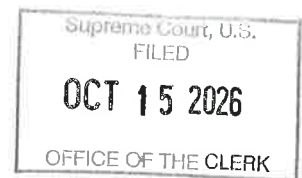


No. 26A545



SUPREME COURT OF THE UNITED STATES

RAJI RAB,
Applicant,

v.

SHIRLEY N. WEBER, in her official capacity as
California Secretary of State,
Respondent.

On Emergency Application Arising from the
United States Court of Appeals for the Ninth Circuit
Ninth Circuit No. 26-6285
District Court No. 2:26-cv-08040-KK-SK

EMERGENCY APPLICATION FOR AN INJUNCTION AND REQUEST FOR AN
IMMEDIATE ADMINISTRATIVE STAY

APPLICANT RAJI RAB, A 2026 CALIFORNIA GUBERNATORIAL CANDIDATE PROCEEDING PRO SE, RESPECTFULLY SUBMITS THIS EMERGENCY APPLICATION FOR AN INJUNCTION TO PRESERVE THE SUBJECT MATTER OF THIS ACTIVE CIVIL RIGHTS ACTION AND PROTECT THE STRUCTURAL SANCTITY OF THE FRANCHISE FROM PERMANENT ADMINISTRATIVE FORECLOSURE.

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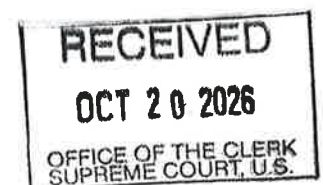


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I. QUESTIONS PRESENTED

1. Whether a state's chief election official violates the Fourteenth Amendment's Equal Protection and Due Process Clauses—and a candidate's right to a fair electoral process under *Bost v. Illinois State Board of Elections* (2026)—by weaponizing her supervisory powers during a contested election certification to execute an arbitrary rapid administrative termination of Applicant's statewide manual recount, where the official granted a cost-free, open-ended operational time extension to 57 counties while simultaneously denying a narrow, 15-day emergency extension to a gubernatorial candidate seeking to authenticate suspect counterfeit ballots in a county with documented ballot-security breaches, thereby compelling an unconstitutional "blind recount" and payment for the blind recount before required forensic verification has occurred under the geometric uniformity mandates of *Bush v. Gore*, 531 U.S. 98 (2000).
2. Whether the Fourteenth Amendment's Due Process Clause prohibits a state official from forcing a general election rollout over a contested primary result, thereby destroying the sole legal mechanism for a manual recount and recertification before unchecked counterfeit ballots harden irreversibly across jurisdictions, when an active federal grand jury investigation and physical FBI intervention have secured the ballot vault as a crime scene, establishing an objective institutional factum under *Mathews v. Eldridge*, 424 U.S. 319 (1976) that creates an immediate necessity for an emergency protective order to prevent systemic contamination of the electorate.
3. Whether emergency preliminary injunctive relief is due under *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7 (2008) when a federal district court applies an erroneous standard by requiring a civil rights applicant to present conclusive proof of completed

election fraud as a prerequisite for temporary equitable relief, rather than evaluating whether official warnings of counterfeit ballot-security breaches and accompanying sworn witness declarations raise "serious questions going to the merits" sufficient to warrant an emergency evidence-preservation order before an un-halted election rollout over a contested primary vote count certification that incorporates unverified, counterfeit ballots, progressively hardening a contaminated certification and foreclosing the judiciary's remedial authority.

4. Whether higher-court emergency intervention is legally and equitably compelled under the All Writs Act (28 U.S.C. § 1651(a)) to quarantine ballot contamination and enforce verification before an un-halted rollout inflicts an irreversible loss of civil rights, satisfying the strict emergency stay standard by establishing a reasonable probability of certiorari on a deep *Bush v. Gore* split, a fair prospect of reversal under *Mathews v. Eldridge*, and an overwhelming balance of equities favoring a narrow administrative pause (such as the alternative touchscreen database candidate placement defined as Option F) to preserve meaningful judicial review under the "capable of repetition, yet evading review" exception to Article III mootness before a pending 42 U.S.C. § 1983 action is rendered moot by the progression of the election calendar, where suspect counterfeit paper ballots from primary election require judicial preservation, forensic verification, and statutory recertification.
5. Whether the United States Court of Appeals for the Ninth Circuit commits a reversible error of law and a patent abuse of administrative discretion under 28 U.S.C. § 1292(a)(1) by summarily dismissing an appeal for lack of jurisdiction under *Religious Technology Center v. Scott*, 869 F.2d 1306 (9th Cir. 1989), where the panel acknowledges the exception allowing review of a temporary restraining order that is "tantamount to the denial of a

preliminary injunction," but fails to apply that exception to a district court order that comprehensively adjudicated and rejected every core element of an Applicant's civil rights complaint while an active election rollout creates a permanent operational foreclosure.

II. INTRODUCTION

TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE NINTH CIRCUIT:

Applicant Raji Rab, a 2026 California Gubernatorial Candidate proceeding pro se, respectfully submits this Emergency Application for an Injunction and Request for Immediate Temporary Protective Relief under the All Writs Act, seeking extraordinary intervention to arrest an ongoing, unconstitutional violation of his Fourteenth Amendment rights and protect the structural sanctity of the franchise from permanent administrative foreclosure. Following the United States Court of Appeals for the Ninth Circuit's October 14, 2026 summary dismissal of Appeal No. 26-6285 on narrow jurisdictional grounds, traditional lines of lower-court appellate processing have suffered a total operational collapse. This procedural deadlock has effectively insulated the non-responsive state executive from federal civil rights scrutiny while the election calendar rapidly expires, creating an imperative necessity for direct higher-court interposition under Rules 22 and 23 to preserve the status quo and protect the subject matter of this litigation.

Applicant explicitly maintains that the active constitutional injury is State action that has weaponized immediate, mechanical deposit demands to force an unconstitutional "blind recount" of documented, unauthenticated counterfeit physical ballot stock. The Respondent chief election official arbitrarily executed a rapid administrative ambush—denying Applicant's narrow fifteen-day time extension requested to permit local ballot custodians to conduct a necessary security check, while simultaneously utilizing sweeping supervisory powers to grant a cost-free, open-ended operational freeze to the remaining fifty-seven counties on that exact same statewide track. When Applicant executed a disciplined, constitutional stand, refusing to advance private campaign funds to count officially questioned counterfeit paper ballot stock before its physical authenticity could be verified, the State rushed to execute a total

termination of Applicant's multi-county verification system, converting a neutral regulatory fee framework into an instrument of procedural coercion. The lower court completely misapprehended this dynamic, rubber-stamping a geographic double standard that actively penalized a candidate in the sole jurisdiction attempting to investigate critical database vulnerabilities. Direct intervention by the Circuit Justice is uniquely required to preserve the subject matter of this active civil rights litigation before advancing state deadlines endorse contaminated election certification creating an unconstitutional fait accompli.

Application For An Immediate Administrative Stay Required: Applicant explicitly alerts the Circuit Justice that this emergency application is immune to any claims of laches or logistical disruption under the Purcell doctrine. Because independent investigative reporting on September 22, 2026, confirmed that the Federal Bureau of Investigation (FBI) has already physically isolated the suspect counterfeit June primary ballots under a federal evidence lock marked 'SECURED', granting an emergency preservation order will impose an absolute net-zero operational or bureaucratic burden on the state's active administration of the general election. The status quo is already frozen on the ground. Immediate intervention is required because the Ninth Circuit has permitted an unrefuted administrative deadlock to stall for ten days, allowing rolling state calendar milestones to create an unconstitutional fait accompli that threatens to permanently extinguish Applicant's civil rights through judicial non-action.

The District Court completely misapprehended this dynamic, treating Applicant's defensive refusal to participate in a compromised process as a mere regulatory default. Immediate intervention by the Circuit Justice is required to halt the state's impending certification milestones and protect Applicant's fundamental right to an accurate, uniform, and legally compliant verification of the vote.

II. APPLICATION AND PARTIES TO THE PROCEEDING

Applicant Raji Rab, a Gubernatorial Candidate, is proceeding pro se in this constitutional injury matter arising out of the California Gubernatorial June 2, 2026 primary election. The respondent is Shirley N. Weber, sued in her official capacity as the California Secretary of State and chief election officer of the State of California. There are no corporate parties or parents to

disclose under Rule 26.1. Applicant has come aggrieved from the order of the Ninth Circuit Court of Appeals and respectfully applies for an emergency injunction and immediate temporary protective relief necessary to preserve meaningful judicial review of his pending federal constitutional claims before the rapidly advancing November 3, 2026, General Election further constrains the availability of effective relief.

Applicant seeks federal judicial authority to preserve meaningful review of Applicant's Fourteenth Amendment claims, authentication of the suspect counterfeit ballots, and the availability of a manual recount and recertification remedy while successive election-administration milestones continue to narrow the range of practical relief.

IV. JURISDICTION, EXTRAORDINARY EXEMPTION, AND PROCEDURAL FLAWS BELOW

The Applicant invokes the jurisdiction of this Court under 28 U.S.C. § 1651(a), 28 U.S.C. § 1254(1), and Supreme Court Rules 22 and 23 to issue an emergency writ of injunction. This Application arises directly from the United States Court of Appeals for the Ninth Circuit's October 14, 2026, order dismissing Applicant's appeal. Applicant strictly satisfies the technical exhaustion requirements of Supreme Court Rule 23.3 by having repeatedly and diligently petitioned both the District Court and the Court of Appeals for emergency interim protection.

This Court holds absolute authority under the All Writs Act to grant emergency injunctive protection where an uncontradicted administrative breakdown threatens to permanently moot an active federal civil rights action before a full merits panel can safely review the record. This case clears that extraordinary threshold. The "Physical Evidence" of this statewide election is currently isolated under an active Federal Bureau of Investigation (FBI) grand jury evidence lock in Shasta County. Because the State executive is actively distributing vote-by-mail ballots that incorporate an unverified primary certified tally while the underlying physical evidence is under federal

criminal custody, direct and immediate interposition by the Circuit Justice is uniquely required to prevent an irreversible structural collapse of the franchise.

