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 FOR RESPONDENTS MI FAMILIA VOTA AND VOTO LATINO

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QUESTIONS PRESENTED

1. Whether the NVRA or a federal consent judgment prohibits Arizona from rejecting voter registration applications from applicants who submit a state voter registration form without documentary proof of citizenship, rather than registering such voters as federal-only voters, as it would if they submitted a federal voter registration form without documentary proof of citizenship.

2. Whether the NVRA's restriction on "any program" that "systematically" removes voters from the rolls from continuing in the 90 days leading up to a federal election requires Arizona to pause its database-driven program to remove suspected noncitizens from the rolls.

CORPORATE DISCLOSURE STATEMENT

In accordance with Supreme Court Rule 29.6, Mi Familia Vota and Voto Latino state that they have no parent corporation and that no publicly held corporation owns 10% or more of their stock.

PARTIES TO THE PROCEEDING

Petitioner is the Republican National Committee. It was an intervenor-defendant in the district court proceedings. In the court of appeals, it was an appellant in Nos. 24-3188 and 24-3559 and an appellee in No. 24-4029.

Respondents Mi Familia Vota; Voto Latino; Living United for Change in Arizona; League of United Latin American Citizens Arizona; Arizona Students' Association; ADRC Action; Inter Tribal Council of Arizona, Inc.; San Carlos Apache Tribe; Arizona Coalition for Change; Poder Latinx; Chicanos Por La Causa, Inc.; Chicanos Por La Causa Action Fund; the Democratic National Committee; the Arizona Democratic Party; Arizona Asian American Native Hawaiian and Pacific Islander for Equity Coalition; Promise Arizona; Southwest Voter Registration Education Project; Tohono O'odham Nation; Gila River Indian Community; Keanu Stevens; Alanna Siquieros; and LaDonna Jacket were plaintiffs in the district court proceedings and appellees in the court of appeals. Promise Arizona and Southwest Voter Registration Education Project were also cross-appellants in the court of appeals, challenging a ruling that is not at issue here.

Respondent the United States was a plaintiff in the district court proceedings and an appellee in the court of appeals.

Respondents the State of Arizona, the Arizona Secretary of State Adrian Fontes, the Arizona Attorney General Kristin K. Mayes, Arizona Department of Transportation Director Jennifer Toth, the Apache County Recorder, the Cochise County Recorder, the

Coconino County Recorder, the Gila County Recorder, the Graham County Recorder, the Greenlee County Recorder, the La Paz County Recorder, the Maricopa County Recorder, the Mohave County Recorder, the Navajo County Recorder, the Pima County Recorder, the Pinal County Recorder, the Santa Cruz County Recorder, the Yavapai County Recorder, and the Yuma County Recorder were defendants in the district court proceedings and appellees in the court of appeals. The State of Arizona and the Attorney General of Arizona were also appellants in the court of appeals in No. 24-3559, challenging a ruling that is not at issue here.

Respondents Warren Petersen, President of the Arizona Senate, and Steve Montenegro, Speaker of the Arizona House of Representatives, were intervenor-defendants in the district court proceedings and appellants in the court of appeals proceedings.

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INTRODUCTION

This case concerns two provisions in the National Voter Registration Act (NVRA) that protect the rights of eligible voters to vote in federal elections. The first requires state-created voter registration forms, like the federal voter registration form, to ask for no more information than "necessary" when used to register voters for federal elections. The second requires States to pause "any program" "to systematically remove the names of ineligible voters" from the rolls during the 90 days before federal elections, except at the voter's request, due to a criminal conviction or mental incapacity finding, or due to the voter's death.

The Ninth Circuit correctly held that the challenged features of Arizona election law are preempted by these provisions. The first provision preempts Arizona's rule that applicants who submit a state voter registration form will have their application rejected entirely if they do not include documentary proof of citizenship, even for federal elections where the NVRA controls. Petitioners[1] never established that documentary proof of citizenship is "necessary" under those circumstances. This Court held in *Arizona v. Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1 (2013) ("*ITCA*"), that the NVRA *prohibits* Arizona from requiring applicants using the federal voter registration form to provide documentary proof of citizenship, and

[1] "Petitioners" collectively refers to the Republican National Committee (RNC) as well as the United States, the State of Arizona, Arizona Attorney General Kristin K. Mayes, Warren Peterson, and Steve Montenegro.

the Election Assistance Commission (EAC) has never found such a requirement "necessary" as would be required to add it to the federal form. 52 U.S.C. § 20508(b)(1); *see Kobach v. U.S. Election Assistance Comm'n*, 772 F.3d 1183 (10th Cir. 2014), *cert. denied*, 576 U.S. 1055 (2015). The identical "necessary" standard governs the state form, too, when used to register for federal elections. 52 U.S.C. § 20505(a)(2). And the entire structure of the NVRA's mail registration provisions reflects Congress's determination that providing information on a form and attesting to its accuracy is sufficient for federal voter registration, and that States can demand more only if they show that doing so is necessary.

The second provision partially preempts Arizona's requirement that election officials compare the voter rolls against various databases every month and initiate a process to remove voters who are flagged as possible noncitizens in those databases, even where such comparisons would occur within the 90 days preceding a federal election. Petitioners misunderstand the purpose of this provision, which is intended to protect *eligible* voters against erroneous removal on the cusp of an election—a danger that fully applies to systematic removals of suspected noncitizens. Indeed, recent history is littered with examples of naturalized citizens being wrongly labeled as noncitizens by systematic reviews. Petitioners' argument that the NVRA must be interpreted to allow systematic removals of suspected noncitizens within the quiet period or else noncitizens could *never* be removed is simply wrong—the general removal prohibition uses a different and potentially narrower term, "registrant[s],"

whereas the quiet-period provision refers more broadly to all systematic removals of "ineligible voters." *See* 52 U.S.C. § 20507(a)(3), (c)(2)(A).

The NVRA reflects Congress's careful balance between facilitating voter registration and electoral participation on the one hand, and promoting accurate voter rolls on the other. *See Husted v. A. Philip Randolph Inst.*, 584 U.S. 756, 761 (2018). Congress's calibration of those "competing values" is "the very essence of legislative choice." *Rodriguez v. United States*, 480 U.S. 522, 526 (1987) (per curiam). The job of the courts is to "take care not to undo" Congress's work. *King v. Burwell*, 576 U.S. 473, 498 (2015). The Ninth Circuit appropriately respected the balance struck by Congress by applying the NVRA's plain language to Arizona's election laws. This Court should affirm.

STATEMENT

I. The National Voter Registration Act

The NVRA "erect[s] a complex superstructure of federal regulation atop state voter-registration systems." *ITCA*, 570 U.S. at 5. Congress erected this federal overlay because "the right of citizens of the United States to vote is a fundamental right," and "it is the duty of the Federal, State, and local governments to promote the exercise of that right." 52 U.S.C. § 20501(a)(1)–(2). Congress therefore crafted the NVRA to "increase the number of eligible citizens who register to vote in elections for Federal office" and to "enhance[] the participation of eligible citizens as voters in elections for Federal office." *Id.* § 20501(b)(1)–

(2). To do so, Congress, among other things, "requir[ed] States to provide simplified systems for registering to vote in *federal* elections." *ITCA*, 570 U.S. at 5 (quoting *Young v. Fordice*, 520 U.S. 273, 275 (1997)).

