

No. 25-1017

IN THE
Supreme Court of the United States

REPUBLICAN NATIONAL COMMITTEE,
Petitioner,

v.

MI FAMILIA VOTA, ET AL.,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE NINTH CIRCUIT

**BRIEF OF AMICUS CURIAE
ADVANCE COLORADO,
IN SUPPORT OF PETITIONER**

Kristine L. Brown
6501 E. Belleview Ave,
Ste. 375
Denver, CO 80111
720-285-9552
kbb@advancecolorado.org

Counsel for Amicus Curiae

TABLE OF CONTENTS

Table of Authorities	iii
Interest of Amicus Curiae.....	1
Summary of Argument	2
Argument.....	5
 I. AMERICAN REGISTRATION LAW HISTORICALLY DISTINGUISHED THE QUALIFICATIONS FOR BECOMING A VOTER FROM THE MAINTENANCE OF A VOTER'S REGISTRATION.....	 5
 A. Nineteenth-century federal election law treated the right to register as a separate, though related, issue from placement on the roll.	 6
 B. Citizenship is a qualification question for voting rights, and the lack of citizenship is disqualifying at all times	 8
 II. CONGRESS EXPRESSLY PRESERVED THE TRADITIONAL ROLE OF ELECTION OFFICIALS IN DETERMINING APPLICANT ELIGIBILITY, INCLUDING CITIZENSHIP. ...	 10
 III. THE HISTORY OF THE 90-DAY RULE SHOWS THAT CONGRESS WAS ADDRESSING SYSTEMATIC PURGE AND ADDRESS-VERIFICATION PROGRAMS DIRECTED AT EXISTING ELIGIBLE REGISTRANTS.....	 12

IV. THE HISTORICAL DISTINCTION SUPPORTS BELL, NOT A RULE THAT TEMPORARILY PROTECTS REGISTRATIONS INVALID FROM INCEPTION.....	15
Conclusion	18

TABLE OF AUTHORITIES

Cases

<i>Arcia v. Florida Secretary of State</i> , 772 F.3d 1335 (11th Cir. 2014)	4, 16
<i>Bell v. Marinko</i> , 367 F.3d 588 (6th Cir. 2004)	4, 15-16
<i>Husted v. A. Philip Randolph Institute</i> , 584 U.S. 756 (2018)	14
<i>Mi Familia Vota v. Fontes</i> , 129 F.4th 691 (9th Cir. 2025)	4, 16
<i>Murphy v. Ramsey</i> , 114 U.S. 15 (1885)	3, 7
<i>Pope v. Williams</i> , 193 U.S. 621 (1904)	2-3, 7, 8

Constitutional and Statutory Provisions

18 U.S.C. § 611(a)	16
52 U.S.C. § 20501(b)(1), (2), (4)	3, 10, 18
52 U.S.C. § 20504(c)(2)(C)	9
52 U.S.C. § 20507(a)	18
52 U.S.C. § 20507(a)(1)–(4)	3

52 U.S.C. § 20507(a)(2)	10
52 U.S.C. § 20507(a)(3)	10
52 U.S.C. § 20507(a)(4)	10
52 U.S.C. § 20507(a)(5)	9
52 U.S.C. § 20507(b).....	18
52 U.S.C. § 20507(b)(1)	17
52 U.S.C. § 20507(c)(1).....	14
52 U.S.C. § 20507(c)(2).....	2, 5, 14
52 U.S.C. § 20507(d).....	14
52 U.S.C. § 20508(b)(2)(A)–(C)	9
Enforcement Act of Feb. 28, 1871, ch. 99, § 20, 16 Stat. 433 (1871)	2, 6
The National Voter Registration Act of 1993	1-5, 7, 9-12, 14, 17, 18
Other Authorities	
138 Cong. Rec. S10,736 (daily ed. May 7, 1992)	4, 13
Fed. Election Comm’n, <i>Implementing the National Voter Registration Act of 1993: Requirements, Issues, Approaches, and Examples</i> (1994).....	11