The Ninth Circuit Misapplied *Religious Technology Center v. Scott* and Improperly Dismissed an Effectively Appealable Injunctive Order

The Ninth Circuit's October 14, 2026 dismissal improperly applied *Religious Technology Center v. Scott*, 869 F.2d 1306, 1308 (9th Cir. 1989), while disregarding the very exception that decision recognizes. Judge Kato's August 18, 2026 nine-page amended order was not merely a routine refusal of temporary protection. It substantively examined Applicant's constitutional claims, interpreted California's recount statutes, expressly determined that Applicant was unlikely to succeed on the merits, and denied relief without addressing the remaining injunction factors. Although formally captioned as a TRO denial, its practical effect, combined with the advancing election calendar, was to foreclose meaningful preliminary injunctive protection before critical election deadlines. Under *Religious Technology Center* and *Carson v. American Brands, Inc.*, 450 U.S. 79, 83–84 (1981), the appealability inquiry must consider substance and practical consequences, not merely the order's label. Applicant therefore submits that the August 18 ruling was tantamount to a denial of preliminary injunctive relief under 28 U.S.C. § 1292(a)(1), and respectfully requests that this Court reverse or vacate the Ninth Circuit's jurisdictional dismissal and grant appropriate emergency protection to preserve effective judicial relief.

Furthermore, extraordinary intervention is compelled because the lower courts' orders are tainted by fatal, reviewable procedural flaws that constitute a clear abuse of discretion:

1. The Patent Factual and Statutory Conflation: In its August 18, 2026, Amended Order, the District Court constructed its entire merits refusal upon a glaring chronological error, falsely characterizing Applicant's July 13 security pause request as an unsupportable attempt to extend California's initial five-day recount "filing deadline." This finding is flatly contradicted by the

lower court's own explicit factual determination that Applicant had already successfully filed his statewide request on July 3, which the Secretary validated on July 7. By framing Applicant's request for a temporary security pause as an attempt to extend an initial filing deadline that had already been fully satisfied, the District Court applied a completely irrelevant statutory provision, violating the review frameworks established by federal equity.

2. The Judicial Abdication of the Adversarial Record: Throughout the entirety of these proceedings, the Respondent Secretary of State has maintained absolute silence, failing to file a single brief, counter-declaration, or factual denial. Under standard federal summary equity procedures, when a moving civil rights applicant presents verified witness accounts and the state actor produces zero evidence, those facts stand uncontradicted. The lower courts actively overstepped their Article III boundaries—acting as a surrogate advocate for the state by inventing independent, post-hoc statutory excuses to rescue a defaulting state official, resulting in an uncritical, explicit judicial bias.

V. DECISIONS BELOW

The operative order of the United States District Court for the Central District of California denying emergency injunctive relief was entered as an Amended Order on August 18, 2026, by the Honorable Kenly Kiya Kato [District Court Dkt. 14, attached as **Appendix A**]. The United States Court of Appeals for the Ninth Circuit denied Applicant's initial Circuit Rule 27-3 Emergency Motion for an Injunction Pending Appeal via a written administrative order entered on October 14, 2026, by a motions panel consisting of Circuit Judges W. Fletcher, Desai, and De Alba [Ninth Circuit Case No. 26-6285, Docket Entry 7, attached as **Appendix B**]. The separate Written Order Granting a Jurisdictional Extension under Federal Rule of Appellate Procedure 4(a)(5) was

entered by the District Court on September 25, 2026 [Central District Court Dkt. 21, attached as **Appendix C**].

VI. CONSTITUTIONAL AND REGULATORY PROVISIONS

The Fourteenth Amendment to the United States Constitution provides in pertinent part: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

California Code of Regulations, Title 2, Section 20362 (Results of Recount) provides: "If a recount results in a different outcome, the affected county elections officials must recertify their results to the Secretary of State."

VII. NATURE OF THE EMERGENCY

Existential Threat to Franchise and Clear Disparate Treatment Across Geographic Boundaries

Immediate higher-court temporary emergency orders are required due to intensifying unconstitutional injuries. The State's administrative calendar threatens to cause egregious harm to the nation, intensifying harm to Appellant's constitutional rights to a verified, untainted electoral process. Severe contamination by suspect counterfeit ballots in the primary election certification remains unverified, progressively foreclosing effective judicial remedies.

The asserted constitutional injuries occurred from the contested California Gubernatorial June 2, 2026 primary election results. Time compounds their practical consequences. Each successive election-administration milestone moves the November election forward while the

authentication issue, statewide recount, and Applicant's constitutional challenge remain unresolved, progressively narrowing the range of relief that can still be meaningfully implemented.

In *Bost v. Illinois State Board of Elections*, 607 U.S. 71 (2026), the Supreme Court held that a candidate has Article III standing to challenge the rules governing the counting of votes in his election. The Court recognized that a candidate has a personal stake in those rules and an interest in a fair electoral process; win or lose, a candidate suffers a distinct injury when the process departs from law. *Id.*

Bost explains that a candidate's interest in an accurate vote tally differs in kind from the public's generalized interest and that candidates who devote time and resources to seeking office possess a distinctly particularized interest in knowing the electorate's lawful choice. *Id.* Applicant's Article III injury therefore arises from the challenged administration and termination of the process through which the votes in his own election were to be manually recounted and verified.

Bost reinforces the timing of Applicant's request for judicial protection. *Id.* Applicant promptly pursued relief: Applicant invoked California's recount process, sought the requested authentication accommodation while the recount remained active, commenced this federal action after arbitrary termination of the statewide recount, and continuously pursued appellate review while the November election calendar advanced. Accordingly, *Bost* reinforces the Article III foundation for preserving meaningful judicial review of Applicant's asserted constitutional injuries. Applicant's interest extends to the integrity and lawful administration of the electoral process in which he personally competed, including meaningful review of the State's challenged actions affecting the statewide recount he requested.

VIII. STATEMENT OF THE CASE

This active civil rights action arises from the California Secretary of State's asymmetric, non-uniform administration and subsequent summary termination of Applicant's validly invoked statewide primary recount track following the June 2, 2026, California Gubernatorial Primary Election.

A. The Invocation of the Statewide Recount and the Shasta Security Crisis

Applicant Raji Rab was a duly qualified candidate for Governor of California in the June 2, 2026 primary election. Following a documented analytical review of his statewide campaign metrics, Applicant resubmitted his formal request for a manual recount across all 58 California counties on July 3, 2026. On July 7, 2026, the Respondent Secretary of State formally confirmed receipt, validated the request, and placed the statewide recount track into active administration on the state ledger. This timely, compliant invocation long preceded the subsequent ballot-authentication controversy.

While the statewide track was pending, an acute election-security crisis materialized in Shasta County. On July 10, 2026, Shasta County Clerk and Registrar of Voters Clint Curtis formally documented that a substantial volume of vote-by-mail ballots appeared to be counterfeit, noting distinct paper-weight discrepancies and printed markings. The Registrar expressly advised Applicant to seek an immediate administrative extension to permit forensic testing of the underlying paper stock so that suspect ballots would not be tabulated into the official stream.

B. The Respondent's Asymmetric Administrative Ambush and Track Termination

On July 13, 2026, relying directly on the local election chief's warnings, Applicant transmitted an Emergency Request for a 15-Day Administrative Extension to the Secretary of State, designating Shasta County as the sequencing starting point to ensure corrupted paper stock

was filtered out at the gate. On July 14, 2026, the Secretary executed a starkly non-uniform, geographic double standard. In a single directive, the Secretary denied Applicant's requested 15-day security pause in Shasta County on the categorical ground that her office lacked statutory authority, while simultaneously utilizing sweeping supervisory powers to grant a cost-free, open-ended operational freeze to the remaining assignment counties, explicitly ordering them that they "should not commence their recounts until further notice".

The state forced an immediate 48-hour commencement timeline and mandatory deposit demands exclusively against the county component investigating a documented security breach. Applicant executed a principled stand, refusing to deposit funds to count unauthenticated, suspect paper stock before a necessary verification check could occur. On July 16, 2026, the Secretary weaponized the deposit requirement to execute an instantaneous termination of Applicant's entire statewide track, killing the recount not merely in Shasta County, but statewide. Applicant transmitted a Formal Legal Notice to the Respondent on July 17, 2026, clarifying that he remained 100% compliant and that forcing a blind count prior to ballot verification directly violated his fundamental due process rights.

C. The District Court's Inversion of Equity and Structural Legal Errors

Believing that these continuing constitutional injuries required immediate judicial protection, Applicant commenced a federal civil rights action under 42 U.S.C. § 1983 on July 22, 2026, in the United States District Court for the Central District of California, alongside emergency applications for temporary restraining orders and record preservation.

When immediate district-level inaction threatened a constructive refusal of equity, Applicant filed a protective Notice of Appeal on July 29, 2026 (Case No. 26-4921). While that appeal was processing, the District Court subsequently issued an Amended Order on August 18,

2026, denying the Application for a Temporary Restraining Order. The District Court committed a clear error of law by chronologically conflating Applicant's compliant July 3 track with a late filing request, falsely reasoning that the Secretary lacked authority to extend an initial filing deadline that had already been fully satisfied.

Furthermore, the lower court applied an impossible evidentiary standard, dismissively waving aside eleven signed witness declarations detailing unauthorized keycard room entries as "garden-variety election irregularities" and concluding they were "not evidence of fraud". The District Court stopped its analysis entirely at this threshold, declaring that because Applicant had not proven a final likelihood of success, it need not weigh the remaining equitable factors. Crucially, throughout this entire sequence, the Respondent Secretary of State chose absolute administrative and litigation silence, failing to file a single counter-declaration or brief to factually dispute Applicant's claims.

D. Technical Reset and the Ongoing Ninth Circuit Administrative Deadlock

On September 17, 2026, the Ninth Circuit dismissed Case No. 26-4921 on purely technical interlocutory grounds, noting that the July 29 Notice preceded the official docketing of the written order. Applicant executed an immediate response to cure the record the very next day. On September 18, 2026, Applicant submitted a formal motion under Federal Rule of Appellate Procedure 4(a)(5) alongside a newly perfected Notice of Appeal explicitly designating the August 18 Amended Order. On September 25, 2026, the District Court formally granted the jurisdictional extension, clearing away the timing defect and establishing active Appeal No. 26-6285.

On October 2, 2026, Applicant formally filed a Circuit Rule 27-3 Emergency Motion for an Injunction Pending Appeal and Temporary Administrative Relief (Docket No. 6). Since that filing, the urgency has dramatically intensified. On September 22, 2026, independent investigative

reports documented that the Federal Bureau of Investigation (FBI) physically intervened at the Shasta County elections office, cutting existing locks to secure the exact boxes holding the disputed June primary ballots as part of an active federal grand jury investigation. Federal authorities have physically isolated these materials, leaving a green evidence lock marked “SECURED” on the repository door.

