

No. _____

In the Supreme Court of the United States

LANA LEGUIA,

Applicant,

v.

NEW JERSEY REPUBLICAN STATE COMMITTEE, INC., ET AL.,

Respondents.

ON EMERGENCY APPLICATION TO THE SUPREME COURT OF NEW JERSEY

**EMERGENCY APPLICATION FOR A STAY OF THE ORDER ISSUED BY
THE NEW JERSEY SUPREME COURT AFFIRMING THE STAY ISSUED
BY THE NEW JERSEY SUPERIOR COURT**

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PARTIES TO THE PROCEEDING

Applicant is Lana Leguia, the Libertarian candidate in the November 3, 2026 General Election for the United States House of Representatives for New Jersey's Seventh Congressional District.

Respondents are the New Jersey Republican State Committee, Inc., and the New Jersey Attorney General, Jennifer Davenport, invited to participate in the action below by the New Jersey Superior Court, Appellate Division pursuant to Rule 4:28-4(a)(1) of the New Jersey Court Rules. App. 2. Pursuant to 28 U.S.C. 2403(b), this Application and accompanying Appendix have been served on the New Jersey Attorney General in case her status is not as a Respondent.

The New Jersey Secretary of State, Dr. Dale Caldwell, is not a party to this action. The New Jersey Secretary of State filed an answer in Superior Court to Respondent New Jersey Republican State Committee, Inc's., motion to stay the Final Decision issued by the Secretary of State on June 11, 2026. App. 2. This Application and accompanying Appendix has been served on Secretary Dr. Dale Caldwell.

PROCEEDINGS BELOW

- *New Jersey Republican State Committee, Inc., v. Lana Leguia*, 265 N.J. 134, 360 A.3d 672 (Table) (N.J. Aug. 7, 2026)
- *New Jersey Republican State Committee, Inc., v. Lana Leguia*, Docket No. A-003541-25T1 (N.J. Super. App. Div. July 31, 2026)

- *New Jersey Republican State Committee, Inc., v. Lana Leguia*, Final Decision of Secretary of State, OAL Docket No. STE 09209-26 (June 11, 2026).
- *New Jersey Republican State Committee, Inc., v. Lana Leguia*, Denial of Petitioner’s Stay Request of the June 11, 2026 Final Decision, OAL Docket No. STE 09209-26 (June 25, 2026).
- *New Jersey Republican State Committee, Inc., v. Lana Leguia*, Initial Decision of William J. Courtney, ALJ, OAL Docket No. STE 09209-26 (June 11, 2026)

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TO THE HONORABLE SAMUEL ANTHONY ALITO, JR., ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE THIRD CIRCUIT

The decision of the New Jersey Supreme and Superior Courts to stay the five-year-old policy of the New Jersey Secretary of State to equally apply the decision in *Arsenault v. Way*, 539 F.Supp.3d 335 (D.N.J. 2021) (holding N.J.S.A. 19:23-11's ban on Republican and Democratic candidates from using nonresident petition circulators to secure access to New Jersey's Primary Election ballot unconstitutional under strict scrutiny analysis) to all political parties, including Libertarian Party candidates seeking access to the General Election ballot, improperly altered the official application of New Jersey election laws which Applicant had justifiably relied upon to secure access to the 2026 General Election ballot.

The stay of the New Jersey Secretary of State's Final Decision and the Secretary's 5-year-old policy of non-enforcement of the residency requirement for ballot access petition circulators contained in N.J.S.A. 19:13-7 after the deadline had passed to timely file ballot access petitions for the 2026 General Election constitutes a violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and in violation of this Court's consistent precedent that election rules cannot be altered close to the conduct of an election. In addition, the New Jersey Supreme Court's affirmance of the Superior

Court's stay on the Final Decision of the Secretary of State to include Applicant on the 2026 General Election ballot where the Superior Court expressly limited argument to state law issues, preventing any federal constitutional issues to be addressed by Applicant's lawyers, constitutes a violation of rights guaranteed to Applicant under the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

Accordingly, Applicant prays that the stay issued by the New Jersey Superior Court and affirmed by the New Jersey Supreme Court be lifted in time for the ballots to be printed on Friday, September 18th so that Applicant's name may be printed on the ballot for the 7th Congressional District.