In addition to promoting access to voting, the NVRA was also crafted to "protect the integrity of the electoral process" and "ensure that accurate and current voter registration rolls are maintained." 52 U.S.C. § 20501(b)(3)–(4). Congress struck a "careful balance" between those "competing purposes" by, for example, permitting States to use systematic programs to remove ineligible voters from the rolls, while also prohibiting those systematic programs close to an election. *Arcia v. Fla. Sec'y of State*, 772 F.3d 1335, 1346 (11th Cir. 2014).

1. The NVRA generally supplies two paths for registering to vote in federal elections, both of which are relevant here. First, the NVRA requires that States "shall accept and use" a federal voter-registration form developed by the EAC "for the registration of voters in elections for Federal office." 52 U.S.C. § 20505(a)(1); *see also id.* § 20508(a)(2). Second, the NVRA permits States to "develop and use" their own state voter registration forms as an alternative to the federal form, *id.* § 20505(a)(2). State forms that are used for registration to vote in federal elections are subject to many of the same requirements as the federal form, including that they "may require only such identifying information . . . as is necessary to enable the appropriate State election official to assess the eligibility of the applicant," *id.* § 20508(b)(1). The NVRA also requires public assistance agencies to distribute

the federal form to applicants for public assistance or, alternatively, a state form that is "equivalent" to the federal form. *Id.* § 20506(a)(6).

2. The NVRA also imposes requirements and limitations related to "removing ineligible persons" from the voter rolls. *Husted*, 584 U.S. at 761. As relevant here, States "shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of *ineligible voters* from the official lists of eligible voters." 52 U.S.C. § 20507(c)(2)(A) (emphasis added). A separate provision provides that, at all times, a "registrant" may "not be removed" from the voter rolls except at the registrant's request, due to a criminal conviction or finding of mental incapacity, due to death, or due to a change of residence. *Id.* § 20507(a)(3).

II. Arizona's Bifurcated Voter Registration System After *ITCA*

In 2004, Arizona enacted a law requiring election officials to "reject any application for registration"—including the federal form—"that is not accompanied" by documentary proof of citizenship, such as a U.S. passport or birth certificate. A.R.S. § 16-166(F). In *ITCA*, the Court held the NVRA preempts that requirement as to the federal form. *See* 570 U.S. at 6–10. The Court explained that as a "straightforward textual" matter, the NVRA "mandate[s] that Arizona 'accept and use' the Federal Form" as prepared by the EAC and does not allow Arizona to add additional requirements like documentary proof of citizenship. *Id.* at 9. And after the Court held that Arizona could ask

the EAC to add such a requirement to the federal form, the Commission declined that request, a decision that the Tenth Circuit affirmed and this Court declined to review. *See Kobach*, 772 F.3d 1183.

Unable to add the requirement to the federal form, Arizona continued to require documentary proof of citizenship from applicants to vote in state and local elections. After *ITCA*, however, Arizona created a second, "federal-only" tier of voter registration for voters who submit a federal voter registration form without documentary proof of citizenship. Such "federal-only" voters may vote only in federal elections and not for state and local offices. A.R.S. § 16-127.

In adopting this two-tier system, Arizona initially allowed only applicants who used the federal form, and did not provide documentary proof of citizenship, to be registered as federal-only voters; registrants who submitted a state form without documentary proof of citizenship had their registrations rejected outright. App.18a–19a. Arizona also registered federal form applicants as full voters if county officials could locate proof of citizenship on file with a state agency, while denying that privilege to state form applicants. *See* App.19a, 193a–94a, 402a.

In 2017, however, the League of United Latin American Citizens of Arizona and other organizations sued to challenge that disparate treatment, alleging that Arizona's "arbitrary dual voter registration policies . . . irrationally disenfranchise thousands of eligible Arizona voters" based on the registration form they happened to use. Complaint ¶ 1, *League of United Latin American Citizens of Arizona v. Reagan*,

No. 2:17-CV-4102-PHX-DGC (D. Ariz. Nov. 11, 2017), ECF No. 1. Plaintiffs brought claims under the First and Fourteenth Amendments to the U.S. Constitution and named as defendants Arizona's Secretary of State and the Maricopa County Recorder. After filing responsive pleadings, the Secretary and Maricopa County Recorder entered into a consent decree (the "*LULAC* Consent Decree") to resolve the litigation. *See* App.474a–94a. The *LULAC* Consent Decree, among other things, obliged the Secretary to instruct Arizona's county recorders to treat federal form and state form applicants similarly. It required that, for registrants who did not submit documentary proof of citizenship alongside an application, county recorders first check to see if the applicant previously submitted such documentation to the Motor Vehicle Department (MVD). If so, the applicant would be registered as a full-ballot voter, regardless of form submitted. If not located, however, such applicants would be registered as federal-only voters—again regardless of the form submitted. That remained Arizona's practice until the enactment of H.B. 2492.

III. H.B. 2492's Documentary Proof of Citizenship Requirements

In early 2022, Arizona enacted H.B. 2492. The law requires that registrants who submit a state form without documentary proof of citizenship be rejected outright, rather than be registered as federal-only voters. *See* A.R.S. § 16-121.01(C)–(D). This "state-form rejection" provision sought to restore Arizona's differential treatment of federal form and state form applicants, notwithstanding the *LULAC* Consent Decree,

which H.B. 2492 did not mention or acknowledge in any manner.

IV. H.B. 2243's Cancellation Provision

In tandem, Arizona passed H.B. 2243, which requires officials to conduct citizenship checks "each month" of all the voters on its rolls, with additional checks for federal-only voters and voters who officials have "reason to believe" are not U.S. citizens. A.R.S. § 16-165(G)–(K). This review is based on cross-referencing the rolls with various local, state, and federal databases. *See id.* County recorders must then send flagged voters a notice that their registrations will be canceled in 35 days if they do not provide "satisfactory evidence of United States citizenship." *Id.* § 16-165(A)(10).

V. The Present Litigation

On March 31, 2022, Mi Familia Vota and Voto Latino sued Arizona's Secretary of State, Attorney General, and county recorders to enjoin enforcement of certain provisions in the newly enacted laws. App.344a. The United States and other organizational plaintiffs soon filed their own suits, and the various suits were ultimately consolidated. App.344a. The RNC and the Petersen Petitioners (the Arizona Senate President and House Speaker) intervened as defendants. None of the defendants or intervenors ever sought to modify or set aside the *LULAC* Consent Decree.

The district court resolved the claims at issue here in a September 2023 summary judgment order.

App.336a–84a. As relevant to the issues Petitioners raise here, the court held that Arizona could not enforce the state-form rejection provision because the *LULAC* Consent Decree "ha[d] never [been] set aside" and it therefore prohibited "precisely the conduct" mandated by H.B. 2492. App.365a–66a. In the alternative, the court held that the state-form rejection provision was preempted by the NVRA. App.366a n.13. The court also held that the systematic removal program mandated by H.B. 2243 violated the NVRA's prohibition against systematic removals of voters within 90 days of a federal election. App.357a–60a.

In December 2023, the court held a 10-day bench trial to address other outstanding claims. App.23a. On May 2, 2024, the court entered a final judgment that granted permanent injunctive relief on the provisions at issue here. App.427a–33a.