Despite absolute administrative and judicial diligence, ten full calendar days have elapsed without a single order or entry of temporary protection from the Court of Appeals. On Friday, October 9, 2026, Applicant contacted the Clerk's Office and was informed that Docket No. 6 remained pending and had not been placed into the order queue. On October 12, 2026, Applicant filed an Urgent Legal Notice and Formal Follow-Up with the Ninth Circuit Emergency Motions Unit, explicitly alerting the court that its silence operates as a constructive denial of equity while the election calendar is running out. On October 14, 2026, the Court of Appeals summarily dismissed the appeal on narrow jurisdictional boundaries. Because county elections officials crossed the statutory October 5 threshold and are actively distributing vote-by-mail ballots statewide, the lower courts' unrefuted administrative deadlock is actively threatening to render this active case entirely moot through non-action. Bypassing any further delay below is uniquely required under the All Writs Act to prevent a total, permanent foreclosure over the subject matter of this civil rights action.

E. Indisputable Evidence of Ballot Contamination and Secure Repository Breaches

This application is based upon concrete, specific, and uncontradicted evidence originating directly from Shasta County's own Chief Election Officer and Registrar of Voters, Clint Curtis. The record documents a severe, high-level breakdown involving a substantial volume of vote-by-mail ballots that upon handling by election official count, physically appeared counterfeit and

required immediate forensic validation. This verification deadlock is fully substantiated by eleven sworn affidavits and ten explicit voter declarations detailing documented database keycard overrides and secure warehouse repository breaches.

F. Three Unconstitutional Injuries Are Distinct, Cumulative, And Continuing

Imminent Threat to Constitutional Rights and Election Integrity has occurred. Emergency judicial intervention is required because in June 2, 2026, gubernatorial primary, concrete and specific evidence emerged from Shasta County's own Registrar of Voters, Clint Curtis, indicating a substantial volume of vote-by-mail ballots clearly appeared to be counterfeit and required Authentication. California Secretary of State arbitrarily terminated Applicant's statewide manual recount without any verification, despite sworn Affidavits, statements and ten accompanying voter declarations detailing severe, documented database overrides and secure warehouse repository keycard breaches. If the State is permitted to lock away this suspect evidence without forensic authentication, it will permanently close the statutory mechanisms available to verify the tally, thereby foreclosing the judiciary's prospective remedial authority and inflicting three distinct, continuing injuries:

1. First Injury - July 14 Denial and Allegedly Non-Uniform Administration.
2. Second Injury - July 16 Statewide Termination and the Combined Operation of the State's Actions.
3. Third Injury - Continuing Certification Consequences While Authentication and Recount Remedies Remain Unresolved

G. The District Court's August 18 Order Rests on Material Factual and Legal Errors and Does Not Foreclose Emergency Relief

The District Court treated likelihood of success as the threshold inquiry and, after that single factor against Applicant, declined to reach the remaining preliminary-injunction factors.

The August 18 Order therefore turned upon the court's characterization of Applicant's constitutional injuries. Applicant respectfully submits that the Order materially mischaracterized the Equal Protection and Due Process claims actually presented, separated interconnected state actions that must be evaluated together, and consequently failed to address the significance of the unconstitutional denial of applicant's 15-day time extension request and unconstitutional termination of Applicant's statewide recount.

First, the Equal Protection analysis failed to confront the central disparity identified by Applicant. The District Court concluded Fleetwood that Applicant had identified no election rule or practice applied differently across counties and characterized the Secretary's actions as rational administration of the recount sequence coupled with denial of an extension for lack of statutory authority. But Applicant's claim concerns the Secretary's actual administration of the same statewide recount after the Shasta authentication controversy arose.

On July 14, the Secretary denied Applicant's limited fifteen-day accommodation concerning Shasta while simultaneously giving extension and directing the remaining fifty-seven counties that they "should not commence their recounts until further notice." The constitutional question therefore extends beyond whether counties employed different ballot-counting rules. It concerns whether the State administered Applicant's single statewide recount through materially different procedural tracks: immediate commencement, authentication, timing, and deposit consequences in Shasta, while the remaining fifty-seven counties remained under an indefinite State-directed pause. The October 2 Emergency Motion squarely identified this geographic asymmetry and the District Court's failure to confront its practical operation. The State's asserted lack of authority to grant Applicant fifteen additional days cannot, standing alone, answer the

Equal Protection claim when the Secretary simultaneously exercised supervisory authority to grant time to the other fifty-seven counties from commencing recount until further notice.

Applicant's asserted injury arises from the combined operation of those governmental decisions and their ultimate consequence: the Shasta recount was required to proceed immediately without time extension which Applicant objected under the circumstances presented, while the other fifty-seven counties were given indefinite extension, remained paused, and the entire statewide recount was thereafter arbitrarily terminated. These are the violation of Applicant's constitutional rights.

Second, the District Court's reliance on *Short v. Brown* addressed the recount-payment requirement in isolation rather than Applicant's as-applied constitutional challenge. The Order reasoned that California's requirement that a requester pay the costs of a voter-requested recount does not itself burden the right to vote and observed that Applicant had not claimed financial inability to make the required deposit.

Applicant challenged the sequence that preceded and produced the deposit consequence: the Shasta ballot authentication controversy; Applicant's request for limited time to permit authentication; the Secretary's denial of that request; the requirement that Shasta proceed first; the continuing State-directed time extension and pause imposed upon the remaining fifty-seven counties; the deposit mechanics, even though authentication was requested before recount; and the Secretary's termination of the entire statewide recount when Shasta did not proceed. The October 2 Emergency Motion accordingly challenge the application of the payment requirement within this asserted asymmetric administrative structure. The constitutional question is whether the State could administer the recount through the challenged sequence and then rely upon the resulting

deposit consequence to terminate the statewide process before the counterfeit ballot authentication controversy had been resolved.

H. The District Court's Clear Error of Law, Patent Abuse of Discretion, and Misplaced "Speculation" Rationale

The lower court dismissively characterized signed witness declarations detailing unauthorized keycard room entries and database overrides as "boilerplate forms" representing "garden-variety election irregularities". In doing so, the court ignored a massive procedural reality: the Secretary of State chose absolute administrative and litigation silence, failing to file a single brief or counter-declaration to dispute these factual entries. Under standard federal equity principles, when a civil rights applicant presents sworn, uncontradicted witness accounts, a district judge cannot step into the shoes of the defense to invent her own factual excuses to rescue the state.

Furthermore, the lower court's "speculation" characterization has been completely destroyed by subsequent, objective facts. On September 22, 2026, it was documented by independent investigative reports that the Federal Bureau of Investigation (FBI) intervened in Shasta County, cutting physical padlocks to secure the exact boxes holding the disputed June primary ballots as part of an active federal grand jury investigation. Federal authorities have physically isolated these materials, leaving a green evidence cable lock explicitly marked "SECURED" on the ballot room door. This verified, independent intervention provides absolute public-record proof that a severe, high-level controversy exists over the physical subject matter of this litigation, rendering the lower court's reasoning entirely tainted and requiring immediate corrective intervention by the Circuit Justice.

I. Uncontradicted Factual Allegations and the Respondent's Absolute Silence

Because the Respondent Secretary of State has maintained absolute silence and failed to produce a single counter-declaration or piece of forensic evidence to challenge Applicant's verified witness disclosures, those sworn facts stand uncontradicted on the record. The District Court committed a clear abuse of discretion by essentially operating as de facto counsel for the non-responsive state official, inventing its own rationalizations to excuse a starkly asymmetric geographic double standard. Because the Respondent has consistently waived her opportunity to factually dispute these Fourteenth Amendment infractions from the district level through the appellate tracks, the threshold requirement of an active substantive controversy is fully met.

In its practical operation, the August 18 Order ended its analysis after finding insufficient likelihood of success and consequently never balanced the remaining equitable considerations presented by the continuing emergency. That matters here because Applicant's asserted injuries have continued while the election calendar has advanced. The constitutional controversy was therefore never subjected to a complete preliminary-injunction analysis weighing irreparable injury, the equities, and the public interest against the specific constitutional injuries Applicant alleged. The subsequent federal investigative activity concerning June 2026 Shasta election materials further heightens the present need for preservation and objective authentication. Those developments constitute changed circumstances bearing upon the relief presently required. Their significance is prospective and concrete: the authentication controversy Applicant raised before termination of his recount remained sufficiently unresolved that June-election materials later became the subject of federal investigative activity. The resulting circumstances reinforce the need to preserve meaningful judicial review while effective relief remains possible.

Bost recognizes a candidate's concrete and particularized interest in the lawful rules governing the counting of votes in his own election. The District Court's analysis should therefore

be reviewed against the constitutional injury actually asserted by Applicant as the candidate directly affected by the administration and termination of his statewide recount—not as an abstract disagreement with election administration. Taken together, these errors go to the foundation of the August 18 ruling. Applicant’s Equal Protection claim was reduced to isolated recount rules rather than the alleged asymmetric operation of the statewide process; the payment issue was separated from the sequence of governmental decisions that produced the termination; the Due Process claim was analyzed as though Applicant sought immediate invalidation of an election rather than preservation and meaningful review of an unresolved authentication and recount controversy; and the remaining equitable factors were never reached. The August 18 Order therefore supplies no sound basis for allowing the advancing November election calendar to extinguish the practical availability of meaningful judicial relief.

IX. APPLICANT SATISFIES THE GOVERNING EMERGENCY-RELIEF STANDARD

A. Applicant Presents Substantial Grounds for Relief

Bost confirms that Applicant's injury as a candidate is concrete and personal. He challenges the administration of the rules governing verification and counting in his own election and alleges that the State's actions deprived him of a fair opportunity to complete the recount he invoked to test the reported result. The Equal Protection question is substantial because Applicant alleges materially different treatment within one statewide recount at the moment the Shasta authentication controversy arose. The Due Process question is substantial because the termination allegedly resulted from the combined operation of outsourcing, sequencing, denied authentication time, deposit mechanics, and statewide termination while the other counties remained paused. The constitutional question presented is whether that state-administered procedural path could lawfully be administered and terminated in the manner alleged while the underlying authentication

controversy remained unresolved. *Election Integrity Project California, Inc. v. Weber*, 113 F.4th 1072 (9th Cir. 2024), on which the District Court relied, concerned alleged lack of statewide uniformity and safeguards in election administration. Applicant's theory is narrower and as-applied: a specific statewide recount, a specific authentication controversy, a specific denied accommodation, a contemporaneous instruction to fifty-seven counties not to commence, and a subsequent termination. Whether that record establishes unconstitutional differential treatment is the question requiring meaningful appellate review, not a proposition that every difference in county election administration violates equal protection.