H.R. Rep. No. 103-9 (1993), <i>reprinted in</i> 1993	
U.S.C.C.A.N. 105.....	3, 4, 11, 13, 15
S. Rep. No. 103-6 (1993).....	3, 13, 14

INTEREST OF AMICUS CURIAE¹

Amicus curiae Advance Colorado (“Advance”) is a nonprofit organization that promotes fiscal responsibility, transparency, limited and accountable government, free enterprise, strong public safety, and accountable education. Advance’s work is grounded in the principle that government should exercise only the authority the law actually gives it, while preserving the rights and responsibilities of citizens and the States.

That principle is directly implicated here. The National Voter Registration Act of 1993 (“NVRA”) established important federal rules for voter registration and maintenance of registration lists. But Congress legislated against an older and settled distinction: election officials first determine whether an applicant possesses the legal qualifications for registration; list-maintenance rules then govern the continued status of persons who entered the rolls as qualified voters. Citizenship, where required by law, belongs to the first inquiry.

Advance submits this brief to place the NVRA’s 90-day provision in that historical setting. The legislative record shows that Congress was concerned with systematic pre-election purge and address-verification programs that could mistakenly remove eligible registrants. It does not show that Congress intended the 90-day rule to transform a registration

¹ Pursuant to Rule 37.6, no counsel for a party authored this brief in whole or in part, and no person or entity other than Amicus or its counsel made a monetary contribution intended to fund the preparation or submission of this brief.

that was invalid from inception into a federally protected status for the final 90 days before an election. The historical distinction between qualification and maintenance supports Petitioner's reading of 52 U.S.C. § 20507(c)(2).

SUMMARY OF ARGUMENT

The question in this case is statutory, but the statute did not arise in a vacuum. Long before Congress enacted the NVRA, American election law treated registration as the administrative means by which election officials identified and recorded persons legally entitled to vote. The qualifications came first. Registration followed. And when the law made citizenship a qualification, an applicant who lacked citizenship lacked the legal entitlement to be registered; even if they *were* registered, they had no right to continued registration or to cast a vote.

The distinction between core voting rights qualifications and the administration of voter registration appears in federal election legislation more than a century before the NVRA. While the Enforcement Act of 1871 had the protection of Black Americans' right to vote as its core purpose, it also addressed persons who attempted to register without a "lawful right" and election officers who registered a person "not entitled to be registered." Act of Feb. 28, 1871, ch. 99, § 20, 16 Stat. 433 (1871). The Act thus distinguished a person's legal entitlement to registration from the administration of a registration list. Decisions of this Court likewise described registration as a process for determining and recording qualified voters. *See, e.g., Pope v. Williams,*

193 U.S. 621, 623–24 (1904); *Murphy v. Ramsey*, 114 U.S. 15 (1885). The presumption is that those on the list were, at the time of registration, valid voters. As Arizona’s argument demonstrates, this is not always the case, and States must be free to respect actual citizens by removing those who are “not entitled to be registered” when an invalid registration is discovered.

Congress preserved the distinction between a valid right to vote and the administration of voter registration when it enacted the NVRA. Section 8 begins with the “eligible applicant,” requires election officials to notify each applicant of the disposition of the application, then regulates removal of a “registrant” from the “official list of eligible voters.” 52 U.S.C. § 20507(a)(1)–(4). Congress’s stated purposes likewise center on “eligible citizens” and accurate registration rolls. *Id.* § 20501(b)(1), (2), (4). Most importantly, the House Report expressly rejected the idea that the NVRA made registration automatic. Election officials were to *continue* making determinations of an applicant’s eligibility, “such as citizenship,” under existing law and practice. H.R. Rep. No. 103-9, at 8 (1993), *reprinted in* 1993 U.S.C.C.A.N. 105, 112.