The RNC and Petersen Petitioners asked the Ninth Circuit to stay portions of the injunction, including the prohibition against enforcing the state-form rejection provision. This Court ultimately granted a stay as to the state-form rejection provision. App.426a. No party sought to stay the injunction as to the registration-cancellation provisions.

After full briefing and oral argument, the Ninth Circuit affirmed the relevant portions of the district court's permanent injunction. Like the district court, the panel concluded that the *LULAC* Consent Decree and NVRA each independently prohibit enforcement of the state-form rejection provision. App.47a–52a. The court explained that consent decrees have the effect of a "binding final judgment[] that remain[s] in

force" absent an approved request for modification or vacatur. App.47a. Arizona could not, via state legislation, compel the State's election officials "to enforce legislation contrary to the final judgment of [a] federal decree." App.48a–49a. The court further held that the NVRA does not permit Arizona to require documentary proof of citizenship from state form applicants for federal elections. App.50a–52a.

The court also held that H.B. 2243 violated the NVRA to the extent it "authorizes systematic cancellation of registrations [of alleged noncitizens] within 90 days before a federal election." App.47a. Its systematic cancellation scheme was "precisely the type of systematic cancellation program that the 90-day Provision was meant to preclude." App.46a.

The Ninth Circuit denied Petitioners' petitions for rehearing *en banc*. This Court granted the petition for certiorari on June 29, 2026.

SUMMARY OF THE ARGUMENT

1. The Ninth Circuit correctly held that the NVRA prohibits Arizona from rejecting applicants using its state form to register for federal elections when those applicants do not provide documentary proof of citizenship. Arizona may require state form applicants to provide documentary proof of citizenship when registering for state and local elections, but for federal elections, the NVRA provides that the state form can require "only such" information that is "necessary." 52 U.S.C. § 20508(b)(1). Arizona is barred from requiring federal form applicants to provide documentary proof

of citizenship when registering to vote for federal elections, so it follows that such documentation is not "necessary" for state form applicants seeking to register to vote for federal elections. The Ninth Circuit correctly reached that determination after holding that "necessary," as used in § 20508(b)(1), should receive its ordinary meaning of "essential." The Court should adopt that construction too. But Petitioners failed to establish that documentary proof of citizenship is "necessary" under *any* definition of the term—indeed, they made no factual showing at all. That in itself requires affirmance. But if the Court disagrees, it should, at most, remand for fact finding on the issue.

2. The Ninth Circuit correctly held, in the alternative, that a never-challenged consent decree also requires Arizona to accept state form applications without documentary proof of citizenship for purposes of federal elections. Petitioners had ample opportunity to seek to modify or set aside that consent decree, but they chose instead to ignore it. That cannot be sufficient. A consent decree is a binding judgment from a federal court; pretending that it does not exist does not diminish its effect on the parties bound by it. And because Petitioners have not tried going to the issuing court to seek relief from judgment, this case presents no legitimate concerns about executive officials binding the hands of state legislatures.

3. The Ninth Circuit also correctly held that the NVRA requires Arizona to pause its program to systematically remove voters flagged by databases as possible noncitizens for the 90 days leading up to a federal election. Arizona has many other avenues to

remove noncitizens on its rolls—it can do so systematically at any time outside the 90-day period before an election, and it can do so on an individualized basis even on the eve of an election. But the NVRA requires that "any program" to systematically remove voters from the rolls stop when federal elections draw near. *Id.* § 20507(c)(2)(A). The NVRA contains no exception for removals targeting potential noncitizens, and Petitioners' attempts to shoehorn such an exception into the NVRA fail as a matter of plain text and according to well-worn rules of statutory interpretation. Petitioners' repeated accusation that this result runs to the benefit of noncitizens ineligible to vote fundamentally misunderstands the NVRA. The point of the 90-day provision is not to protect ineligible voters from removal but to protect *eligible* voters from being mistakenly swept up in a removal program—a remarkably common and well-documented occurrence when databases are used to identify potential noncitizens. While such errors may be fixable in due course, that is often not so shortly before an election. The 90-day provision reflects Congress's effort to protect *eligible* voters from such disenfranchisement—a risk that is no less present when a program flags voters as suspected noncitizens rather than as potential nonresidents. The Ninth Circuit's decision accords with the two other circuits that have addressed this issue and preserves the vital protections Congress wrote into the NVRA to protect eligible voters from erroneous removals.

ARGUMENT

I. The NVRA does not allow Arizona to categorically reject state form applicants without documentary proof of citizenship.

The NVRA requires States to "accept and use" the federal form promulgated by the EAC for registration to vote in federal elections, while providing that States also "may develop and use" their own state forms for that purpose. 52 U.S.C. § 20505(a). Exactly the same statutory standard applies to what information both forms may request, however: "only such identifying information . . . and other information . . . as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process." *Id.* § 20508(b)(1); *see id.* § 20505(a)(2).

The EAC is tasked with applying the NVRA's "necessary" standard for purposes of the federal form, *id.* § 20508(a), and it has found that documentary proof of citizenship is not "necessary" under the statutory standard—a finding upheld by courts. *See Kobach*, 772 F.3d 1183. This Court has held that, absent the EAC requiring documentary proof of citizenship with the federal form, Arizona cannot require documentary proof of citizenship from voters who register using that form. *See ITCA*, 570 U.S. at 15. It is therefore undisputed that if a voter submits a federal form without documentary proof of citizenship, the NVRA requires Arizona to register that voter for federal elections.

This case is limited to the state form that Arizona has developed and uses alongside the federal form. But the parallelism in the legal standards applicable to the two forms is a strong mark against Petitioners from the start. The term "necessary" applies to both the federal form and state form "without differentiation," and to afford the term a "different meaning for each category would be to invent a statute rather than interpret one." *Clark v. Martinez*, 543 U.S. 371, 378 (2005).

Arizona law nevertheless treats registrants who use the different types of forms very differently. When Arizona receives a federal form without documentary proof of citizenship, it seeks to further confirm the applicant's citizenship using state records, registers the applicant for all purposes if state records reflect that the applicant has previously submitted documentary proof of citizenship, and registers them for only federal elections if not. A.R.S. §§ 16-121.01(D)–(E), 16-127(A); App.195a–96a. But when Arizona receives a state form without documentary proof of citizenship, it rejects it entirely. A.R.S. § 16-121.01(C); *see id.* § 16-166(F); App.22a, 48a. The Ninth Circuit rightly held that this treatment of state form registrants violates the NVRA by demanding documentary proof of citizenship for federal registration when it is not "necessary," and this Court should affirm.

A. The NVRA prohibits requiring non-essential information to register for federal elections.

To start, the Ninth Circuit correctly held that "necessary" in § 20508(b) means "essential." App.50a.

That definition comes directly from the Oxford English Dictionary, *id.*, "one of the most authoritative on the English language," *Taniguchi v. Kan Pac. Saipan, Ltd.*, 566 U.S. 560, 569 (2012). The OED defines "necessary" as "indispensable," "requisite," "absolutely required," and "cannot be done without." *Necessary*, *Oxford English Dictionary* (2d ed. 1989). Other contemporaneous dictionaries sing the same tune. *See Necessary*, *Webster's Third New International Dictionary* (1993) ("logically required," "essential," "indispensable"); *Necessary*, *Random House Dictionary* (2d ed. 1987) ("essential, indispensable, or requisite").