B. Irreparable Harm is Continuing and Intensifying

The asserted injury cannot be adequately repaired by money damages. Applicant seeks the opportunity for meaningful judicial review of a recount and authentication controversy tied to a completed primary and an advancing general election. Every additional stage of ballot distribution, voting, processing, and election administration makes some forms of relief more difficult and increases the risk that review will become practically hollow even if a court later concludes that Applicant's constitutional theory has merit. The passage of election calendar and October 5 does not eliminate the asserted injury; it changes the practical posture. California's general-election process is now further advanced. That fact counsels prompt and careful relief designed to preserve review without unnecessarily disrupting voters or election officials.

C. The Equities and Public Interest Favor Narrowly Tailored Relief

California and its voters have substantial interests in fair election administration, stable rules, and avoiding voter confusion. They are reasons to tailor relief carefully, not reasons to deny every form of interim protection. Preservation of relevant records and materials imposes materially less disruption than alteration of ballots already distributed. A short administrative measure

preserving the Court's ability to consider the Application likewise differs substantially from a final order restructuring the election. the public interest is served by both lawful election administration and meaningful judicial review of properly presented constitutional claims.

D. Purcell Favors Restraint in Remedy, Not Extinction of Review

Applicant's Absolute Diligence and the Total Absence of Logistical Disruption
Applicant's request for emergency relief is entirely immune to the doctrine of laches or any asserted disruption under the Purcell principle. Applicant has maintained unyielding diligence, moving instantly from his July 17 Formal Notice to active federal litigation on July 22, and executing immediate, sequential appellate filings to perfect this active track. Applicant stands prompt, not a latecomer attempting to rewrite state election mechanics on the eve of an election. An order from this Court commanding federal agency in control of counterfeit ballots to expedite authentication, imposes a minimal operational or bureaucratic burden on the state's active administration of the ongoing general election. Federal equity is requested to ensure these primary materials remain preserved rather than permanently insulated from purity of verification. This Court has repeatedly and explicitly affirmed that a state's internal administrative printing deadlines and calendar milestones can never be deployed as a legal shield to permanently insulate a constitutional violation from the supreme power of federal equity. *Williams v. Rhodes*, 393 U.S. 23, 28 (1968); *McCarthy v. Briscoe*, 429 U.S. 1317, 1318 (1976). Administrative or bureaucratic convenience can never serve as a justification for a severe, asymmetric burden on protected constitutional rights. *Tasjan v. Daniello*, 404 U.S. 921 (1971); *Reed v. Town of Gilbert*, 576 U.S. 155, 171 (2015). Applicant's validly invoked statewide manual recount track was extinguished through an unconstitutional geographic shutdown while the state maintained total litigation silence and produced zero evidence to dispute documented secure warehouse breaches. If the state is

permitted to run out the clock and rely on advancing calendar dates to escape judicial review, the protections of 42 U.S.C. § 1983 will be defeated, causing egregious harm to Applicant and the nation.

X. THE RELIEF REQUESTED IS GRADUATED AND DESIGNED TO MINIMIZE DISRUPTION

To protect the franchise while respecting the state's calendar constraints, Applicant requests graduated equitable relief in the following strict order of priority.

First, immediate temporary administrative protection sufficient to preserve the Court's ability to consider this Application and to prevent destruction, alteration, or disposition of relevant election materials and records that would materially impair meaningful review.

Second, an order directed to Respondent, within her lawful authority, expediting the appropriate judicially authorized inspection, verification, and authentication of the alleged Shasta County June 2026 counterfeit ballots and preserving the Applicant's statewide recount remedy pending orderly judicial review.

Third, if the Court concludes Applicant has satisfied the governing standard, such narrowly tailored injunctive relief as is necessary to permit completion of the lawful recount process and to preserve appropriate correction or recertification if the completed recount warrants it.

Fourth, only in the alternative, if the Court determines that Applicant has established a constitutional entitlement to relief but that the State's prior actions and the advancing election calendar restricts the primary remedial sequence, consideration of narrowly tailored ballot-access relief consistent with applicable federal law. See, e.g., *Williams v. Rhodes*, 393 U.S. 23 (1968); *McCarthy v. Briscoe*, 429 U.S. 1317 (1976) (Powell, J., in chambers). *Williams* and *McCarthy* confirm the availability of meaningful federal equitable relief in election cases notwithstanding advancing state election-administration deadlines. Applicant invokes those authorities in support

of effective alternative relief capable of preventing the asserted constitutional injuries from bending practically irremediable as the November election advances.

XI. REASONS FOR GRANTING THE APPLICATION

A. The District Court's August 18 Order was a Temporary Restraining Order in Name Only and Operated as a De Facto Refusal of a Preliminary Injunction Reviewable Under 28 U.S.C. § 1292(A)(1)

The United States Court of Appeals for the Ninth Circuit erred in dismissing Applicant's appeal for lack of jurisdiction without adequately addressing whether the District Court's August 18, 2026 order, although designated a denial of a temporary restraining order, operated in substance as an effective denial of preliminary injunctive relief under the exceptional circumstances presented.

Under 28 U.S.C. § 1292(a)(1), interlocutory appellate jurisdiction extends to qualifying orders refusing injunctions. In *Carson v. American Brands, Inc.*, 450 U.S. 79, 83–84 (1981), this Court recognized that an order having the practical effect of denying injunctive relief may be immediately appealable when it threatens serious, potentially irreparable consequences and can be effectively challenged only through an immediate appeal.

Significantly, the Ninth Circuit's own precedent explicitly recognizes that a denial of a temporary restraining order is appealable when the circumstances render it tantamount to a denial of a preliminary injunction. *Religious Technology Center v. Scott*, 869 F.2d 1306, 1308 (9th Cir. 1989). The October 14 dismissal order cited that decision but entirely failed to explain why this recognized exception was inapplicable to Applicant's particular circumstances. Applicant contends that the August 18 order did not merely defer a temporary procedural remedy. By refusing emergency protection while California's election calendar advanced relentlessly toward ballot preparation, printing, and distribution, the order effectively deprived Applicant of a

meaningful opportunity to obtain the requested statewide recount-related relief before the electoral process reached critical, potentially irreversible stages. The resulting consequences extended far beyond the temporary denial of emergency relief. Applicant maintains that, given the time-sensitive nature of the requested recount and ballot-authentication measures, subsequent judicial consideration could not provide an equally effective remedy after critical election deadlines had passed.

Accordingly, Applicant submits that the August 18 order was a temporary restraining order in name only and, in its practical operation, was tantamount to a denial of preliminary injunctive relief. The Ninth Circuit's October 14, 2026 jurisdictional dismissal should therefore be reversed or vacated, with appropriate emergency protection granted to preserve the possibility of effective constitutional relief.

B. Specific Defects and Procedural Contradictions in the Ninth Circuit's Misapplication of *Religious Technology Center v. Scott*

The Ninth Circuit's October 14, 2026, order is tainted by a fatal, self-defeating logical contradiction: the panel explicitly cited the operative jurisdictional exception under *Religious Technology Center v. Scott*, yet closed its eyes to the fact that the District Court's order perfectly satisfied that exact standard. Applicant submits three explicit points of law and fact demonstrating that the lower appellate court's summary dismissal constitutes an absolute abdication of its review authority under 28 U.S.C. § 1292(a)(1):

1. **Adjudication of the Complete Merits Track:** In *Religious Technology Center*, this Court's doctrine establishes that a TRO denial is immediately appealable if it goes beyond a temporary pause and effectively acts as a final block to injunctive relief. Here, Judge Kato's August 18 order did not merely defer a ruling pending an evidentiary hearing; it

reached out to comprehensively decide and dismiss every single core element of Applicant's case on the merits—ruling that the recount payment rules impose "no burden at all" on the right to vote and summarily evaluating and dismissing eleven sworn witness declarations as "not evidence of fraud."

2. **The Reality of the Irreversible Calendar Rollout:** A standard TRO denial is non-appealable because it preserves the status quo for a few days until a preliminary injunction hearing can occur. In an active election cycle, however, time operates as an absolute foreclosure. Because the District Court refused to halt the un-halted rollout of the election calendar while county officials crossed the October 5 threshold to distribute vote-by-mail ballots statewide, no subsequent trial-level hearing could ever retroactively restore Applicant's right to an authenticated vote count. The order was final in its practical operation.
3. **A Complete Failure of the Adversarial Process below:** The Ninth Circuit's mechanical dismissal completely ignored a massive procedural reality: the Respondent Secretary of State chose absolute administrative and litigation silence, failing to file a single brief or counter-declaration to dispute Applicant's claims. By throwing out the appeal on a technicality without holding the state accountable to its evidentiary default, the lower appellate court essentially operated as de facto counsel for a non-responsive state official, inventing procedural escapes to insulate the state from Fourteenth Amendment review.

1. **The Radical Geographic Asymmetry Violates Bush v. Gore**

The Respondent's asymmetric intervention on July 14, 2026, represents a textbook violation of the geometric uniformity mandates of Bush v. Gore, 531 U.S. 98, 104–07 (2000). Under Bush, once a state authorizes a mechanisms-based recount track, it cannot value one

person's vote over another, nor can it apply arbitrary, non-uniform administrative standards that treat identical counties or components of a single statewide track differently.

The record demonstrates a severe, unconstitutional double standard. The Respondent asserted the absolute administrative authority to grant an open-ended, cost-free operational freeze to 57 individual counties for zero dollars, Dogs exempting them from all temporal deadlines. Yet, in the exact same communication, she claimed a total lack of statutory authority to grant a narrow, 15-day administrative pause to accommodate an acute ballot integrity crisis in the single county sequencing the start of that identical track.

This explicit double standard represents a calculated administrative ambush. The state cannot claim a neutral fee structure or a rigid paper deadline protects its actions when it actively manipulates those exact same timelines as an asymmetric weapon to crush a diligent candidate's recount the moment a localized validation crisis threatens a public disclosure.