New Jersey requires candidates seeking access to the primary and general election ballot to secure a certain number of valid signatures from registered voters of the State of New Jersey on petitions (hereinafter "ballot access petitions") circulated by volunteer and/or paid petition circulators. N.J.S.A. 19:13-5. As drafted, the New Jersey election code requires candidates seeking access to the Primary Election ballot (currently candidates seeking the nomination of the Republican and Democratic parties) to only use residents of New Jersey to circulate and file ballot access petitions – imposing a blanket ban on the use of out-of-state petition circulators. *See*, N.J.S.A. 19:23-11; App. 25. The New Jersey election code also imposes an identical ban on the use of out-of-state petition

circulators on third party and independent candidates seeking direct access to New Jersey's General Election ballot. *See*, N.J.S.A. 19:13-7; App. 26.

In *Arsenault v. Way*, 539 F.Supp.3d 335 (D.N.J. 2021), the United States District Court for the District of New Jersey declared N.J.S.A. 19:23-11, the statutory provision prohibiting the use of out-of-state petition circulators for Republican and Democratic primary candidates, unconstitutional. The *Arsenault* court held the New Jersey residency requirement for petition circulators “unnecessary restrictive” and unable to “survive strict scrutiny.” *Arsenault*, 539 F.Supp.3d at 348. The *Arsenault* court followed the consensus that has developed among federal district and circuit courts that blanket bans on out-of-state petition circulators are subject to strict scrutiny analysis and will be only upheld if the restriction is narrowly tailored to serve a compelling state interest. *See, Yes on Term Limits, Inc. v. Savage*, 550 F.3d 1023 (10th Cir. 2008) (applying strict scrutiny to overturn Oklahoma prohibition on nonresident circulators of initiative petitions); *Nader v. Blackwell*, 545 F.3d 459 (6th Cir. 2008) (declaring unconstitutional, as failing strict scrutiny, Ohio ban on nonresidents circulating nominating petitions); *Nader v. Brewer*, 531 F.3d 1028 (9th Cir. 2008) (invalidating, under strict scrutiny analysis, Arizona residency provisions relating to nominating petitions circulators and witnesses); *Libertarian Party of Virginia v. Judd*, 718 F.3d 308 (4th Cir. 2013) (holding Virginia ban on nonresident ballot access petition circulators

unconstitutional under strict scrutiny analysis); *We the People PAC v. Dunlap*, 40 F.4th 1 (1st Cir. 2022) (blanket ban on out-of-state circulators for initiative and referendum petitions invalid under strict scrutiny analysis); *Pierce v. Stapleton*, 44 F.4th 853 (9th Cir. 2022) (Montana residency requirement for initiative and referendum petitions unconstitutional under strict scrutiny); *Green Party of Pennsylvania v. Aichele*, 89 F.Supp.3d 723 (E.D. Pa. 2015) (residency requirement for circulators of nominating papers invalid where state could, instead, require out-of-state circulators to submit to the jurisdiction of the Commonwealth for any petition fraud allegation, investigation or prosecution); *OpenPittsburgh.Org v. Voyer*, 563 F.Supp.3d 399 (W.D. Pa. 2021) (residency requirement for petition circulators to amend county home rule charter unconstitutional under strict scrutiny analysis). Federal district and circuit courts have found that states may more narrowly protect their legitimate interest to police allegations of ballot access petition fraud by requiring out-of-state petition circulators to submit to their jurisdiction for any subsequent investigations and/or prosecution.