Defining "necessary" as "essential" also matches ordinary usage, as courts across the country have held. For instance, "lemon juice is a necessary condition for making lemonade." *Vorchheimer v. Philadelphian Owners Ass'n*, 903 F.3d 100, 106 (3d Cir. 2018). And though a child may claim they "need" candy, "[p]arents remind their children that, while they want candy, they do not need it." *Id.* Likewise, while "food is necessary to survive," if "soup and salad are on offer, a sandwich is not necessary." *Id.* at 108. Thus, among "ordinary English speakers," the term "necessary" means "essential or indispensable." *Id.* at 106. As then-Judge Gorsuch similarly put it, the term "implies more than something merely helpful or conducive." *Cinnamon Hills Youth Crisis Ctr., Inc. v. Saint George City*, 685 F.3d 917, 923 (10th Cir. 2012). "It suggests instead something 'indispensable,' 'essential,' something that 'cannot be done without.'" *Id.* (quoting *Necessary*, 10 *Oxford English Dictionary* (2d ed. 1989)). Appellate courts across the country embrace this meaning. *See, e.g.*, *Women's Elevated Sober*

Living LLC v. City of Plano, 86 F.4th 1108, 1112 (5th Cir. 2023) ("[I]t must be essential," not just "preferable to an alternative."); *In re Microsoft Corp. Antitrust Litig.*, 355 F.3d 322, 327 (4th Cir. 2004) (similar); *GTE Serv. Corp. v. FCC*, 205 F.3d 416, 423 (D.C. Cir. 2000) (similar).

Context can sometimes demand a broader reading of "necessary," but only where the surrounding language is inconsistent with the ordinary "essential" meaning. "[W]hen Congress wants to loosen necessity to mean just 'sufficiently important,' it uses the phrase 'reasonably necessary' . . . [o]r it pairs 'necessary' with a looser term," such as "appropriate." *Vorchheimer*, 903 F.3d at 106–07. In *Ayestas v. Davis*, for example, the Court read "reasonably necessary" to mean "something less than essential"—but the adverb "reasonably" drove the Court's analysis. 584 U.S. 28, 44 (2018) (citing 18 U.S.C. § 3599(f)). Indeed, the Court recognized that the literal meaning of "necessary" *is* "essential," but explained that a different reading was necessary in the context of § 3599(f) because it made no sense to speak of something being "reasonably essential." *Id.* Unlike the statute in *Ayestas*, however, the NVRA does not qualify the term "necessary" with language like "reasonably." 52 U.S.C. § 20508(b). There is therefore no textual basis for reading the term to "mean something less than essential." *Ayestas*, 584 U.S. at 44. Indeed, "the word 'necessary,' without more, is stringent." *Vorchheimer*, 903 F.3d at 106.

McCulloch v. Maryland is similar. Its famously broad construction of the constitutional phrase "necessary and proper" did not construe the term "necessary" alone; rather, the term *proper* "qualif[ied]" the otherwise "strict and rigorous meaning" of the term *necessary*. 17 U.S. (4 Wheat.) 316, 419 (1819). Chief Justice Marshall's opinion also focused heavily on the constitutional context in which that phrase was used. *Id.* at 412–23. *McCulloch* emphasized that the Necessary and Proper Clause is "placed among the powers of congress, not among the limitations on those powers." *Id.* at 419. Section 20508(b), in contrast, deploys "necessary" as a limitation on what information the federal form and its state form analogs "may require." 52 U.S.C. § 20508(b). And the phrase "necessary and proper" is now generally understood as a distinct term, conveying a lesser degree of necessity than the term "necessary" standing alone. *Compare Necessary*, *Black's Law Dictionary* (12th ed. 2024) ("That is needed for some purpose or reason; essential"), *with Necessary and proper*, *Black's Law Dictionary* (12th ed. 2024) ("Being appropriate and well adapted to fulfilling an objective."); *see also McNutt v. Dep't of Just.*, 173 F.4th 204, 218 (5th Cir. 2026) (recognizing "necessary" historically meant "indispensably requisite" but receives unique construction in the Necessary and Proper Clause), *petition for cert. filed*, No. 26-204 (U.S. Aug. 18, 2026).

Statutory context further supports assigning the term "necessary" its ordinary meaning of "essential." Congress enacted the NVRA to "increase the number of eligible citizens who register to vote in elections for

Federal office." 52 U.S.C. § 20501(b)(1). The law repeatedly deploys restrictive language when it comes to what States may require on their own forms. *See, e.g.*, *id.* § 20504(c)(2)(B) (permitting "only the minimum amount of information necessary" on applications at motor vehicle departments); *id.* § 20506(a)(6)(A)(ii) (requiring that state forms supplied to public assistance agencies be "equivalent" to the federal form). And, as noted, § 20508(b) deploys "necessary" in the context of a *limitation* on a grant of power found in a different statutory provision—52 U.S.C. § 20505(a). When the term "necessary" is used as part of a "grant[] [of] discretion" to an agency—such as to act when it "deems necessary"—a broader construction may be warranted. *Texas v. EPA*, 983 F.3d 826, 837 (5th Cir. 2020). But when the term is used to *restrict* an agency—such as to act only "when necessary"—a narrower construction is proper. *Id.* at 837 & n.2; *accord McCulloch*, 17 U.S. at 419.

Relatedly, the limitation in § 20508(b) is framed as permitting the EAC and States to "require *only such*" information as "necessary" for officials to assess eligibility. 52 U.S.C. § 20508(b)(1) (emphasis added). "Only" means "[s]olely; merely; for no other purpose; at no other time; in no otherwise; alone; of or by itself; without anything more; exclusive; nothing else or more." *Only*, *Black's Law Dictionary* (6th ed. 1990); *see also Gonzales & Gonzales Bonds & Ins. Agency, Inc. v. Dep't of Homeland Sec.*, 107 F.4th 1064, 1074–75 (9th Cir. 2024) (holding that "[i]n 1998," the "pertinent definition of the adverb 'only'" was "solely, exclusively"). Congress's deployment of a similar phrase—permit-

ting release of certain aliens "only if" specific conditions are met—"expressly and unequivocally imposes an affirmative *prohibition*" on acting "under any other conditions." *Jennings v. Rodriguez*, 583 U.S. 281, 304 (2018). So too with "only such."

The Ninth Circuit's definition of "necessary" as "essential" follows directly from this statutory context. It makes perfect sense to say that a State may require "only such" information as is "essential" on a form, much as a travel guide might instruct a backpacker to carry "only such" items as are "essential" for an arduous hike. In contrast, the competing definitions—"useful or important," U.S. Br. 16, or "appropriate" or "plainly adapted," RNC Br. 21, 26—do not fit that context at all. If § 20508(b) allowed "only such" requests for information as were "useful" or "appropriate," then its facially stringent language would impose hardly any restriction at all.[2]

In contrast, Petitioners offer precious little in support of their preferred construction of "necessary." They point to *ITCA*'s statement that "state-developed forms may require information the Federal Form does not." 570 U.S. at 12. Even so, the NVRA demands both forms request only "necessary" information when used for registration in federal elections, and *ITCA* never suggested that the state form could require additional

[2] At most, such a construction would prohibit demands for immaterial information, but Congress had already prohibited such demands decades before enacting the NVRA as part of the Civil Rights Act of 1964. *See* 52 U.S.C. § 10101(a)(2)(B). And it did so in plain terms, not the cryptic fashion necessary to adopt Petitioners' reading of § 20508(b).

information that does not satisfy that standard. At most, the distinction is which government body decides what is "necessary" in the first instance—the EAC or a state legislature—subject in each case to judicial review. And, of course, the NVRA does not in any way regulate States' registration of voters for *state* elections. *ITCA*'s parenthetical observation that, "unlike the Federal Form, Arizona's registration form includes Proposition 200's proof-of-citizenship requirement," *id.* at 12, did not directly say—much less hold—that enforcing that requirement is lawful when the state form is used for *federal* voter registration. *Cf. Boechler, P.C. v. Comm'r*, 596 U.S. 199, 206 (2022) (noting that parenthetical remarks are "typically used to convey an 'aside' or 'afterthought'" (citation omitted)).