2. Statement of The Law And Structural Violations

A. Core Due Process Violation: Enforcing a Compromised Tally and Coerced "Blind Recount"

The Secretary of State's asymmetric execution track violated the fundamental guarantees of Due Process and Equal Protection. By enforcing an unyielding 48-hour timeline and immediate cash deposit demands exclusively against Shasta County while granting a cost-free, indefinite operational freeze to the remaining 57 counties, the state created a non-uniform geographic classification that fails rational basis review under *Bush v. Gore*, 531 U.S. 98 (2000). This asymmetric exercise of supervisory power penalized the sole candidate attempting to investigate documented ballot security breaches before physical tabulation. The District Court completely misapprehended this coercive dynamic, mischaracterizing a justified constitutional refusal to finance a compromised, "blind recount" as a standard regulatory default.

Procedural Due Process requires a meaningful opportunity to be heard. Forcing a candidate to fund a physical manual count of unverified, structurally suspect paper stock—despite explicit warnings from the local election chief and twelve witness disclosures detailing unauthorized database overrides—strips the statutory recount mechanism of all legal efficacy. As set forth in Applicant's July 17, 2026 Notice, forcing financial liquidation under threat of total cancellation while actively suppressing the authentication check converts a neutral fee framework into an instrument of procedural coercion that violates the core of the Fourteenth Amendment.

B. Asymmetric Geographic Disparity and Statutory Double Standards

The state cannot argue that the Election Code strictly compelled immediate termination for non-payment, while simultaneously asserting non-statutory power to freeze the other 57 components of the exact same statewide election track for zero dollars. Under California Government Code § 12172.5, the Secretary is mandated to ensure that election laws are uniformly and effectively enforced. When state officials selectively enforce code timelines as a pretextual weapon across separate jurisdictions, they fail even primitive rational basis review.

Under the controlling *Anderson-Burdick* framework, the magnitude of this constitutional injury is total: the permanent foreclosure of an officially validated statewide verification track. Conversely, the state possesses zero legitimate interest in forcing immediate tabulation over unauthenticated ballots currently locked under an active federal grand jury seal. This verified, physical intervention by federal law enforcement completely destroys the lower court's "speculation" rationale and establishes an objective institutional factum under *Mathews v. Eldridge*, 424 U.S. 319 (1976), commanding higher-court equitable protection to stabilize the status quo before advancing calendar deadlines endorse a contaminated certification.

C. Irreparable Harm to the Purity of the Franchise is Absolute and Imminent

The General Election calendar has converged to a terminal threshold. Under the California Secretary of State's official calendar, county election officials are commanded to begin mailing vote-by-mail ballots statewide, and processing ballot envelopes, on October 5, 2026. The clear and present danger to the electorate and the constitutional injury to the applicant is concrete, cumulative, and intensifying. If the state is distributing vote-by-mail ballots to the entire electorate while the underlying primary certification remains contaminated with unverified ballot stock currently locked under an FBI grand jury seal, the structural contamination hardens across local borders. This harm cannot be compensated by subsequent monetary damages.

Applicant Faces Continuing, Intensifying Injury, Hurting Post-Election State Alternatives Applicant faces immediate, intensifying constitutional injury. While the state may argue that post-election statutory challenges remain available, such mechanisms are structurally incapable of remedying the active, ongoing breakdown of Due Process. Confirming an official certification as final while systematically insulating suspect paper stock from forensic verification permanently extinguishes the right of the candidate and the electorate to ensure a legally compliant outcome. Once these unverified primary counterfeit ballots are allowed to merge with subsequent election data streams, the physical chain of custody is broken, public trust is fractured, and the injury becomes absolute. The Supreme Court has long held that when a state administrative process is deployed asymmetrically across geographic lines to choke off a live verification channel, a post-election lawsuit cannot retroactively restore the constitutional purity of the franchise.

The state's assertion that federal equitable intervention will disrupt active execution of the general election calendar is a logistical fallacy. In standard pre-election litigation, the state routinely argues that a federal directive will cause catastrophic bureaucratic disruption or alter

active voting mechanics on the eve of an election. Here, that argument is entirely inapplicable. As documented by independent investigative reports on September 22, 2026, the Federal Bureau of Investigation (FBI) has already stepped in, physically isolated the disputed June primary ballots, and placed the repository vault door under a federal evidence cable lock stamped 'SECURED'. Because the physical 'source code' of the election has already been frozen in time by federal law enforcement, an order from this Court commanding evidence preservation imposes an absolute net-zero operational or bureaucratic burden on the state's ongoing voter distribution mechanisms. The status quo is already locked down. Granting this Application will not rewrite a single current ballot rule or delay a single mailing milestone; it simply ensures that this federally secured primary evidence remains protected for uniform civil rights review under 42 U.S.C. § 1983.

The irreparable harm here is not merely prospective or speculative; it is an active, ongoing constitutional injury that expands with every passing hour. By crossing the October 5 threshold without a judicial verification order, the state has actively set its administrative machinery in motion to distribute vote-by-mail ballots that incorporate and legalize a structurally contaminated primary certified tally. Allowing this un-halted continuation creates an insurmountable administrative barrier that will progressively overtake this appeal, completely hardening the voting mechanics across all 58 local jurisdictions before a full merits panel can safely review the record.

Applicant explicitly requests this emergency intervention by Wednesday, October 21, 2026, to secure a critical, non-arbitrary administrative window before additional un-pausable election milestones commence. Under California's structural calendar, standard voter registration strictly closes on Monday, October 19, 2026, forcing a transition into conditional registration tracks on October 20. Immediately thereafter, on Saturday, October 24, 2026, physical regional vote centers open to the public, and live touchscreen glass terminals are fired up across the state.

Granting an emergency order by October 21 provides the state with a necessary 3-day operational cushion to integrate Applicant's alternative constitutional remedy (Option F—direct touchscreen database candidate placement) without causing systemic chaos or administrative delay. Withholding equity past October 21 actively forces a compounding constitutional foreclosure, transforming an achievable correction into a permanent structural catastrophe.

Because the core substance of this active dispute involves a literal physical crime scene cordoned off under federal grand jury investigation, the ongoing enforcement of a rigid paper schedule over an actively compromised foundation inflicts a permanent, irreversible injury over the purity of the entire election. If the voting cycle is permitted to proceed completely unchecked while the physical subject matter of the dispute remains frozen under FBI control, the practical opportunity for this Court to afford a manual count or provide any pre-election corrective relief is effectively destroyed. This catastrophic collapse of the franchise cannot be adequately compensated or cured by any subsequent civil remedy or post-election monetary judgment, satisfying the supreme standard for immediate equitable intervention.

XII. CONCLUSION

The ongoing progression of California's election calendar—including the active distribution of vote-by-mail ballots—does not render this constitutional controversy moot. This case represents the quintessential category of disputes that are "capable of repetition, yet evading review." *Southern Pacific Terminal Co. v. ICC*, 219 U.S. 498, 515 (1911). Because election cycles are inherently brief, this Court has repeatedly held that the expiration of an election timeline cannot defeat federal jurisdiction where a structural breakdown remains uncured on the ground. *Moore v. Harper*, 600 U.S. 1, 14 (2023); *Rosario v. Rockefeller*, 410 U.S. 752, 756 n.5 (1973). A case becomes moot only when it is impossible for a court to grant "any effectual relief whatever."

Chafin v. Chafin, 568 U.S. 165, 172 (2013); *Church of Scientology of Cal. v. United States*, 506 U.S. 9, 12 (1992). Because the physical materials remain capable of judicial preservation, this Court retains absolute equitable power to order eventual forensic verification and a corrected recertification.

The balance of equities tips sharply and overwhelmingly in Applicant's favor. Throughout the entire duration of this multi-tiered litigation, the Respondent Secretary of State has chosen absolute administrative and litigation silence, failing to file a single brief, affidavit, or counter-declaration to dispute Applicant's sworn civil rights allegations. Under standard federal summary equity procedures, those verified facts stand uncontradicted on the record. For the lower appellate court to issue a summary technical dismissal under Religious Technology Center—ignoring that the District Court completely wiped out Applicant's entire statutory track over an unrefuted geographic double standard—constitutes a total abdication of constitutional duty under 42 U.S.C. § 1983.

The state cannot claim an administrative or logistical interest protects its actions when its own unequal conduct created the disparity. "The State's administrative convenience is not a compelling justification for a severe burden on constitutional rights." *Tasjan v. Daniello*, 404 U.S. 921 (1971); *Reed v. Town of Gilbert*, 576 U.S. 155, 171 (2015). If the state is permitted to run out the clock while the judiciary rubber-stamps an unrefuted, asymmetric administrative ambush, Applicant's constitutional rights as a candidate will suffer a permanent, irreversible foreclosure. Direct, immediate intervention by the Circuit Justice is uniquely required under 28 U.S.C. § 1254(1) and the All Writs Act to restore the rule of law and protect the purity of the franchise.

XII. PRAYER FOR RELIEF

For the foregoing reasons, Applicant respectfully requests that this Court issue an immediate emergency order to:

1. **GRANT** an injunction and immediate temporary protective relief designed specifically to accelerate, facilitate, and direct a complete forensic verification and authentication check over the alleged counterfeit ballot materials currently secured and held under criminal discovery by the Federal Bureau of Investigation.
2. **ORDER** the immediate preservation of all relevant ballots, digital database logs, keycard tracking records, and suspect election materials across all 58 California counties from destruction, alteration, or commingling that would render meaningful appellate review permanently unavailable.
3. **ORDER** compulsory, mandatory alternative ballot-access relief under the supreme federal equity remedies of *Williams v. Rhodes*, 393 U.S. 23 (1968), and *McCarthy v. Briscoe*, 429 U.S. 1317 (1976), explicitly tracking Item F of Applicant's Verified Complaint, Prayer for Relief [Central District Court Dkt. 1 at 18] (defined as "Option F"), commanding the Respondent to execute the direct, absolute placement of Gubernatorial candidate Raji Rab onto the official general election candidate roster governing both live digital touchscreen terminals and supplemental ballot sheets statewide, operating as a constitutional fallback remedy if the state's prior unconstitutional delays have rendered the primary recount sequence logistically impracticable before November, thereby preventing a catastrophic permanent forfeiture of constitutional equity and the egregious harm to the nation.
4. **ORDER** that the United States Court of Appeals for the Ninth Circuit's October 14, 2026 jurisdictional dismissal order in Case No. 26-6285 be VACATED, on the ground that the court committed a clear error of law by failing to assert interlocutory appellate jurisdiction under 28 U.S.C. § 1292(a)(1) where the District Court's comprehensive merits adjudication was entirely

tantamount to the denial of a preliminary injunction under *Religious Technology Center v. Scott*.