After the decision in *Arsenault*, the New Jersey Secretary of State announced that the ban on out-of-state petition circulators would not be enforced. The New Jersey Secretary of State explained in his Final Decision in this action that:

In the instant case, the rationale of *Arsenault* applied with equal force, if not greater, force to the circulators of General Election petitions at

issue in this matter. Where there are out-of-state petition circulators for a congressional candidate seeking to have her name placed on the General Election ballot, *Arsenault* court's rejection of the petition circulator residency requirement must also be applied to the residency restriction set forth at N.J.S.A. 19:13-7. Here, the two statutes' pertinent requirements are materially the same. Certainly, there is no practical distinction between circulators collecting petition signatures for a Primary Election petition and a General Election petition. Indeed, any justification for a residency restriction for petition circulators could be more aptly applied to a Primary Election, where signers of a candidate petition are also restricted to registered voters of the political party of the Primary Election candidate. N.J.S.A. 19:23-11. The court in *Arsenault* definitively held that a residency requirement for Primary Election petition circulators 'is unnecessarily restrictive and does not survive strict scrutiny.' *Arsenault* 539 F.Supp.3d 348. For General Election petitions, when political party affiliation is irrelevant, petition requirements are even less restrictive.

As such, candidates seeking petition signatures to appear on the General Election ballot should not be burdened with greater restrictions than Primary Election candidates. Consistent with the *Arsenault* decision, out-of-state individuals must be permitted to act as petition circulators so as to not unconstitutionally violate their free speech by prohibiting the right of voters to choose from eligible candidates being placed on the General Election ballot.

See, New Jersey Republican State Committee, Inc., v. Lana Leguia, Final Decision of Secretary of State, OAL Docket No. STE 09209-26 (June 11, 2026); App. 10-11. Accordingly, Applicant reasonably relied on the five-year old policy adopted by the Secretary of State to not enforce N.J.S.A. 19:23-11 and N.J.S.A. 19:13-7. The decisions below, issued after the deadline to file new ballot access petitions, altered the rules under which the 2026 election were to be contested. Applicant, and only the Applicant, has been kicked off the ballot based on the change of the rules that

all candidates have worked under for the past 5 years following the decision in *Arsenault*. It is the unfair change of the rules in the middle of an election contest, uniquely applied to one candidate to strike her from the General Election ballot during proceedings in which federal constitutional issues were prevented from being litigated that militates in favor of this Emergency Application.

DECISIONS BELOW

Applicant seeks an immediate stay of the New Jersey Supreme Court's affirmance of the Superior Court's stay of the Secretary of State's Final Decision pending the timely filing and disposition of a petition for a writ of certiorari in this Court and, if certiorari is granted, pending final judgment of this Court. The ballots in New Jersey are scheduled to be printed on Friday, September 18, 2026. An immediate stay of the decisions below will restore Applicant's name to the General Election ballot for the Seventh Congressional District. The New Jersey Supreme Court's decision is reproduced at page A1 of the Appendix. The New Jersey Superior Court's decision is reproduced at pages A2 through A5 of the Appendix. The New Jersey Secretary of State's Final Decision is reproduced at pages A6 through A11 of the Appendix. The New Jersey Secretary of State's Denial of Stay of his Final Decision filed by the New Jersey Republican State Committee is reproduced at pages A12 through A16 of the Appendix. The Initial

Decision of Administrative Law Judge William J. Courtney is reproduced at pages A17 through A24.

JURISDICTION

The Initial Decision of administrative law judge William J. Courtney was issued on June 11, 2026. App. 17-24. Thereafter, the New Jersey Secretary of State, exercising his vested authority, modified the Initial Decision consistent with the previously announced policy, consistent with the rationale of *Arsenault*, to not enforce any statutory ban on the use of out-of-state petition circulators and issued his Final Decision on June 11, 2026. App. 6-11. The New Jersey Superior Court, Appellate Division, issued a stay of the Secretary's Final Decision on July 31, 2026. App. 2-5. The New Jersey Supreme Court affirmed the stay issued by the Superior Court on August 7, 2026. App. 1.