Several Petitioners also contrast § 20508(b)'s wording with § 20504(c)'s separate rule that voter registration applications included in driver's license applications "may require only the minimum amount of information necessary." 52 U.S.C. § 20504(c). But in fact, the two provisions are very similarly worded and carry the same ordinary meaning—"only such identifying information . . . and other information . . . as is necessary," on the one hand, and "the minimum amount of information necessary," on the other. "Congress, needless to say, is permitted to use synonyms in a statute," *Tyler v. Cain*, 533 U.S. 656, 664 (2001), and this Court has rejected "any canon of interpretation that forbids interpreting different words used in different parts of the same statute to mean roughly the same thing," *Kirtsaeng v. John Wiley & Sons, Inc.*, 568 U.S. 519, 540 (2013). Moreover, Petitioners offer

no reason *why* Congress would restrict States to requiring only the "minimum" amount of information from a person registering at a motor vehicle bureau, 52 U.S.C. § 20504(c), but then permit States to demand more from a person completing a state form, *see id.* §§ 20505(a)(2), 20508(b); *cf. Field v. Mans*, 516 U.S. 59, 75 (1995) (noting the strength of any inference about different word usage depends on how "deliberate the contrast" is). It is also "more than a little doubtful that Congress would have tucked" such a major difference in meaning, *Epic Sys. Corp. v. Lewis*, 584 U.S. 497, 515 (2018), into what is more probably "a coincidence of statutory codification," *Wachovia Bank v. Schmidt*, 546 U.S. 303, 314 (2006). It is far more natural to conclude that these were simply "synonymous or alternative terms" used in differently structured but related provisions to express the same idea. *Id.*

Petitioners are also wrong to suggest that States and the EAC enjoy broad discretion to decide what is "necessary." *See* RNC Br. 24; U.S. Br. 20–21. The EAC has a "nondiscretionary" duty to require "necessary" information on the federal form, *ITCA*, 570 U.S. at 20, and the States have that same duty. And the statutory text, limiting the forms to "*only* such identifying information as is necessary," precludes any EAC or State discretion to add requests that do not meet the necessity standard.

The Ninth Circuit's interpretation of "necessary" also does not raise constitutional concerns. As Petitioners tell it, an overly rigid interpretation of

§ 20508(b)(1) would impinge upon the state prerogative to set eligibility criteria. *See* U.S. Const. art. I, § 2. But that would occur only if the NVRA prevented States from including requests for information that actually *are* essential. The Ninth Circuit agrees, however, that States are entitled (and the EAC is required) to include requests for all such essential information on their respective forms. The question here is whether States can demand information that is *not* essential to judging voter qualifications—and that has no constitutional significance.

Finally, the RNC raises several distinct contextual points about the meaning of "necessary." *See* RNC Br. 20–27. It first contends that other verbs in § 20508(b)—"enable," "assess," and "administer"—broaden the meaning of "necessary." RNC Br. 20–23. But there is no basis for that argument. It is entirely natural to ask what information is essential to enable state officials to assess qualifications and administer voter registration. Confirming that point, § 20504(c), which the RNC itself cites as a "stricter" provision, RNC Br. 25, uses those same terms, 52 U.S.C. § 20504(c)(2)(B)(ii), confirming that they do not inherently carry any broadening effect.

Similarly, the RNC notes that the term "necessary" appears elsewhere in the NVRA in contexts that suggest broader discretion. RNC Br. 24–25 (citing 52 U.S.C. §§ 20510(a), 20508(a)(1)). But the different context only confirms the point that "necessary" is a term whose meaning shifts with its setting. Both instances of broader use that the RNC cites involve a *grant* of discretionary authority, whereas § 20508(b)

imposes a limitation on authority. *Compare* 52 U.S.C. § 20510(a) (authorizing Attorney General to sue "for such declaratory or injunctive relief as is necessary to carry out this chapter"), *and id.* § 20508(a)(1) (authorizing EAC to "prescribe such regulations as are necessary to carry out" creation of federal form), *with id.* § 20508(b)(1) (restricting what information may be required on the federal form). Thus, the different meanings of "necessary" in the NVRA exactly mirror *McCulloch*'s recognition that "necessary" may carry a broader meaning when it is conveying a "power[]" rather than imposing a "limitation[] on [a] power[]." 17 U.S. at 419.

B. Documentary proof of citizenship is not "necessary."

1. Petitioners fail to make any showing of necessity as to proof of citizenship.

Whatever the NVRA means by "necessary," *ITCA* makes clear that any analysis of whether a requirement can meet that standard requires a factual basis to "establish" what is necessary "to effectuate [a State's] citizenship requirement." 570 U.S. at 19; *cf. Kobach*, 772 F.3d at 1198 (noting States "offered little evidence" about the need for documentary proof of citizenship and "failed to meet their evidentiary burden"); *League of Women Voters of U.S. v. Newby*, 838 F.3d 1, 10–11 (D.C. Cir. 2016) (similar). Indeed, across legal contexts, whether something is "necessary" requires factual inquiry. *E.g.*, *Cadillac Fairview/Cal., Inc. v. Dow Chem. Co.*, 840 F.2d 691, 695 (9th Cir.

1988) (whether response action is "necessary" under CERCLA is "factual" question); *United States v. Nelson-Rodriguez*, 319 F.3d 12, 40 (1st Cir. 2003) (similar); *United States v. Therve*, 764 F.3d 1293, 1298 (11th Cir. 2014) (similar); *Studiengesellschaft Kohle mbH v. Eastman Kodak Co.*, 713 F.2d 128, 133 (5th Cir. 1983) (similar).

Here, Petitioners do not cite a *scrap* of record evidence establishing that documentary proof of citizenship is essential—or even useful—to establishing a registration applicant's eligibility. In contrast, the record is replete with evidence showing both (1) that attestation alone effectively keeps noncitizens off Arizona's rolls and (2) that documentary proof of citizenship is difficult for many eligible voters to obtain. App.227a–29a, 239a–44a. Thus, under any construction of "necessary," Petitioners must lose.