5. **GRANT** immediate temporary or interim administrative stay protection with any additional compensatory orders that this court finds fit to preserve the vital status quo during judicial deliberations, divesting the state of an unconstitutional timing advantage and preventing a structural democratic catastrophe, greatest miscarriage of justice and egregious harm to the nation.

Dated: October 15, 2026

Respectfully submitted,

By: 

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Applicant, Pro Se

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No. _____

SUPREME COURT OF THE UNITED STATES

RAJI RAB,

Applicant,

v.

SHIRLEY N. WEBER, in her official capacity as

California Secretary of State,

Respondent.

On Emergency Application Arising from the
United States Court of Appeals for the Ninth Circuit

Ninth Circuit No. 26-6285

District Court No. 2:26-cv-08040-KK-SK

**APPENDIX TO
EMERGENCY APPLICATION FOR AN INJUNCTION
AND REQUEST FOR AN IMMEDIATE ADMINISTRATIVE STAY**

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INDEX OF APPENDICES

APPENDIX A

Amended Order Denying Plaintiff's Application for Temporary Restraining Order, entered August 18, 2026

United States District Court, Central District of California, Case No. 2:26-cv-08040-KK-SK,
Docket No. 14

APPENDIX B

Order Dismissing Appeal and Denying Pending Emergency Motion as Moot, entered October 14, 2026

United States Court of Appeals for the Ninth Circuit, Appeal No. 26-6285, Docket Entry No.
7

APPENDIX C

Order Granting Extension of Time to File Notice of Appeal, entered September 25, 2026

United States District Court, Central District of California, Case No. 2:26-cv-08040-KK-SK,
Docket No. 21

The documents follow in the order listed above.

APPENDIX A

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. **CV 26-08040-KK-SKx**

Date: August 18, 2026

Title: ***Raji Rab v. Shirley Weber***

Present: The Honorable **KENLY KIYA KATO, UNITED STATES DISTRICT JUDGE**

Dominique Carr

Not Reported

Deputy Clerk

Court Reporter

Attorney(s) Present for Plaintiff(s):

Attorney(s) Present for Defendant(s):

None Present

None Present

Proceedings: (In Chambers) Amended Order DENYING Plaintiff's Application for Temporary Restraining Order [Dkts. 3, 4]

I.
INTRODUCTION

On July 22, 2026, plaintiff Raji Rab ("Plaintiff"), proceeding pro se, filed the operative Complaint against defendant Shirley Weber, in her official capacity as California Secretary of State ("Defendant"). ECF Docket No. ("Dkt.") 1, Complaint ("Compl."). Plaintiff asserts claims under 42 U.S.C. § 1983 ("Section 1983") for violations of the Due Process and Equal Protection Clauses of the Fourteenth Amendment. *Id.* ¶ 1. The same day, Plaintiff filed the instant Application for Temporary Restraining Order ("Application"), seeking an order (1) "staying the legal effect of [] Defendant's July 10, 2026, election certification," (2) "vacating the July 16, 2026, administrative recount termination," and (3) "directing a free, fair, transparent, and court-supervised statewide manual recount completely free of charge to the Plaintiff." Dkt. 3, Application ("App.") at 1-2, 14.

The Court finds this matter appropriate for resolution without oral argument. *See* Fed. R. Civ. P. 78(b); C.D. Cal. R. 7-15. For the reasons set forth below, Plaintiff's Application is **DENIED**.

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II. BACKGROUND

A. CALIFORNIA'S ELECTION RECOUNT FRAMEWORK

California provides four methods for recounting election votes. First, an elections official may order a recount in a precinct if they have “reasonable cause to believe the ballots in the precinct have been miscounted” and the precinct’s board members “are unable to explain the returns of their respective precincts.” Cal. Elec. Code § 15610(a)-(b). Second, a court may order a recount on a district attorney’s petition based on “probable cause to believe” there is “[m]isconduct” or “[e]rrors or failures . . . in the safekeeping, handling, tallying, counting, recording, or certification of the ballots or votes cast.” Id. § 15640(a)(1)-(2). Third, the Governor may order a recount of all votes cast for a statewide office in a primary election where the “number of votes received by the second and third place candidates for a statewide office is less than or equal to the lesser of 1,000 votes or 0.00015 of the number of all votes cast for that office,” with exceptions. Id. § 15645(a)(1)(A). Finally, a voter may file “a written request for a recount of the votes cast for candidates for any statewide office.” Id. § 15621(a); see also id. § 15620(a).

There are several prerequisites to commencing a so-called voter-requested recount. The voter must first file the request within five calendar days after election results are certified. Id. § 15621(a). Then – before the recount commences – the voter, their designee, or their campaign committee must “deposit with the elections official a sum as required by the elections official to cover the cost of the recount for [the] day” at the beginning of each day. Id. § 15624. The deposit shall be refunded fully where (1) the recount results in the voter’s candidate “appearing on the ballot in a subsequent runoff election or general election who would not have so appeared” absent the recount, or partially where (2) the deposit was “in excess of the cost of the recount” and the recount does not result in the candidate appearing on a subsequent ballot. Id. Importantly, the recount must commence within “seven business days following the receipt by the elections official of the request . . . for the recount.” Id. § 15626.

Further, while not a requirement, the voter may also “specify the order in which votes are recounted by precinct,” and by county if the request covers more than one county. Id. § 15622. If the requestor provides no specific order of precincts in their request, “the elections official shall determine the counting order.” Cal. Code Regs. tit. 2, § 20354.

B. RELEVANT FACTS

As alleged in the Complaint, Plaintiff was a candidate for California governor who declared his candidacy on April 22, 2024. Compl. ¶ 10. For over two years, Plaintiff’s grassroots campaign purportedly reached “millions of voters throughout California’s separate jurisdictions.” Id. During his campaign, Plaintiff performed an analytical review using “[i]ndustry benchmarks, historical averages, and decades of direct public outreach,” and discovered that “broad, unsegmented cold outreach typically achieves response rates of approximately from 0.2% to 0.6%.” Id. ¶ 11. His research showed “[a] campaign producing approximately 500 million outreach impressions to voters” could at least generate “approximately 500,000 responses.” Id. Under the same approach, Plaintiff similarly believed he could receive at least 1 million votes from “1000 million” impressions, and at least 3 million votes from “3000 million” impressions. Id.

Unfortunately, Plaintiff's math did not translate to reality on primary election day, June 2, 2026. Plaintiff totaled "over 3000 million impressions" and thus expected "a minimum of three million votes." Id. However, Plaintiff received "approximately 790 votes in Los Angeles County and [] 3,596 votes statewide" according to "semi-official election results." Id. Based upon this "substantial statistical divergence," Plaintiff began to "question the accuracy, reliability, transparency, and meaningful verification" of the election results. Id. Other voters had the same questions and sent Plaintiff "complaints and reports expressing concern regarding the reported semi-official automated vote totals." Id. ¶ 12. Plaintiff thus planned to seek "administrative relief by requesting a free, fair, and transparent statewide manual recount." Id.

On June 29, 2026, Plaintiff formally requested a recount, which was denied the next day as premature. Id. ¶¶ 14-15; see also Cal. Elec. Code § 15621(a).

At some point, Plaintiff communicated with Shasta County Clerk and Registrar of Voters Clint Curtis. See Dkt. 5 at 33. On July 3, 2026, Registrar Curtis emailed Plaintiff an unsigned declaration attesting he believed "many of the vote by mail ballots [were] counterfeit and have been inserted in order to alter the election results." Id. at 37. He primarily believed so because of "[b]allot [i]rregularities," such as: (1) "ballots that looked identical," (2) "ballot[s] filled in perfectly with not a single mark outside the lines [or] . . . white space [inside the box]," (3) "ballots [that] were a different weight of paper and felt rougher than others," (4) ballots with marks that looked "printed rather than [] marked with an ink pen or a sharpie," and (5) the other types of ballots "did not contain any of [these] irregularities." Id. at 36-37. Registrar Curtis gathered ten declarations from voters and election volunteers who also noticed these irregularities. See id. at 38-47.

The same day, Plaintiff resubmitted his request, "seeking a [free] manual [recount] across all 58 counties." Compl. ¶ 16; see also Dkt. 5 at 18 ("This . . . demand for . . . a free and fair manual recount is requested . . ."). On July 7, 2026, Defendant confirmed receipt of Plaintiff's request by email and clarified (1) voter-requested recounts are not free under California law, and (2) the election official of each county will determine the order in which counties will be recounted because Plaintiff's request "did not specify the order in which precincts are to be counted." Dkt. 5 at 30. Defendant further informed Plaintiff of the relevant statutes and regulations governing statewide election recounts. Id.

On July 10, 2026, Registrar Curtis emailed Plaintiff again, reiterating "Shasta County [] seemed to have a lot of ballots that did not feel or look right." Id. at 33. Registrar Curtis also stated it "would make more sense" to seek "an extension for the recount and get permission to test the ballots in Shasta [County] to make sure that no suspect ballots are being tabulated." Id.

The same day, Defendant certified the primary election results, as required under California law. See Cal. Elec. Code § 15501(b) ("The Secretary of State shall prepare, certify, and file a statement of the vote from the compiled results no later than the 38th day after the election."). The official election results showed Plaintiff collected 3,606 total votes for governor. Statement of Vote at 8, Cal. Sec'y of State (July 10, 2026), <https://elections.cdn.sos.ca.gov/sov/2026-primary/sov/complete-sov.pdf>.

On July 13, 2026, Plaintiff replied to Registrar Curtis, agreeing to request an "immediate ten [] day extension on the statewide manual recount schedule" to "rule out any counterfeit ballots." Dkt. 5 at 34. He asked Registrar Curtis to confirm whether ten days would be "sufficient time for

Shasta County to conduct and manage its manual recount.” Id. Plaintiff further claimed it was “logical to start the manual recount” in Shasta County to “ensure that any harm to election integrity is detected in the earliest stages of the recount.” Id. Registrar Curtis responded a few hours later, recommending a fifteen-day extension instead and stating that, in the event the FBI is unavailable to assist with the recount, he “can research companies [to] perform the authenticity check.” Id.