This Court has jurisdiction to review the final judgment of the Supreme Court of New Jersey under 28 U.S.C. § 1257(a). The authority of the Secretary of State to enforce *Arsenault* was litigated at every court level and, as such, the issue is persevered for review by this Court. It is the stay of the Final Decision of the New Jersey Secretary of State, and the conduct of the proceedings in the New Jersey Supreme and Superior Courts which resulted in the stay which has altered the rules in the middle of an election contest which violates both Equal Protection and Due Process concerns under the Fourteenth Amendment which gives rise to

this Application. Applicant is not seeking a ruling on the constitutionality of the residency requirement for petition circulators under N.J.S.A. 19:13-7

This application is authorized by Supreme Court Rule 23 and 28 U.S.C. § 2101(f), which permit a Justice of this Court to stay enforcement of a judgment subject to certiorari review. The All Writs Act, 28 U.S.C. § 1651(a), also authorizes interim relief necessary or appropriate in aid of this Court's jurisdiction. Applicant sought a lifting of the stay imposed by the Superior Court in the New Jersey Supreme Court on August 7, 2026. On that date, the New Jersey Supreme Court denied the lifting of the imposed stay. Unless this Court issues the requested interim relief, Applicant will not appear on the General Election ballot for New Jersey's Seventh Congressional District.

STATEMENT OF THE CASE

This case arises from the change of election rules in the State of New Jersey which the Applicant had reasonably relied upon in the filing of her ballot access petition to appear on New Jersey's General Election ballot as the Libertarian candidate for the Seventh Congressional district. Ever since the New Jersey district court issued its decision in *Arsenault v. Way*, 539 F.Supp.3d 335 (D.N.J. 2021) successive New Jersey Secretaries of State have announced that while *Arsenault* directly declared the ban on out-of-state circulators under N.J.S.A. 19:23-11 unconstitutional under strict scrutiny analysis, the policy of the Secretary

of State would be to not enforce the identical ban on out-of-state petition circulators found at N.J.S.A. 19:13-7, applicable to candidates seeking direct access to the General Election ballot – namely independent and minor political party candidates such as Applicant’s Libertarian Party of New Jersey. For the past five years, no ballot access petition in New Jersey was challenge or found invalid owing to the use of out-of-state petition circulators – this is true for Republican, Democratic, Libertarian, Green, Constitution and Socialist Worker’s Party candidates as well as candidates independent of any political party affiliation.

In reliance of the Secretary of State’s public policy that all political candidates were permitted to use out-of-state circulators, Applicant welcomed numerous volunteers who reside outside the State of New Jersey to assist in the collection of the 250 ballot access signatures required to appear on New Jersey’s 2026 General Election ballot for the Seventh Congressional District. N.J.S.A. 19:13-5; App. 18-20. On June 2, 2026, Applicant filed a nominating petition containing a total of 755 signatures with the Department of State, Division of Elections. App. 6, 18. Respondent, the New Jersey Republican State Committee, Inc., filed written objections to 670 signatures recorded on Applicants nominating petition. App. 18.

The case was transmitted to William J. Courtney of the Office of Administrative Law for an Initial Decision as to the validity of Respondent’s

challenge to Applicant's nominating petition. App. 17-18. A hearing was held on June 9, 2016. App. 18. Briefing was completed on June 10, 2026. App. 19.

Respondent stipulated that the only dispositive challenge was whether signatures collected by out-of-state petition circulators were invalid – all other challenges to individual signatures were insufficient to deny Applicant access to the General Election ballot. App. 18-19, 23. Accordingly, the parties agreed that the only challenge that needed to be reviewed was whether the Secretary of State's extension of *Arsenault* to the non-enforcement of N.J.S.A. 19:13-7 (the statutory ban on the use of out-of-state petition circulators for minor party and independent candidates) was proper.

Applicant's legal counsel addressed the unfairness of a change of position on the enforcement of the ban on out-of-state petition circulators after the deadline to file nominating petitions had already passed, but the issue was not individually addressed in the Initial Decision issued by Courtney. Instead, Courtney held that the facial nature of the constitutional challenge was "simply outside the jurisdiction of the Office of Administrative Law. The Appellate Division, and not OAL, is the proper forum in which to challenge...facial validity...specifically where the matter as here, is purely a question of law." citing *Wendling v. New Jersey Racing Comm'n*, 279 N.J. Super. 477, 484 (App. Div. 1995) (quoting *Christian Bros. Inst. v. No. N.J. Interschol. League*, 86 N.J. 409, 416 (1981)); App. 22. Courtney held

that: “Without jurisdiction to review [Applicant’s] facial constitutional challenge to N.J.S.A. 19:13-7, this tribunal is obligated to apply the plain language of the statute.” App. 22-23. The Initial Decision of Courtney determined that 670 signatures collected by out-of-state residents must be struck from Applicant’s nominating petition, leaving Applicant with an insufficient number of valid signatures to secure ballot access for the 2026 New Jersey General Election for the Seventh Congressional District. App. 23.