The history of the 90-day provision points in the same direction. The Senate Report discussed the dangers of large-scale list-cleaning systems and then described the 90-day deadline through the concrete problem of address verification. It laid out that a State program undertaken “to verify addresses” had to be completed before the 90-day window. S. Rep. No. 103-6, at 18–19 (1993). The House Report similarly explained that the requirement applied to State

outreach such as mailings and door-to-door canvasses. H.R. Rep. No. 103-9, at 16. And the Senate floor record from the prior Congress tied the move to a 90-day period to the time necessary for States to complete mail programs. 138 Cong. Rec. S10,736 (daily ed. May 7, 1992).

Those materials describe maintenance of registrations that were presumptively valid when made: address verification, residence changes, mass mailings, canvasses, and the danger that a legitimate voter will be erroneously swept from the rolls shortly before Election Day. They do not describe the correction of an entry belonging to a person who never satisfied an antecedent qualification to register.

The Sixth Circuit captured the distinction in *Bell v. Marinko*, holding that the NVRA's removal restrictions did not protect persons who were "ineligible and improperly registered to vote in the first place." 367 F.3d 588, 591–92 (6th Cir. 2004). The Eleventh Circuit later reached the opposite result for systematic noncitizen removals in *Arcia v. Florida Secretary of State*, 772 F.3d 1335, 1344–46 (11th Cir. 2014), and the Ninth Circuit followed that approach below. *Mi Familia Vota v. Fontes*, 129 F.4th 691, 715–17 (9th Cir. 2025). The historical record favors *Bell*'s understanding, and the Court should reverse.

ARGUMENT

I. AMERICAN REGISTRATION LAW HISTORICALLY DISTINGUISHED THE QUALIFICATIONS FOR BECOMING A VOTER FROM THE MAINTENANCE OF A VOTER'S REGISTRATION.

Despite this current dispute, Congress did not write on a blank slate when it passed the NVRA in 1993. Voter registration had long served a familiar legal function: it was a procedure for determining, recording, and evidencing who possessed the qualifications fixed by law. Those qualifications and the administrative machinery of registration were related, but they were not the same thing. Even if a person were mistakenly added to the voter rolls administratively, this did not confer an actual right to vote to a person who could not possess it by virtue of failing to meet a required qualification.

That distinction matters because the 90-day provision at issue here regulates a “program” for systematically removing voters who have since become ineligible (most usually through death or address change) from an official list of “eligible voters.” 52 U.S.C. § 20507(c)(2)(A). If registration law historically understood the roll as a record of persons determined – or believed, based on representations – to possess the qualifications of electors, then a person who, in fact, lacked a required qualification when registered presents a different problem from a qualified registrant who later becomes removable because of death, residence, conviction, or another subsequent event. Amicus contends that the removal of a person who was never actually qualified to vote

in the first place is not governed by the 90-day provision, as it is designed to regulate the removal of persons who have had a change in registration status, but *were qualified to vote at the time of registration*. This is supported by an historical examination.

A. Nineteenth-century federal election law treated the right to register as a separate, though related, issue from placement on the roll.

Congress itself used that framework during Reconstruction when it set out to enforce voting rights for Black Americans that had been recognized in the U.S. Constitution. The Enforcement Act of 1870 and its 1871 amendment created federal protections and offenses surrounding voter registration for federal office elections. While these Acts had the core purpose of protecting the right of Black Americans to register and to vote, despite the will of Southern states, the 1871 amendment also addressed a person who fraudulently attempted to register while “not having a lawful right so to do,” and an officer who registered a person “not entitled to be registered.” Act of Feb. 28, 1871, ch. 99, § 20, 16 Stat. 433 (1871). The statute authorized federal supervisors to attend registration proceedings and challenge persons offering to register. *Id.* § 4, 16 Stat. at 434–35. The purpose of this authorization was to ensure that *all* willing citizens but *only* citizens would be included on the voter rolls. The long title of the 1871 Act begins, “An Act to enforce the Rights of Citizens of the United States to vote...” 16 Stat. 433, demonstrating at the outset that non-citizens had no right to be on the rolls – even at a time when the rolls would be

administratively added to and expanded. The administration of the rolls and the qualification and right to be on the rolls were two different issues, although they were related.

