important interest in accurate voter lists.” *Marston v. Lewis*, 410 U.S. 679, 681 (1973) (per curiam); *see Burns v. Fortson*, 410 U.S. 686, 687 (1973) (per curiam) (applying *Marston* to recognize the same); *cf. Clingman v. Beaver*, 544 U.S. 581, 595-96 (2005) (recognizing that “without registration rolls that accurately reflect likely or potential . . . voters,” the interests of political parties may be imperiled too). That interest, which entitles states to “some period of time—prior to an election—in order to prepare adequate voter records,” is grounded at least partly in “protect[ing] . . . electoral processes from possible frauds.” *Marston*, 410 U.S. at 680. And “[o]ne strong and entirely legitimate state interest is the prevention of fraud.” *Brnovich v. Democratic Nat’l Comm.*, 594 U.S. 647, 672 (2021). “Moreover, the interest in orderly administration and accurate recordkeeping provides a sufficient justification for carefully identifying all voters participating in the election process.” *Crawford v. Marion Cnty. Elec. Bd.*, 553 U.S. 181, 196 (2008); *see Democratic Nat’l Comm. v. Wisc. State Legislature*, 592 U.S. 1039, 1044 (2020) (Kavanaugh, J., concurring in denial of application to vacate stay)

(identifying “the State’s interest in running an orderly, efficient election and in giving citizens (including the losing candidates and their supporters) confidence in the fairness of the election”). And “[t]he State has a valid interest in participating in a nationwide effort to improve and modernize election procedures that have been criticized as antiquated and inefficient,” *Crawford*, 553 U.S. at 191, like the SAVE program at issue here.

The district court’s order in this case imperils each of these compelling state interests. By forcing the States to utilize an outdated and inefficient SAVE program, the district court’s order undermines Texas’s interest in maintaining accurate, up-to-date voter rolls—which in turn impedes Texas’s interest in ensuring voter confidence and administering an orderly election. The district court’s order is especially troubling given that the 2025 updates are aimed at “improv[ing] and moderniz[ing]” an “antiquated and inefficient” SAVE system. *Id.* In short, the district court’s order needlessly frustrates Texas’s efforts to ensure all voters on its voter rolls are lawfully registered, its duties under federal and state law, and prevents Texas from receiving the information from DHS to which federal law entitles it. *See The Att’y Gen. of Tex. v. Mayorkas*, No. 4:24-cv-00049-DC (W.D. Tex. Oct. 22, 2024).

## CONCLUSION

For the foregoing reasons, the Court should grant the application to stay the district court's order pending appeal.

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