On June 11, 2026, the New Jersey Secretary of State modified the Initial Decision filed by Courtney in the Secretary’s Final Decision. The Secretary explained that the *Arsenault* court held the out-of-state circulator ban for Republican and Democratic candidates found at N.J.S.A. 19:23-11:

“failed to satisfy strict scrutiny because it is ‘substantially broader than necessary to achieve the government’s interest’ at least with respect to the Plaintiffs in th[e] case, concluding that the State ‘neither produced evidence of the problems that the residency requirement purports to address, nor meaningfully refuted the less restrictive alternative methods Plaintiffs propose.’”

New Jersey Republican State Committee, Inc., v. Lana Leguia, Final Decision of Secretary of State, OAL Docket No. STE 09209-26 (June 25, 2026) at pp 4-5; App. 9-10. The Secretary stated in his Final Decision that the residency requirement for ballot access petitions imposed in N.J.S.A. 19:23-11 and N.J.S.A.p.19:13-7 “are materially the same.” Final Decision at p.5; App. 10. Importantly, the Secretary explained that: “there is no practical distinction between circulators collecting

petition signatures for a Primary Election petition and a General Election petition.”

Final Decision at p.5; App. 10. The Secretary further reasoned that:

“As such, candidates seeking petition signatures to appear on the General Election ballot should not be burdened with greater restrictions than Primary Election candidates. Consistent with the *Arsenault* decision out-of-state individuals must be permitted to act as petition circulators so as to not unconstitutionally violate their free speech by prohibiting the right of voters to choose from eligible candidates being placed on the General Election ballot.

Final Decision at p.6; App. 11. The Final Decision of the Secretary of State modified the Initial Decision of Courtney and ordered the nomination petition of Lana Leguia to be accepted “to appear on the November 3, 2026 General Election ballot for the office of Member of the United States House of Representatives, Seventh Congressional District.” Final Decision, p.6; App. 11.

Respondent in this Application, New Jersey Republican State Committee, Inc., filed a timely motion with the Secretary of State to stay the Final Decision. The New Jersey Secretary of State denied Respondent’s motion to stay the Final Decision on July 1, 2026. App. 12-16. Respondent then filed a timely appeal with the New Jersey Superior Court, Appellate Division seeking a stay of the Secretary’s Final Decision. *New Jersey Republican State Committee, Inc., v. Lana Leguia*, Docket No. A-003541-25T1 (N.J. Super. App. Div. July 31, 2026); App. 2.

Importantly, the New Jersey Superior Court limited “this appeal relating solely to NJRSC’s contention that the Secretary exceeded his authority by not

applying N.J.S.A. 19:13-7. App. 2. This limitation of argument prevented Applicant Leguia’s then legal counsel from raising the issues of: (1) the impermissible alteration of the rules under which ballot access petitions are governed for the 2026 General Election – after the deadline for filing new signatures had already passed; (2) the justifiable reliance that Applicant Leguia placed in the Secretary’s public policy that the residency requirement for petition circulators would not be enforced under N.J.S.A. 19:13-7; (3) the violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution created by unequal application of the laws of the State of New Jersey against similarly situated candidates for political office; and, (4) the violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution in preventing Applicant’s legal team from raising federal constitutional issues triggered by Respondent’s requested and issued stay of the Final Decision of the New Jersey Secretary of State. The Superior Court’s limitation on argument – at the specific request of the NJRSC (“We also granted NJRSC’s motion to accelerate this appeal relating solely to NJRSC’s contention that the Secretary exceeded his authority by not applying N.J.S.A. 19:13-7”) – prevented a fulsome consideration of the constitutional terrain created by *Arsenault* in New Jersey. App. 2. The Superior Court, finding insufficient record evidence that the Secretary’s actions were supported by advice from the State Attorney

General, as required by state statute, granted Respondent NJRSC's stay of the Secretary's Final Decision to place Applicant Leguia on the 2026 General Election ballot – all without permitting Applicant's legal team to defend the Final Decision on other federal constitutional grounds. App. 5.