The Enforcement Acts were structurally significant, as these federal laws assumed that legal entitlement to the right to vote existed for Black Americans independently of the clerical fact that a name appeared (or did not appear) on a registration list. Conversely, a wrongful entry for any person did not manufacture an entitlement that the applicant lacked. And, a qualified person wrongfully denied registration possessed a legal right that the registration officer was bound to respect.

This Court's cases used the same conceptual ordering. In *Murphy v. Ramsey*, the Court distinguished the legal qualifications prescribed for voters from the work of registration officers implementing those qualifications. In this case, the Court considered a territorial registration law requiring registration officers to make careful inquiry concerning persons entitled to vote, ascertain the ground on which each person claimed to be a voter, and place qualified persons only on the register. See *Murphy*, 114 U.S. 15 (1885). In *Pope v. Williams*, the Court described an applicant seeking to be entered "as a qualified voter" on Maryland's registry and treated the registration requirement as part of the State's administration of the franchise. See 193 U.S. 621–24 (1904). Neither case resolves the NVRA explicitly, but their value is historical, demonstrating a clear distinction between possessing the legal

qualifications of an elector and being entered into the official registration list.

While the precise qualifications for voting have changed throughout American history, and they have sometimes varied among jurisdiction, the relevant historical proposition that applies here is narrow: where the law imposed a qualification, the first question was whether the applicant possessed it. Qualification was logically antecedent to lawful registration, investigation on qualification was allowed, and anyone not qualified could be prevented from voting even just before he cast his ballot.

B. Citizenship is a qualification question for voting rights, and the lack of citizenship is disqualifying at all times.

Citizenship is a qualification question that asks whether the applicant belongs to the class of persons the law permits to register and to vote. That is why registration forms and procedures have historically asked questions bearing on citizenship or naturalization before recognizing a person as a qualified voter. A mistake in the original registration process does not impart rights that do not exist in actuality.

Amicus does not contend that every American jurisdiction has always required United States citizenship as a qualification for voting. *Pope* itself noted that, early on, some States allowed certain foreign-born persons to vote after declaring an intention to become citizens. 193 U.S. at 632–33. But, whenever citizenship was a legal qualification, it has always been a condition of entitlement to registration

and to vote. If that condition was never met, no entitlement to vote ever existed, and States retain a right to block any person without an entitlement to vote from voting. Removing such a person is a basic function of the State's protection of the rights of its own citizens.

Congress created the NVRA with this historical understanding of the need for the citizenship qualification to actually exist. Mail-in and other voter registration forms must state each eligibility requirement, including citizenship, and require an attestation that the applicant meets those requirements. 52 U.S.C. §§ 20504(c)(2)(C), 20508(b)(2)(A)–(C). Section 8 requires States to inform applicants of voter-eligibility requirements and the penalties for a false application. *Id.* § 20507(a)(5). These are front-end rules. They concern whether an applicant may lawfully become a registrant and whether he or she lawfully has a right to vote.

A person who lawfully registers and later changes residence presents a maintenance question: does the existing registration remain proper in that jurisdiction? A person who lacked a required qualification when the application was accepted presents an antecedent-validity question: was there ever a lawful basis for that registration? If qualification is lacking, disqualification is always possible. The two situations may both require an election official to alter a database, but they do not carry the same legal significance or weight.

II. CONGRESS EXPRESSLY PRESERVED THE TRADITIONAL ROLE OF ELECTION OFFICIALS IN DETERMINING APPLICANT ELIGIBILITY, INCLUDING CITIZENSHIP.