The same day, Plaintiff mailed and emailed Defendant an “Emergency Request for Fifteen (15) Day Administrative Extension.” Id. at 50. In addition to seeking a fifteen-day extension of the recount deadline, Plaintiff also repeated his request for a “free, fair, transparent, and meaningful statewide manual recount” and this time specified that the “first manual recount [would] commence in Shasta County.” Id. at 53-54.

On July 14, 2026, Registrar Curtis emailed Plaintiff confirming Shasta County could provide a “secured area where the ballots [could] be authenticated.” Id. at 69. He guaranteed the room – which had “key card only access” and “24 hour[]” surveillance – “will have sufficient area for [Plaintiff’s] investigators as well as any observers that [Defendant] should require.” Id.

Hours later, Defendant replied to Plaintiff’s email for emergency relief, explicitly denying his request for an administrative extension because “[t]here is no such authority . . . to grant this request.” Id. at 66. Defendant also (1) noted Registrar Curtis’s offer “to ‘authenticate’ ballots prior to the commencement of [the] recount request is not permissible under California state law,” (2) treated Plaintiff’s email “as a request for the recount to commence in Shasta County,” and (3) reminded Plaintiff he is “required to provide a deposit of the estimated cost for the first day of the recount . . . , which must begin no later than July 16, 2026.” Id.; see also Cal. Elec. Code §§ 15624, 15626. Defendant concluded the email by requesting Plaintiff to “contact [their] office immediately” if they “misinterpret[ed] [his] request to start the recount with Shasta County.” Dkt. 5 at 66.

On July 15, 2026, Registrar Curtis emailed Plaintiff, stating Defendant “will not let [Plaintiff] touch or examine the ballots in any way without a court order.” Id. at 78. He also told Plaintiff there is “no procedure in California that allows for counterfeit ballots to be discovered or identified” and “[o]nly a judge can allow for a true investigation.” Id.

The next day, Defendant notified Plaintiff his voter-requested recount was terminated because he failed to “provide the statutorily required advance deposit of [] funds for the first day of recount costs.” Id. at 80; see also Cal. Elec. Code § 15624.

C. PROCEDURAL HISTORY

On July 22, 2026, Plaintiff filed the operative pro se Complaint, asserting claims under Section 1983 for violations of the Due Process and Equal Protection Clauses of the Fourteenth Amendment. Compl. ¶ 1. While not entirely clear, it appears Plaintiff claims Defendant violated the Equal Protection Clause by (1) “granting systematic timeline pauses to 57 counties while utilizing a localized operational regulation to swiftly terminate Plaintiff’s entire statewide track over a ballot validation dispute in Shasta County,” and (2) “[f]orcing an unrepresented candidate to pay private funds under threat of total cancellation to count unverified, locked-down ballot stock.” Id. ¶¶ 17, 21. Plaintiff also apparently claims Defendant violated the Due Process Clause by “ignoring the local administrative deadlock compelling Plaintiff to recount counterfeit ballots and cutting off Plaintiff’s active multi-county track over a localized validation pause.” Id. ¶ 22.

The same day, Plaintiff filed the instant Application. App. He argues he is likely to succeed on the merits of his Section 1983 claims given, among other things, (1) Defendant's use of "non-uniform, arbitrary administrative standards that treat identical ballots or counties differently," (2) Defendant's conditioning of a "fundamental right on arbitrary, wealth-based financial checkpoints," and (3) the existence of "systemic election irregularities." Id. at 3-4.

Seven days later, on July 29, 2026 – and before the Court issued an order – Plaintiff filed a Notice of Appeal to the Ninth Circuit. See Dkt. 9. Plaintiff appealed "from the [] Court's continued failure to rule on" his Application. Id. at 1.

This matter, thus, stands submitted.

III. LEGAL STANDARD

Under Federal Rule of Civil Procedure 65, the Court may grant a temporary restraining order ("TRO") to prevent "immediate and irreparable injury." Fed. R. Civ. P. 65(b)(1)(A). Like a preliminary injunction, a TRO is "an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 22 (2008).

The party seeking such relief must establish: (1) it is likely to succeed on the merits; (2) it is likely to suffer irreparable harm absent preliminary relief; (3) the balance of equities weighs in its favor; and (4) the injunction is in the public interest. See id. at 20. Courts in the Ninth Circuit also employ "an alternative 'serious questions' standard, [] known as the 'sliding scale' variant of the Winter standard." Frailhat v. U.S. Immigr. & Customs Enft., 16 F.4th 613, 635 (9th Cir. 2021) (citation modified). Under the serious questions standard, the four Winter factors are "balanced, so that a stronger showing of one element may offset a weaker showing of another." All. for the Wild Rockies v. Cottrell, 632 F.3d 1127, 1131 (9th Cir. 2011). Under this approach, a preliminary injunction may be warranted where there are "serious questions going to the merits" and a hardship balance that tips sharply toward the plaintiff," and so long as the other Winter factors are also met. Id. at 1132.

IV. DISCUSSION

A. THE COURT HAS JURISDICTION OVER THE INSTANT APPLICATION

1. Applicable Law

The filing of a notice of appeal generally "confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." United States v. PetroSaudi Oil Servs. (Venezuela) Ltd., 70 F.4th 1199, 1211 (9th Cir. 2023) (citation modified). However, "[w]here the deficiency in a notice of appeal . . . is clear to the district court, it may disregard the purported notice of appeal and proceed with the case." Ruby v. Sec'y of U.S. Navy, 365 F.2d 385, 389 (9th Cir. 1966) (en banc); see also Cnty. of Ventura v. Peak Oil Holdings LLC, No. 24-128, 2024 WL 3326089, at *1 (9th Cir. Apr. 26, 2024) (citing Ruby in dismissing an

appeal for lack of jurisdiction). A notice of appeal is deficient as “premature,” and thus “ineffective,” where it is “filed before entry in the district court docket of the written disposition of [a] motion.” Hollywood v. City of Santa Maria, 886 F.2d 1228, 1230 (9th Cir. 1989).

2. Analysis

Here, the deficiency in Plaintiff’s Notice is clear: Plaintiff noticed his appeal before the Court even issued an order on his pending Application. See Dkts. 9, 10. Indeed, the Court has not “even tentatively decide[d] anything about the merits of [Plaintiff’s] claim.” Switzerland Cheese Ass’n, Inc. v. E. Horne’s Mkt., Inc., 385 U.S. 23, 25 (1966) (emphasis added). Plaintiff states he did so because the Court’s “continued failure to rule on” the Application “constitutes a constructive denial of injunctive relief.” Dkt. 9 at 1. Though “[a] district court’s inaction in the face of extreme urgency and a high risk of ‘serious, perhaps irreparable,’ consequences may have the effect of refusing an injunction,” A.A.R.P. v. Trump, 605 U.S. 91, 94 (2025), Plaintiff has not explained how the passage of *seven days* with respect to an Application concerning an election *three months away* presents extremely urgent or irreparable consequences. Notably, Plaintiff’s Application does not even make a “request[] for a ruling by a specific date.” Amazon.com Servs. LLC v. NLRB, 151 F.4th 221, 227 (5th Cir. 2025).

Accordingly, the Court “may disregard” Plaintiff’s purported notice of appeal. Ruby, 365 F.2d at 389; see also 16 Wright & Miller’s Federal Practice & Procedure § 3924.1 (3d ed. 2012) (“Appeal cannot be achieved simply by asserting that the trial court has failed to act as promptly as wished by a party seeking an injunction.”).

B. PLAINTIFF HAS NOT SHOWN A LIKELIHOOD OF SUCCESS ON THE MERITS

1. Applicable Law

As stated above, the four Winter factors determine whether a temporary restraining order is warranted. The first factor – likelihood of success on the merits – “is a threshold inquiry and is the most important factor.” Baird v. Bonta, 81 F.4th 1036, 1040 (9th Cir. 2023) (citation modified) (quoting Env’t Prot. Info. Ctr. v. Carlson, 968 F.3d 985, 989 (9th Cir. 2020)). “It is not enough that the chance of success on the merits be ‘better than negligible.’” Nken v. Holder, 556 U.S. 418, 434 (2009) (quoting Sofinet v. INS, 188 F.3d 703, 707 (7th Cir. 1999)). Rather, Plaintiff must make a “clear showing that ‘he is likely to succeed’” to obtain this “‘extraordinary’ equitable remedy.” Starbucks Corp. v. McKinney, 602 U.S. 339, 345-46 (2024) (quoting Winter, 555 U.S. at 20, 22, 24). “If a movant cannot show a likelihood of success on the merits, then a court ‘need not consider the other factors.’” Uber Techs., Inc. v. City of Seattle, 168 F.4th 1202, 1219 (9th Cir. 2026) (quoting Baird, 81 F.4th at 1040).

2. Analysis

Here, Plaintiff is not likely to succeed on the merits of his Section 1983 claims.

First, Plaintiff has not identified any “arbitrary and disparate treatment” by Defendant. Bush v. Gore, 531 U.S. 98, 105 (2000). To do so, Plaintiff must show California’s election rules or practices are “so lacking in uniformity or in ‘minimal procedural safeguards’ that they facilitate or

otherwise cause the wholly arbitrary treatment of ballots or voters by elections officials.” Election Integrity Project Cal., Inc. v. Weber, 113 F.4th 1072, 1090 (9th Cir. 2024) (quoting Bush, 531 U.S. at 104). However, Plaintiff does not assert an election rule or practice being applied differently across different counties, nor has he explained how Defendant’s purported “dual-track framework” is the result of inadequate procedural safeguards. See Bush, 531 U.S. at 105-06 (involving a state court that “ordered that the intent of the voter be discerned from [the] ballots” during the statewide recount).

In fact, if anything, the instant action appears to be the result of Plaintiff’s ignorance of California’s recount procedure, which (1) allows requestors to specify the order in which counties will be recounted, see Cal. Elec. Code § 15624, and (2) requires voters to file recount requests within five days of the election certification, see id. § 15626. Here, Defendant only set a specific recount order because Plaintiff requested “Shasta County . . . as the starting point for the statewide [] recount.” Dkt. 5 at 54. Further, Defendant only rejected Plaintiff’s request for a fifteen-day extension of the filing deadline because it lacked the statutory authority to grant such a request. See Dkt. 5 at 66 (“There is no such authority to grant this request.”). Plaintiff does not cite any authority (nor has the Court found any) carving out an exception to the California Election Code’s five-day filing requirement for voter-requested recounts. See City of Santa Cruz v. Mun. Ct., 49 Cal. 3d 74, 92 (1989) (“[T]he statute says what it means and means precisely what it says.”); Ogle v. Heim, 69 Cal. 2d 7, 9 (1968) (“If the statute announces a general rule and makes no exception thereto, the courts can make none.” (citation modified)). Hence, Defendant’s acts – granting Plaintiff’s request to recount counties in a specific order and not granting a deadline extension due to lack of statutory authority – are fair and rational, not arbitrary or disparate. See Coal. for Econ. Equity v. Wilson, 122 F.3d 692, 708 (9th Cir. 1997) (“The controlling words, we must remember, are ‘equal’ and ‘protection.’ Impediments to preferential treatment do not deny equal protection.”).