On August 7, 2026, the New Jersey Supreme Court affirmed the stay issued by the Superior Court. App. 1. Comparing the Supreme Court's summary Order with the opinion of the Superior Court evince factual error. The New Jersey Supreme Court ignored that Applicant Leguia's then legal counsel was not permitted to mount a full constitutional challenge in the Superior Court – argument was specifically limited to whether the Secretary exceeded his authority to not enforce N.J.S.A. 19:13-7 under New Jersey state law requiring the Attorney General's consent to non-enforcement of state statutory provisions. App. 2. The New Jersey Supreme Court also never considered the propriety of altering the rules under which ballot access petition signatures were collected for the 2026 general election and the associated Equal Protection Clause concerns triggered in affirming the stay of the Secretary's Final Order issued by the Superior Court.

Whatever the state law issues are with respect to whether a New Jersey state official (such as the Secretary of State) has the authority to not enforce a state statute – those state law issues do not supplant federal constitutional issues which are superior to local state laws. Ignoring the federal constitutional concerns in a

case by limiting argument - crafted by an opposing litigant represented by sophisticated legal counsel who likely crafted the requested limitation with full knowledge that an examination of the broader federal constitutional terrain would cut against her client's position – is insufficient and a proper basis for granting the Applicant's requested stay of the lower courts' stay of the Final Decision of the New Jersey Secretary of State.

REASONS FOR GRANTING THE APPLICATION

“In deciding whether to issue a stay,” this Court considers: “(1) whether the applicant is likely to succeed on the merits, (2) whether it will suffer irreparable injury without a stay, (3) whether the stay will substantially injure the other parties interested in the proceedings, and (4) where the public interest lies.” *Ohio v. EPA*, 603 U.S. 279, 291 (2024). Justices of this Court have also considered whether there is “a reasonable probability that this Court will grant certiorari [and]...will then reverse the decision below.” *Maryland v. King*, 567 U.S. 1301, 1302 (1993) (Roberts, C.J., in chambers) (quoting *Conkright v. Frommert*, 556 U.S. 1401, 1402 (2009) (Ginsburg, J., in chambers. Each consideration militates in favor of granting the application.

I. This Court is Likely to Grant Review and Reverse.

This Court is likely to grant certiorari and reverse the New Jersey Superior and Supreme Court's decisions because it is deeply mistaken on three critical issues of federal law with profound practical importance.

A. The New Jersey Supreme Court's Affirmance of the Superior Court's Stay of the Secretary's Final Decision Ignored Important Federal Constitutional Issues.

1. The Stay of the Secretary's Final Decision Impairs Applicant's Guarantee of Equal Protection under the Fourteenth Amendment to the United States Constitution.

The Equal Protection Clause of the Fourteenth Amendment prohibits disparate treatment between similarly situated classes of individuals whose situations are arguably indistinguishable. *Ross v. Moffit*, 417 U.S. 600, 609 (1974); See also, *San Antonio Independent School Dist. v. Rodriguez*, 411 U.S. 1, 60 (1993) (Stewart, J. concurring) (“[T]he basic concern of the Equal Protection Clause is with state legislation whose purpose or effect is to create discrete and objectively identifiable classes”). Continued enforcement of N.J.S.A 19:13-7 against Applicant as a Libertarian candidate for Congress, while permitting all Republican and Democratic candidates to use out-of-state circulators to collect their ballot access petition signatures is an obnoxious violation of the Equal Protection Clause.

Indeed, the Secretary cited the unfairness in treating the circulation of Republican and Democratic ballot access petitions more favorably than nomination

petitions for independent and other political parties. The New Jersey Secretary of State properly reasoned that: (1) the pertinent residency requirements for petition circulators in N.J.S.A. 19:23-11 and 19:13-7 are materially the same; and, (2) there is no practical distinction between circulators collecting petition signatures for the Primary Election under N.J.S.A. 19:23-11 and circulators collecting petition signatures for the General election under N.J.S.A. 19:13-7. Imposing the residency requirement on circulators of Libertarian candidate petitions and not on Republican and Democratic petition circulators, where there is no distinguishable difference sufficient for a rational basis to make a constitutionally meaningful distinction is a clear violation of the Equal Protection Clause.