The NVRA's text carries the historical sequence forward. Section 8 first directs each State to ensure that an "eligible applicant" who timely submits a valid form is registered. 52 U.S.C. § 20507(a)(1). The election official then sends each "applicant" notice of the disposition of the application. *Id.* § 20507(a)(2). Only after that does the statute speak of removing the name of a "registrant" from the "official list of eligible voters." *Id.* § 20507(a)(3). And the mandatory general maintenance program addresses persons who become removable by reason of the death of the registrant or a change in the registrant's residence. *Id.* § 20507(a)(4).

Congress's findings and purposes reinforce the sequence. The NVRA was enacted to increase the number of "eligible citizens" who register, enhance the participation of "eligible citizens as voters," protect electoral integrity, and ensure accurate and current voter-registration rolls. 52 U.S.C. § 20501(b)(1)–(4). The statute therefore protects access and integrity at the same time. Its registration protections are protections for eligible applicants and eligible citizens, not an instruction that eligibility becomes irrelevant once an application has been processed. Historically, there is a basis to believe that, upon discovery that eligibility was wrongly determined, the provisions of the NVRA no longer apply to the ineligible voter.

The House Report removes any doubt that Congress understood the importance of the eligibility of any person to cast a vote. The Report was especially explicit about citizenship. It stated that election officials should continue eligibility determinations “such as citizenship” as under then-existing law and practice. H.R. Rep. No. 103-9, at 8, *reprinted in* 1993 U.S.C.C.A.N. at 112. The Federal Election Commission’s 1994 implementation guide reproduced the same explanation when describing the continuing role of State election officials. Fed. Election Comm’n, *Implementing the National Voter Registration Act of 1993: Requirements, Issues, Approaches, and Examples* 24–25 (1994) (on file with the U.S. Election Assistance Commission). That legislative explanation is difficult to reconcile with a theory that treats the discovery of the lack of citizenship only as an ordinary roll maintenance issue. Congress described citizenship as a matter of “applicant’s eligibility.” H.R. Rep. No. 103-9, at 8. There is a significant legal difference between a lack of legal eligibility *to ever vote*, due to the lack of the central qualification of citizenship and the maintenance of a voter database when new information is learned about a voter who was legally eligible at the time of registration, but has since become ineligible because of death, address change, etc. – all things that do not change the fact that, at the time of registration, this person had a right to vote.

The distinction also explains why the NVRA repeatedly uses different nouns. An applicant applies. An eligible applicant is entitled to registration if the statutory timing rules are satisfied. A registrant is someone on the roll. An eligible voter is the object of

the official list – which persons the official list should include. Section 8(a)(4)’s maintenance mandate deals with ineligibility arising from death or a change in residence. It does not, in fact, deal with a discovery that a particular registrant was never an eligible applicant in the first place. Because such a discovery relates to a core qualification necessary to claim and exercise voting rights in the United States, every person whose name appears in a database should not be collapsed into the same legal category, and the State’s hands tied, making its officials unable remove someone who has no proper right to vote at all.

III. THE HISTORY OF THE 90-DAY RULE SHOWS THAT CONGRESS WAS ADDRESSING SYSTEMATIC PURGE AND ADDRESS-VERIFICATION PROGRAMS DIRECTED AT EXISTING ELIGIBLE REGISTRANTS.

The 90-day provision cannot be understood apart from the list-maintenance problem Congress was discussing. Congress was concerned that broad purge programs—especially those using nonvoting or address information as proxies for a move—could remove qualified citizens shortly before an election, leaving too little time for rightful voters to correct errors.

The Senate Report makes this clear. After discussing the danger that list-cleaning mechanisms could be abused and the benefits of ongoing registration programs that update addresses, the Report turned to the general maintenance program for deaths and changes of residence. It then explained that a State program undertaken “to verify

addresses” must be completed before the 90-day period. S. Rep. No. 103-6, at 18–19. The surrounding discussion concerns address updating, Postal Service change-of-address information, verification mailings, canvassing, and the danger that legitimate registrants would be needlessly forced to re-register. *Id.* at 17–19.