Nowhere do Petitioners explain why proof of citizenship is "necessary" in view of the attestation requirement, which nearly all States have long relied upon for purposes of establishing a voter's citizenship. *See* Nat'l Conf. of State Legis., *Voter Registration and Citizenship* (May 21, 2026), https://www.ncsl.org/elections-and-campaigns/voter-registration-and-citizenship (explaining "in most cases, citizenship is addressed by asking for a voter's attestation, not documentary proof"). That attestation is sufficient should come as no surprise. "Congress has historically relied on an attestation requirement 'under penalty of perjury' as a gate-keeping requirement for access to a wide variety of important federal benefits." *Fish v. Ko-*

bach, 840 F.3d 710, 716–17, 737 (10th Cir. 2016). Accordingly, such an attestation reflects the "*presumptive* minimum amount of information necessary for state election officials to carry out their eligibility-assessment and registration duties." *Id.* at 717 (emphasis added). And for that reason, the EAC has determined that documentary proof of citizenship is not necessary to enforce States' respective voter qualifications. *Kobach*, 772 F.3d at 1196–98.

While some Petitioners rely on hypothetical arguments about why documentary proof of citizenship "could" be useful, *e.g.*, RNC Br. 22–23, unsupported by any record evidence, Arizona resorts to tautology. It argues that documentary proof of citizenship is essential "because Arizona law makes it essential," specifically by defining the submission of documentary proof of citizenship as itself constituting a substantive voter qualification. Ariz. Br. 16. But a State cannot convert a procedural requirement that is subject to federal regulation under the Elections Clause into a substantive qualification merely by relabeling it. *Cf. Kobach*, 772 F.3d at 1196 (rejecting argument that States' mere "averment" of necessity was "sufficient to impose a nondiscretionary duty on the EAC" to add proof of citizenship to federal form). Were it otherwise, a State could make *any* requirement "necessary" by calling it a qualification, thus eviscerating the NVRA's limitations on what information state forms may demand. *See* Antonin Scalia & Brian A. Garner, *Reading Law* § 4 (2012) (describing the Presumption Against Ineffectiveness canon). Indeed, a State could seemingly even reject the *federal* form entirely in that way, by

defining submission of a state form as a substantive qualification to vote.

The reason this gambit does not work is simple: the line between substantive qualifications and voting procedures is a *federal-law* line, with the Elections Clause "empower[ing] Congress to regulate *how* federal elections are held, but not *who* may vote in them." *ITCA*, 570 U.S. at 16. State law therefore does not determine whether a requirement is a "qualification" or a "manner" regulation—the federal constitution does. That is why *ITCA* rejected Arizona's qualification-based argument for demanding additional proof of citizenship on top of the federal form. *See id.* at 17–20. Arizona's subsequent state-law amendments cannot change that federal-law conclusion. Congress's declaration that state and federal forms can include "only such" information "necessary" to "assess the eligibility of the applicant," 52 U.S.C. § 20508(b)(1), was a valid exercise of Congress's power to "alter" Arizona's laws on the subject. U.S. Const. art. I, § 4. States cannot overcome Congress's "paramount" authority on this subject, *Ex parte Siebold*, 100 U.S. 371, 392 (1880), by labeling the same regulation differently. Permitting them to do so would hollow out not just the NVRA, but the Elections Clause itself.

The record before the Court fails to show that Arizona's documentary proof of citizenship rule is "necessary," as the NVRA requires. The paucity of evidence

from Petitioners means affirmance is permissible under *any* construction and, at most, remand is required under a new articulation of that term.[3]

2. The NVRA's structure and legislative history confirm that it preempts documentary proof of citizenship requirements for federal elections.

The NVRA's structure and legislative history reinforce the conclusion that Arizona may not demand documentary proof of citizenship on state forms when registering voters for federal elections.

To start, the NVRA's entire mail-in registration-form structure is inconsistent with requiring additional documentation along with the federal form, particularly considering that it was enacted in 1993

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[3] This analysis is particularly clear for Arizonans who have already presented documentary proof of citizenship to MVD because, for those applicants, Arizona election officials already "possess[] information confirming the applicant's citizenship and county recorders can easily access that information through an electronic database that they regularly check." Ariz. Att'y. Gen. Op. I24-015 at 14 (2024), https://perma.cc/6EFU-86MS. Requiring such applicants to *re*-submit documentary proof of citizenship cannot be "necessary" under any meaning of the term. *See* App. 134a–35a (Bumatay, J., dissenting) (applying identical reasoning to Civil Rights Act claim and joining majority opinion). There is no longer a live dispute over that question, however, because Arizona has since confirmed that Arizona law requires such applicants to be registered in any event. *See* Ariz. Att'y Gen. Op. I24-015; Arizona Dep't of State, *Elections Procedures Manual* 7–8 (2025), https://apps.azsos.gov/election/files/epm/2025/Election-Procedures-Manual-2025--FINAL-12-22-25.pdf.

when ready access to printers, scanners, and photocopiers was comparatively rare. The NVRA prescribes a "form," 52 U.S.C. § 20505(a), upon which States "may require only" certain necessary "information." *Id.* § 20508(b)(1). Yet Arizona's documentary proof of citizenship demand is *extrinsic* to the form itself—it requires presenting (or previously having presented) a separate document to state officials. Nowhere does the NVRA authorize the EAC or States to require the attachment of other, separate documents as a means of proving eligibility. *See LULAC v. Exec. Off. of the President*, 818 F. Supp. 3d 34, 98–101 (D.D.C. 2026). In contrast, a related law (the Help America Vote Act, or "HAVA") expressly states when an applicant must supply extrinsic documentation to vote. *See* 52 U.S.C. § 21083(b) (requiring certain applicants to provide "a copy of a current and valid photo identification").

Thus, while the NVRA clearly allows the EAC and States to require whatever "information" is necessary, it never contemplates or provides for a demand to attach or otherwise present separate *documents*, as Arizona requires for its state form. Tending to confirm this reading, § 20508(b)(3) rules out the most obvious form of additional confirmation by prohibiting "any requirement for notarization or other formal authentication" that might otherwise be imposed to bolster the attestation requirement. Requiring formal documen-

tary proof of citizenship would be an even more burdensome form of bolstering attestation, and is less justified still.[4]

Finally, legislative history reinforces this structural context. When enacting the NVRA, Congress considered—but *rejected*—a proposed Senate Amendment declaring that "nothing in this Act shall prevent a State from requiring presentation of documentation relating to citizenship of an applicant for voter registration." H.R. Rep. No. 103-66, at 23 (1993) (Conf. Rep.). The Conference Committee found such a provision was "not necessary or consistent with the purposes of th[e] Act" and would "effectively eliminate, or seriously interfere with, the mail registration program of the Act," and "adversely affect the administration of the other registration programs as well." *Id.* A dissenting conferee, who subsequently managed floor opposition to the law, confirmed that the rejection of this amendment functionally forbade proof of citizenship requirements. *See* 139 Cong. Rec. H2264, H2271 (daily ed. May 5, 1993) (statement of Rep. Livingston). As he straightforwardly put it, Congress "prohibit[ted] any State from requiring any documentation of proof of citizenship." *Id.* Congress has since tried (and failed) on many occasions to amend the NVRA to permit such a requirement, evincing the fact that the NVRA does not presently allow for it. *See, e.g.*, H.R. 8223, 117th Cong. (2022); H.R. 22, 119th

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[4] *See* EAC, *Mem. of Decision Concerning State Reqs. to Include Additional Proof-of-Citizenship Requirements on the National Mail Voter Registration Form* at 21 & n.9, Docket No. EAC-2013-0004 (Jan. 17, 2014), https://perma.cc/C95R-UJ7E.