Circulators for the Republican and Democratic candidates conduct the same tasks as those for Libertarian candidates – there is no distinction permitting more restrictive ballot access requirements on Libertarians than on Republican and Democratic candidates seeking access to the electoral process. The residency restrictions do not survive strict scrutiny where non-resident petition circulators are willing to submit to the jurisdiction of the state in which they are circulating ballot access petitions. Those who are not willing to submit to the state’s jurisdiction can be banned from circulation. But all out-of-state petitioners willing to submit to a state’s jurisdiction must, under First Amendment jurisprudence, be permitted to circulate ballot access petitions in states other than their residence.

That is why residency restrictions litigated on an as-applied basis nevertheless result in declaratory judgments that the challenged residency ban is unconstitutional. Circulators unwilling to submit to the state's jurisdiction may be banned under existing statutory provisions. But a blanket ban on out-of-state circulators is facially invalid. In *Arsenault*, the litigation was as-applied, but the statute was held unconstitutional, not just as applied to Arsenault, but to all similarly situated out-of-state circulators willing to submit to New Jersey's jurisdiction to adequately protect New Jersey's interest to police the rare instances of alleged petition fraud. The failure of New Jersey to amend N.J.S.A. 19:13-7 in light of *Arsenault* is not a defense in support of its continued enforcement where the Equal Protection Clause demands equal treatment between all political candidates seeking entry to New Jersey's electoral process.

The Secretary's 5-year-old policy of non-enforcement of N.J.S.A. 19:13-7 was clearly a recognition of his obligation under the federal Equal Protection Clause. The New Jersey Supreme Court's affirmance of the Superior Court's stay of the Secretary's Final Decision creates an obvious Equal Protection conflict that New Jersey Court's refused to consider with the alacrity of a frightened ostrich.

Further, there was no opportunity to litigate the Equal Protection argument in this case as the Superior Court foreclosed any argument beyond whether the Secretary's decision to not enforce N.J.S.A. 19:13-7 was authorized under New

Jersey state law. App. 2. The administrative law judge flatly stated he lacked jurisdiction to address federal constitutional issues with respect to the facial validity of state statutes. App. 22-23. At all times while the Secretary's policy of non-enforcement was in place, Applicant lacked Article III standing to separately challenge the constitutionality of N.J.S.A. 19:13-7 as there could be no showing of potential injury where the Secretary pronounced N.J.S.A. 19:13-7 would not be enforced against Applicant. Accordingly, Applicant had no opportunity to challenge the validity of N.J.S.A. 19:13-7 under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

2. Altering Ballot Access Rules After the Deadline to File Signatures Has Passed Impairs Confidence in the Electoral Process.

In *Purcell v. Gonzalez*, 549 U.S. 1 (2006), this Court explained that “Court orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls.” *Purcell*, 549 U.S. at 4-5. Further, this Court noted that: “As an election draws closer, that risk will increase.” *Id.*

In the instant Application, the New Jersey Supreme Court's summary affirmance of the Superior Court's stay a five-year policy issued by successive New Jersey Secretaries of State in the aftermath of the New Jersey federal district court's decision in *Arsenault* in an effort to treat similarly situated political

candidates equally (and, also, likely to avoid additional litigation triggering payment of additional attorney fees under 42 U.S. §§ 1983, 1988) acts to disenfranchise voters who followed all the rules in force at the time of the petition process to place a candidate on the ballot that they seek to support. Imposing new rules on petition circulation after the deadline has passed to file ballot access petitions disenfranchises those voters who seek to support candidates other than those proffered by the major political parties. It is a direct impairment to the franchise of voter most likely to stay away from the polls following the removal of otherwise qualified candidates.