The House Report is parallel. Its explanation of Section 8 says the 90-day requirement applies to outreach activity such as a mailing or a door-to-door canvass and distinguishes that outreach from changes that may still be made to the official list during the period under the Act. H.R. Rep. No. 103-9, at 16. Again, the expressed concern was systematic activity violating the status of eligible persons already on the rolls who would not have enough time to prove that their right to vote still existed. (Notably, this did not include a concern that the person may *never have had a right to vote in the first place*. That was a separate issue not addressed by the 90-day rule.)

The legislative development in the prior Congress supplies additional context. During Senate consideration of S. 250 in 1992, Senator Ford explained a modification concerning the class of mail States could use. Because slower mail could take longer to arrive, the modification would extend the time for States to complete their mail programs to 90 days before a federal election. 138 Cong. Rec. S10,736 (daily ed. May 7, 1992). That explanation ties the 90-day period to the mechanics of a mass verification process—exactly the kind of process the Committee reports later described.

NVRA’s Section 8(c)(1) expressly authorizes a State to use National Change of Address information to identify registrants whose addresses may have changed. 52 U.S.C. § 20507(c)(1). The very next paragraph imposes the 90-day deadline on a program systematically removing ineligible voters, subject to enumerated exceptions and “correction of registration records pursuant to this chapter.” *Id.* § 20507(c)(2)(A)–(B). Section 8(d) then supplies the notice-and-waiting procedure for residence changes. *Id.* § 20507(d). Residence is not the only subject of Section 8(c)(2). But, it is powerful historical context for what Congress was trying to prevent: a State launches a broad address-focused program close to an election, uses mass or database information to infer that existing registrants have moved or otherwise become ineligible, and mistakenly removes eligible voters who cannot repair the error before Election Day. The concern here was not a State taking action to remove voters who never had the right to vote in the first place.

This Court’s decision in *Husted v. A. Philip Randolph Institute* confirms the real concern in the NVRA. 584 U.S. 756 (2018). *Husted* addressed Ohio’s supplemental process for registrants suspected of having moved and explained the NVRA’s rules governing removals for change of residence and failure to vote. *Id.* at 761–67. The opinions discussed Congress’s concern with historical purge mechanisms. *See id.* at 806–08 (Sotomayor, J., dissenting) (citing H.R. Rep. No. 103-9, at 2, and S. Rep. No. 103-6, at 18). Whatever disagreements existed in *Husted* about Ohio’s particular process, the congressional materials identify the same historical

problem: protecting valid registrants from erroneous or discriminatory purge practices. The fact that the practices involved *valid* registrants is key.

Nothing in the cited Committee discussions recasts a person who lacked an antecedent voting qualification – citizenship – as a valid registrant who later became ineligible. To the contrary, the House Report separately preserves the election official’s traditional role in deciding applicant eligibility, including citizenship. H.R. Rep. No. 103-9, at 8. The two parts of the legislative history thus fit together: eligibility screening should determine who lawfully enters the roll; Section 8’s purge safeguards constrain how States maintain the status of the validly registered electorate. Where a State discovers that a person unlawfully entered the roll, the removal of the always-invalid registration should be a matter for States to determine and implement with fidelity to those who are actually citizens and who actually hold the right to vote.

IV. THE HISTORICAL DISTINCTION SUPPORTS *BELL*, NOT A RULE THAT TEMPORARILY PROTECTS REGISTRATIONS INVALID FROM INCEPTION.

The Sixth Circuit’s decision in *Bell v. Marinko* is consistent with this history. *Bell* held that Congress, in specifying permissible removals, did not intend to bar correction of registrations belonging to persons “ineligible and improperly registered to vote in the first place.” 367 F.3d at 591–92. The court reasoned that the contrary reading would effectively grant and

protect a franchise to persons not eligible to vote. *Id.* at 592.