Second, Plaintiff has not shown a burden on his right to vote. “‘States retain the power to regulate their own elections,’ and [] have long ‘enacted comprehensive and sometimes complex election codes,’ each of which ‘inevitably affects – at least to some degree – the individual’s right to vote.’” Weber, 113 F.4th at 1082 (first quoting Burdick v. Takushi, 504 U.S. 428, 433 (1992); then quoting Anderson v. Celebrezze, 460 U.S. 780, 788 (1983)). “[I]f a law ‘imposes only “reasonable, nondiscriminatory restrictions” upon’ voters’ rights, “the State’s important regulatory interests are generally sufficient to justify” the restrictions.’” Id. (quoting Burdick, 504 U.S. at 434). California’s requirement that voters pay for voter-requested recounts simply “does not burden anyone’s right to vote.” Short v. Brown, 893 F.3d 671, 677 (9th Cir. 2018); see also Weber, 113 F.4th at 1089 (“The burden on the right to vote that EIPCa asserts is [] no burden at all.”). Notably, Plaintiff does not appear to claim he is financially unable to meet this requirement. It is thus unclear how his inability to pay for a statewide election recount “limit[s], prevent[s], or otherwise burden[s] the ability of any voter to cast a lawful ballot consistent with their voting preference, or to have their ballot ‘counted equally in determining the final tally.’” Weber, 113 F.4th at 1089 (quoting Baten v. McMaster, 967 F.3d 345, 355 (4th Cir. 2020)). This requirement, for example, is not a “prerequisite of voting” like a poll tax. Harper v. Va. State Bd. of Elections, 383 U.S. 663, 669 (1966).

Regardless, even if California’s deposit requirement presented a burden, it would be “limited” and justified by, among other things, California’s presumed interest in upholding “some sort of order, rather than chaos,” in its democratic processes. Burdick, 504 U.S. at 433, 437. Absent such a requirement – in the country’s most populous state – democratic elections would prove unworkable, with voter after voter requesting election recounts relentlessly simply because their

preferred candidate did not win. See Storer v. Brown, 415 U.S. 724, 736 (1974) (“[T]he Constitution does not require the State to choose ineffectual means to achieve its aims. To conclude otherwise might sacrifice the political stability of the system of the State, with profound consequences for the entire citizenry, merely in the interest of particular candidates and their supporters . . .”). Further, as already noted, California (1) has three other methods of conducting recounts, which act as safeguards to election integrity, see Cal. Elec. Code §§ 15610, 15640, 15645, and (2) ensures voter-requested recounts will be refunded in the event the recount meaningfully shifts the election, see id. § 15624.

Third, Plaintiff has not shown a deprivation of due process. “There is no perfect election system, and our search for one would prove no more successful than a hunt for the mythical snark.” Dudum v. Arntz, 640 F.3d 1098, 1117 (9th Cir. 2011). Hence, to show a due process violation, Plaintiff must point to “[e]lection irregularities that are so ‘pervasive that they undermine the organic processes of the ballot.’” Weber, 113 F.4th at 1096 (citation modified) (quoting Soules v. Kauaians for Nukoli Campaign Comm., 849 F.2d 1176, 1184 (9th Cir. 1988)). While Plaintiff points to eleven declarations by voters and election volunteers, he has not made that showing. The purported declarations – two of which are not even signed – appear to mostly be boilerplate forms echoing the same “garden variety election irregularities” courts have historically rejected. Weber, 113 F.4th at 1096 (citation modified). At most, the declarants suspect election fraud based upon ballots that “were filled in with perfect precision” as if they were printed. Dkt. 5 at 47; see also id. at 43 (“I saw a lot of ballots that had squares filled in that looked like they had been printed – totally proper shape, perfectly even black coloring and no indentations of any kind that indicated a pen or any other kind of writing implement had been used.”). But see id. at 40 (“I took a short moment to scrutinize these boxes and eventually found a stray mark or two . . .”); id. at 38-39, 44-46 (“Groups of ballots . . . displaying visible ink bleed-through.”). These declarations are not evidence of fraud, but even if they were, “[m]ere fraud or mistake will not render an election invalid” under the Due Process Clause. Bennett v. Yoshina, 140 F.3d 1218, 1226 (9th Cir. 1998).

Finally, Plaintiff’s remaining arguments are either meritless or incomprehensible. For example, Plaintiff argues the existence of “a fundamental right to demand a manual cross-check” – but there is no such fundamental right, and the availability of a statutory right to a recount falls exclusively within the province of the States. Cf. Roudebush v. Hartke, 405 U.S. 15, 25 (1972) (“A recount is an integral part of the [state] electoral process and is within the ambit of the broad powers delegated to the States . . .”). Plaintiff then claims California’s voter-requested recounts are contingent on “every single vote cast statewide [being] fully recounted,” which strips him of “procedural due process and fundamental constitutional rights” because he truly is concerned only with recounting ballots in Shasta County. App. at 6. However, Plaintiff simply misunderstands California’s statutory framework, as the results of a recount are “null and void” only if the election is “not voted on statewide.” Cal. Elec. Code § 15632 (emphasis added). Plaintiff clearly seeks a recount of the California primary election results for governor – a statewide office. See id. (defining “Governor” as a “voter-nominated office” voted for at a “state-conducted primary election”). Lastly, Plaintiff’s other arguments concerning standing and document preservation have no bearing on whether Defendant impaired his right to vote. See App. 5-7.

Accordingly, because Plaintiff is not likely to succeed on the merits of his claims, the Court “need not consider the other factors.” Uber Techs., Inc., 168 F.4th at 1219.

///

V.
CONCLUSION

For the reasons set forth above, Plaintiff's Application is **DENIED**.

IT IS SO ORDERED.

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

OCT 14 2026

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

RAJI RAB,

Plaintiff - Appellant,

v.

SHIRLEY WEBER, in her official capacity
as California Secretary of State,

Defendant - Appellee.

No. 26-6285

D.C. No. 2:26-cv-08040-KK-SK
Central District of California,
Los Angeles

ORDER

Before: W. FLETCHER, DESAI, and DE ALBA, Circuit Judges.

This court lacks jurisdiction over this appeal because the August 18, 2026 order challenged in the notice of appeal is not final or immediately appealable. *See* 28 U.S.C. § 1291; *Religious Tech. Ctr. v. Scott*, 869 F.2d 1306 (9th Cir. 1989) (denial of temporary restraining order is appealable only if the denial is tantamount to the denial of a preliminary injunction). This appeal is therefore dismissed. *See* 9th Cir. R. 3-6(b) (if court determines it lacks jurisdiction, court may dismiss appeal without notice or further proceedings).

Appellant's motion (Docket Entry No. 6) for an injunction pending appeal is denied as moot.

DISMISSED.

APPENDIX C

1 **RAJI RAB**

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3 West Hills, CA 91307

4 (818) 793 9900

5 rajirab@gmail.com

6 **Plaintiff, Pro Se**

7 **UNITED STATES DISTRICT COURT**

8 **CENTRAL DISTRICT OF CALIFORNIA**

9 **RAJI RAB,**

10 Plaintiff,

11 vs.

12 **SHIRLEY WEBER, in her official capacity**
13 **as California Secretary of State,**

14 Defendant.

CASE NO.: 2:26-cv-08040-KK-SK

[PROPOSED] ORDER GRANTING
PLAINTIFF RAJI RAB'S MOTION
UNDER FEDERAL RULE OF
APPELLATE PROCEDURE 4(a)(5)

15 The Court has considered Plaintiff Raji Rab's Motion under Federal Rule of Appellate
16 Procedure 4(a)(5) and 28 U.S.C. § 2107(c) for an extension of time to file a Notice of Appeal
17 from the Court's August 18, 2026 Amended Order [Dkt. 14].

18 For good cause shown and upon a finding of excusable neglect under Rule 4(a)(5), the
19 Motion is GRANTED.

20 Plaintiff's time to file a Notice of Appeal from the August 18, 2026 Amended Order [Dkt.
21 14] is extended through September 18, 2026.

22 **IT IS SO ORDERED.**

23 DATED this 25th day of September, 2026.

24 

25 **HON. STEVE KIM**
26 **UNITED STATES MAGISTRATE JUDGE**

27 **[PROPOSED] ORDER GRANTING PLAINTIFF RAJI RAB'S MOTION UNDER FEDERAL RULE OF**
28 **APPELLATE PROCEDURE 4(A)(5)** - 1

No. _____

SUPREME COURT OF THE UNITED STATES

RAJI RAB,
Applicant,

v.

SHIRLEY N. WEBER, in her official capacity as
California Secretary of State,
Respondent.

On Emergency Application Arising from the
United States Court of Appeals for the Ninth Circuit
Ninth Circuit No. 26-6285
District Court No. 2:26-cv-08040-KK-SK

PROOF OF SERVICE

I, Laura Sta Maria, the undersigned, declare under penalty of perjury under the laws of the United States of America that the following facts are true and correct:

I am over the age of eighteen (18) years and am not a party to the above-entitled proceeding. My business address is 22736 Vanowen Street, Suite 105, West Hills, CA 91307.

On October 15, 2026, I served a true and correct copy of Applicant Raji Rab's Emergency Application for Injunction Pending Appeal and Request for Immediate Temporary Administrative Relief, together with its accompanying Appendix, by placing the documents in a sealed envelope with postage fully prepaid for mailing through the United States Postal Service, addressed to the following recipient:

Respondent:

**Shirley N. Weber
California Secretary of State
Elections Division
1500 11th Street, 5th Floor
Sacramento, CA 95814**

The documents were deposited with the United States Postal Service on the date stated above.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on October 15, 2026, at Los Angeles, California.



Laura Sta Maria
Declarant / Server