B. Litigation Below Giving Rise to the Stay Violated Applicant's Rights Under the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

The fundamental requirement of due process is the opportunity to be heard “at a meaningful time and in a meaningful manner.” *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965); *Grannis v. Ordean*, 234 U.S. 385, 394 (1914). Applicant had no opportunity to raise federal constitutional issues in defense of her nomination petition. The gag rule crafted by the New Jersey Republican Committee and adopted by the Superior Court preventing litigation of federal constitutional issues related to the Secretary of State’s Final Decision and his non-enforcement of N.J.S.A. 19:13-7 is a clear deprivation of Applicant’s right to Due Process of Law afforded under the Fourteenth Amendment to the United States Constitution.

The New Jersey Superior Court’s limit on argument to the state law issue as to whether the New Jersey Secretary of State “exceeded his authority by not applying N.J.S.A. 19:13-7” prevented Applicant’s legal team from litigating federal constitutional issues in the very forum that Administrative Law Judge Courtney opined was, in fact, the proper forum to raise federal constitutional issues as to the enforcement of N.J.S.A. 19:13-7. App. 2, 22-23. While Applicant did raise the constitutionality of N.J.S.A. 19:13-7 in front of ALJ Courtney, his lack of jurisdiction to adjudicate facial federal constitutional challenges, Applicant was denied a meaningful opportunity to be heard consistent with Due Process demands.

Further, as a direct consequence of the New Jersey Secretary of State’s public policy to not enforce N.J.S.A. 19:13-7, Applicant lacked standing to challenge the residency requirement imposed on Libertarian ballot access petition circulators under N.J.S.A. 19:13-7, as, prior to the New Jersey Supreme and Superior Court’s decision in this action, Applicant lacked any showing of concrete injury or imminent harm sufficient for Article III standing because prior to the deadline to file nomination petitions there was no threat that N.J.S.A. 19:13-7 would be enforced against her. That the Republican Party would challenge the Secretary’s non-enforcement of N.J.S.A. 19:13-7 and be able to strike otherwise valid petition signatures in the face of the decision in *Arsenault v. Way* was far too speculative to establish standing to launch a challenge to the residency requirement

of N.J.S.A. 19:13-7 under 42 U.S.C. § 1983. Accordingly, the conduct of the New Jersey Supreme and Superior Courts augur in favor of Applicant's requested stay of the Secretary's Final Decision.

II. Applicant Will be Irreparably Harmed if the Stay is not Granted and the Equities Weight in Favor of the Requested Stay.

If the Court does not enter Applicant's requested stay of the New Jersey Supreme Court's affirmance of the New Jersey Superior Court's stay of the Secretary's Final Decision, Applicant will be denied access to New Jersey's 2026 General Election ballot for the Seventh Congressional District. Voters, in turn, will be irreparably harmed by a limitation on the list of candidates they can cast ballots for, absent the difficult process of writing in Applicant's name on modern ballots (any of which may or not even be tallied under modern election return rules). Accordingly, Applicant will suffer irreparable harm if the requested stay is not granted.

Likewise, the equities weigh in Applicant's favor as she filed a sufficient number of valid ballot access petition signatures to secure a line on the 2026 General Election ballot for New Jersey's Seventh Congressional district. No harm will be suffered by Respondents if the stay is granted. Furthermore, voters of the Seventh Congressional District will have more choice at the ballot box, encouraging greater voter turnout for the 2026 General Election. Accordingly, the equities weigh in favor of the requested stay.

CONCLUSION

Applicant respectfully request that Associate Justice Alito enter an immediate administrative stay pending disposition of this application and stay the New Jersey Supreme Court's August 7, 2026 affirmance of the New Jersey Superior Court's July 31, 2026 stay of the New Jersey Secretary of State's June 11, 2026 Final Decision ruling Applicant's nomination petition sufficient for ballot access as the Libertarian candidate for New Jersey's Seventh Congressional district. New Jersey will print the ballots for the Seventh Congressional district on Friday, September 18, 2026. The stay should be in place pending the timely filing and disposition of Applicant's forthcoming petition for a writ of certiorari and, if certiorari is granted, pending final judgment of this Court. Should certiorari be denied, the stay should be terminated.

Dated: September 16, 2026

/s/ *Paul A. Rossi*

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