Cong. (2025); H.R. 7296, 119th Cong. (2025); S. 3752, 119th Cong. (2026).

C. The NVRA further prohibits non-equivalent forms at public assistance agencies.

The NVRA separately requires that any state form offered at a "voter registration agency" that "provides service or assistance" must be "equivalent" to the federal form. 52 U.S.C. § 20506(a)(6). That reinforces much of the foregoing—unless a State creates a multiplicity of forms, its voter registration form should typically be "equivalent" to the federal form. *Supra* § I.A. It also means that, so long as Arizona chooses to exclusively offer a state form at such agencies, it must be "equivalent" to the federal form. 52 U.S.C. § 20506(a)(6)(A)(ii).[5]

The Ninth Circuit correctly held that Arizona's state form violates this requirement because its demand for documentary proof of citizenship means it is not "equivalent" to the federal form. App.51a–52a; *see also* App.38a–39a. "Equivalent" indisputably refers to something "alike" or "identical." *Equivalent*, *Black's Law Dictionary* (6th ed. 1990); *see also Equivalent, Oxford English Dictionary* (2d ed. 1989) (defining equivalent as "virtually the same thing"). Petitioners retort that "equivalent" can be understood instead as meaning "identical *in effect*." RNC Br. 28. But that

[5] Such agencies may alternatively offer the federal form itself, *see* 52 U.S.C. § 20506(a)(6)(A)(i), but that is not Arizona's practice, App.191a (public assistance agencies "typically use the State Form"); *see* App.38a, 51a.

meaning makes no sense in this context, because *any* voter registration form would be identical *in effect*, insofar as it is used to register to vote. Congress undeniably intended to demand more than that of a state form at a voter registration agency, or else it would have just said "the office's own form" and stopped there. *See* 52 U.S.C. § 20506(a)(6)(A)(ii). The Ninth Circuit therefore properly held that the state form is not "equivalent" to the federal form and violates § 20506 when it is offered at voter registration agencies.

II. The *LULAC* Consent Decree further supports the Ninth Circuit's judgment.

The Ninth Circuit was also correct to hold in the alternative that the *LULAC* Consent Decree bars enforcement of H.B. 2492's mandate to reject state form applications without documentary proof of citizenship. It is undisputed that H.B. 2492 requires Arizona election officials to do precisely what the *LULAC* Consent Decree prohibits: refuse to register otherwise qualified state form applicants for federal elections merely because they do not provide documentary proof of citizenship, even though similarly situated federal-form voters will be registered as federal-only voters. App.484a–89a.

A consent decree entered by an Article III court acts as "a final judgment" and is "enforceable as, a judicial decree that is subject to the rules generally applicable to other judgments and decrees." *Rufo v. Inmates of Suffolk Cnty. Jail*, 502 U.S. 367, 378, 391 (1992). Consent decrees are thus "given force of law."

Lackey v. Stinnie, 604 U.S. 192, 207 (2025). Such judgments reflect the "last word of the judicial department," *Plaut v. Spendthrift Farm, Inc.*, 514 U.S. 211, 227 (1995), and they do not expire at any preordained time. Thus, like any other final judgment, a consent decree—unless modified or vacated—"conclusively resolves the claim, bears a judicial imprimatur, and may grant enduring relief that materially alters the legal relationship between the parties." *Lackey*, 604 U.S. at 207.

That does not mean a consent decree is set in stone. Federal courts retain authority to revisit consent judgments as part of their innate equitable jurisdiction, upon which consent decrees with prospective effect depend. *Milk Wagon Drivers Union v. Meadowmoor Dairies*, 312 U.S. 287, 298 (1941) (Frankfurter, J.) ("Familiar equity procedure assures opportunity for modifying or vacating an injunction when its continuance is no longer warranted"); *see also N.Y. State Ass'n for Retarded Child. Inc. v. Carey*, 706 F.2d 956, 967 (2d Cir. 1983) (Friendly, J.) ("The power of a court of equity to modify a decree of injunctive relief is long-established, broad, and flexible."). Accordingly, if the Arizona Legislature, the RNC, or anyone else with standing wanted to challenge the *LULAC* Consent Decree, they could have sought to reopen and modify it under Federal Rule of Civil Procedure 60(b)(5) on the ground that "applying it prospectively is no longer equitable." But Arizona "cannot simply ignore the consent decree"; it must follow "the proper procedure for seeking relief from a consent decree . . . a Rule 60(b) motion." *Hook v. Ariz. Dep't of Corrs.*, 972 F.2d 1012, 1016 (9th Cir. 1992).

The RNC suggests that because it was not a party to the *LULAC* Consent Decree, it might be barred from seeking relief under Rule 60. RNC Br. 40. But non-parties to a consent decree may seek relief when they are "sufficiently connected and identified with the . . . suit." *Dunlop v. Pan Am. World Airways, Inc.*, 672 F.2d 1044, 1052 (2d Cir. 1982). Therefore, the RNC or, at a minimum, Arizona legislative leaders could have sought to intervene in the *LULAC* case for the purpose of moving under Rule 60. *See, e.g.*, *Horne v. Flores*, 557 U.S. 433, 443 (2009) (permitting the intervention of legislative leaders, who then moved for relief under Rule 60(b)(5)). Besides, Arizona's Secretary of State or the Maricopa County Recorder—parties to the *LULAC* Consent Decree—could have directly pursued Rule 60 relief, and the Legislature could have alternatively directed them to seek such relief if it wanted to do so. *See* Ariz. Const. art. V, § 9; A.R.S. § 41-192(B)(4); A.R.S. § 41-193(A)(3).

Instead of pursuing any of these options, the Legislature ignored the decree and passed new legislation inconsistent with it. The Secretary of State and the Maricopa County Recorder then took no steps to pursue Rule 60 relief after that legislation was passed. It is an elemental aspect of Article III, however, that federal courts *alone* possess authority to modify or vacate their own judgments. Article III "gives the Federal Judiciary the power, not merely to rule on cases, but to *decide* them, subject to review only by superior courts in the Article III hierarchy." *Plaut*, 514 U.S. at 218–19. Even Congress cannot invade this Article III authority by "retroactively commanding the federal courts to reopen final judgments." *Id.* at 219; *see also*

id. at 219–25 (detailing the Framers' concern with ensuring that Article III "forbade interference with the final judgments of courts"); *Cooper v. Aaron*, 358 U.S. 1, 18–19 (1958) (holding that state officers, including legislators, have no authority to "nullify a federal court order"). Thus, Rule 60(b)(5) "[r]elief from a judgment on the ground that it no longer is equitable should come from the court that gave the judgment." 11 *Wright & Miller's Federal Practice & Procedure* § 2863 (3d ed.); *see also Deposit Bank of Frankfort v. Bd. of Councilmen*, 191 U.S. 499, 512 (1903) (explaining that parties can "get relief . . . in the Federal court in which it was rendered" but "in every other court [the judgment] must be given full force and effect.").[6]

The RNC tries to shift the procedural blame to Respondents, arguing that Respondents should have filed suit in the court that issued the decree. RNC Br. 40–41. But this Court has made clear that a consent decree is "a final judgment," *Rufo*, 502 U.S. at 391, and a "judgment or decree" from a federal court is "final until reversed in an appellate court, or modified or set aside in the court of its rendition." *Stoll v. Gottlieb*, 305 U.S. 165, 170 (1938) (quoting *Deposit Bank of*

[6] The United States calls Rule 60(b) a mere "formality" and suggests that the district court in this matter should have simply overturned the consent decree, even though the *LULAC* court never vacated it. U.S. Br. 25, 30. But no party "move[d] affirmatively for relief from an injunctive order" before *any* court. *Id.* at 25. And this Court has been clear that a court's "judgment or decree must be held conclusive against a collateral attack." *Riverdale Cotton Mills v. Ala. & Ga. Mfg. Co.*, 198 U.S. 188, 198 (1905).