Bell's conclusion follows the traditional registration model. A removal restriction designed around the continued status of registrants does not ordinarily answer the antecedent question whether a person ever had a lawful entitlement to registration. Correcting an entry that should never have been made is not conceptually identical to withdrawing a registration that was lawful when made.

Arcia adopted a different – and historically flawed – approach. The Eleventh Circuit reasoned that because citizenship is an eligibility requirement, a program to remove noncitizens is necessarily a program to remove “ineligible voters,” and it stressed that Congress did not expressly list citizenship among the exceptions to the 90-day rule. 772 F.3d at 1344–46. The Ninth Circuit below followed *Arcia* and held Arizona’s database-comparison process systematic within the meaning of the provision. *Mi Familia Vota*, 129 F.4th at 715–17.

But that reasoning assumes the very point history calls into question. The question is not whether a noncitizen is ineligible to vote. Of course a noncitizen is ineligible to vote in federal elections. *See* 18 U.S.C. § 611(a). The question is whether Congress used the statutory phrase “ineligible voters” in Section 8(c)(2) to include every ineligible person whose name appears on a registration list—even a person who never possessed the qualification that would have entitled the person to become a voter.

The historical materials provide a reason to answer no. American voter registration law long recognized legal entitlement to registration as distinct from the ministerial fact of being entered on a list. The NVRA itself begins with eligible applicants and preserves State officials' eligibility determinations – and this preservation of the States' ability to determine is key here. The House Report identifies citizenship as exactly such an applicant-eligibility determination. And the history of the 90-day rule focuses on purge and address-verification programs aimed at the continuing status of existing registrants whose right to register in the first place was never questioned.

Of course, State procedures remain subject to constitutional constraints, other federal voting laws, and any requirements of the NVRA that actually apply. An election official cannot convert speculation into lawful cancellation merely by labeling it an eligibility correction. Section 8(b) independently requires any State program or activity maintaining an accurate and current roll to be uniform, nondiscriminatory, and compliant with the Voting Rights Act. 52 U.S.C. § 20507(b)(1).

The narrow question here is whether Section 8(c)(2)(A)'s 90-day prohibition itself was historically directed to correcting registrations that were invalid from inception because an antecedent qualification was absent. The sources discussed above do not support that extension.

Indeed, extending the 90-day bar to that category produces an inversion of the statutory design. Congress required registration opportunities for

eligible citizens, required accurate rolls, preserved State eligibility determinations, and protected legitimate registrants against overbroad purge programs. 52 U.S.C. §§ 20501(b), 20507(a), (b). A rule that treats an admittedly never-qualified person as federally protected from systematic correction solely because an erroneous entry survived until day ninety violates the integrity of what it means to be a lawful voter in this nation. It removes, little by little, the weight and solemnity of citizens who make an intentional decision to choose their representatives and erodes their faith in an accurate, accountable system.

CONCLUSION

In summary, citizenship is an antecedent qualification to the right and ability to vote. If such a qualification never existed in the first place, States retain their right – and, in fact, have a responsibility – to remove such persons from the legal voting rolls. The 90-day restriction in the NVRA is rooted in concerns over systematic maintenance of the registered electorate that, if applied too close to the election, may violate the rights of *actual citizens*. Considered with that foundation, Section 8(c)(2)(A) does not require Arizona to treat a registration as valid when the core qualification for the right to vote is missing.

For the foregoing reasons, the judgment of the United States Court of Appeals for the Ninth Circuit should be reversed.

Respectfully submitted,

Kristine L. Brown

6501 E. Belleview Ave, Ste. 375

Denver, CO 80111

720-285-9552

kbb@advancecolorado.org

Counsel for Amicus Curiae Advance Colorado

September 3, 2026