Frankfort, 191 U.S. at 520). The *LULAC* Consent Decree—like all federal orders—is therefore final and binding. The district court and the Ninth Circuit were correct to hold that, unless and until modified, it precluded enforcement of the challenged laws.

As Chief Justice Marshall explained more than two centuries ago, "[i]f the legislatures of the several states may, at will, annul the judgments of the courts of the United States, and destroy the rights acquired under those judgments, the constitution itself becomes a solemn mockery." *United States v. Peters*, 9 U.S. (5 Cranch) 115, 136 (1809); *cf. Martin v. Hunter's Lessee*, 14 U.S. (1 Wheat.) 304, 347–48 (1816) (describing the "public mischiefs" that would ensue if state courts were not likewise bound by federal judgments as to questions of federal law); *Hook v. Ariz. Dep't of Corrs.*, 107 F.3d 1397, 1403 (9th Cir. 1997), *as amended on denial of reh'g and reh'g en banc* (Apr. 22, 1997) (holding that it is "consistent with the Supremacy Clause" that a consent decree vindicating federal rights "preclude[s] the application of" a state statute enacted to defeat the decree).

The RNC argues that the *LULAC* Consent Decree is exempt from these rules because it did not include a finding of a violation of federal law. RNC Br. 37. But "the long-standing rule is that a district court has power to enter a consent decree without first determining that a statutory violation has occurred." *Citizens for a Better Env't v. Gorsuch*, 718 F.2d 1117, 1125 (D.C. Cir. 1983); *see also Teamsters Loc. 177 v. United Parcel Serv.*, 966 F.3d 245, 254 (3d Cir. 2020) ("District courts have the power to enter consent decrees

without first determining that a statutory or constitutional violation has occurred."). While any of the Petitioners are free to raise the absence of a merits finding in pursuit of modification of the *LULAC* Consent Decree through a Rule 60(b)(5) motion, *see Horne*, 557 U.S. at 447–48, 455–56, the absence of such a finding does not diminish the binding effect of the decree so long as it remains in place.

It also does not matter that, in the *LULAC* Consent Decree, the Secretary denied that Arizona's voter registration practices were "illegal under state or federal law." RNC Br. 37 (citation omitted). This Court has never required parties to a consent decree to admit to liability or wrongdoing for it to be valid, and, indeed, a disclaimer of liability is often a standard feature of consent decrees and other kinds of settlement. *See Swift & Co. v. United States*, 276 U.S. 311, 327 (1928); *see also Dennis v. County of Fairfax*, 55 F.3d 151, 154 (4th Cir. 1995) (noting that parties to a consent decree "generally admit nothing in the way of guilt"); *Reynolds v. Roberts*, 202 F.3d 1303, 1315 (11th Cir. 2000) ("If every consent decree constituted an admission of liability, defendants would have little incentive to settle cases.").

The RNC also argues that the Secretary's stated objectives in entering the consent decree—making voter registration easier "consistent with the provisions of Arizona law"—should render it less binding. RNC Br. 37. But because a consent decree is a negotiated agreement that "normally embodies a compromise," its "scope . . . must be discerned within its four corners, and not by reference to what might satisfy the

purposes of one of the parties to it." *United States v. Armour & Co.*, 402 U.S. 673, 681–82 (1971); *Deposit Bank of Frankfort*, 191 U.S. at 512 ("[T]he reasons for passing the decree are wholly immaterial . . . ."). The Secretary's stated intent, therefore, does not transform a federal consent decree premised on federal law into one based on state law.

The RNC protests that continued enforcement of the decree intrudes into the State's responsibility to determine voter qualifications. RNC Br. 38. But the RNC takes that objection to the wrong court: "the law's primary response to these concerns" is a Rule 60(b)(5) motion for relief. *Frew ex rel. Frew v. Hawkins*, 540 U.S. 431, 441 (2004); *see also Horne*, 557 U.S. at 451 (reviewing lower court's Rule 60(b)(5) analysis). And the RNC is wrong to argue that the decree's statement that the "Court shall retain jurisdiction over this action until December 31, 2020 to enter such further relief as may be necessary for the effectuation of the terms of this Consent Decree," App.494a, suggests that the decree terminated in 2020. That provision says only that the court had until December 31, 2020 to *issue further relief*. Consent decrees do not terminate when the jurisdiction of the court to issue further relief ends. *Roberts v. St. Regis Paper Co.*, 653 F.2d 166, 171 (5th Cir. 1981) (holding that retention of jurisdiction clause does not "refer[] to the life of the decree itself"); *Thompson v. U.S. Dep't of Hous. & Urb. Dev.*, 404 F.3d 821, 833 (4th Cir. 2005) ("[O]bligations under the Consent Decree . . . extend well beyond the date that the court's jurisdiction . . . was to expire.").

Finally, the RNC argues that the Arizona Legislature's passage of a new state law invalidates the *LULAC* Consent Decree. RNC Br. 40. But the decree was based on and resolved a federal law claim, and the RNC does not suggest that the underlying *federal law* has changed. The case the RNC cites, *Miller v. French*, held that alteration of prospective relief is only appropriate when "*Congress* has altered the relevant underlying law." 530 U.S. 327, 347 (2000) (emphasis added). In contrast, the "new law" the RNC refers to is the *challenged state law* itself, which the Legislature passed to require action in violation of a controlling federal judgment.

III. The NVRA's 90-day quiet period prohibits systematic, last-minute removal programs to remove suspected noncitizens.

The NVRA also preempts any effort by Arizona to authorize systematic programs to remove suspected noncitizens from the voter rolls in the days leading up to federal elections. It requires that States "complete, not later than 90 days prior to [an election] for Federal office, *any program* the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters." 52 U.S.C. § 20507(c)(2)(A) (emphasis added). By its plain terms, this requirement broadly applies to "any" systematic program to remove "ineligible voters" of any sort. *Id.*; *see also Food & Drug Admin. v. R. J. Reynolds Vapor Co.*, 606 U.S. 226, 237 (2025) ("Read naturally, the word 'any' has an expansive meaning, that is, 'one or some indiscriminately of whatever kind.'" (citation

omitted)). And while the NVRA exempts several eligibility grounds from this prohibition, 52 U.S.C. § 20507(c)(2)(B), citizenship status is not one of them. Nor does anything else in the NVRA restrict or qualify the relevant basis of "ineligib[ility]." And no party disputes that the removal program H.B. 2243 requires Arizona to undertake is "systematic."

The answer to the second question presented is therefore straightforward: Arizona cannot conduct any systematic program within 90 days of an election to remove voters it suspects are ineligible on the basis of their citizenship status. The Ninth Circuit rightly reached that conclusion, App.41a–47a, joining the other two circuits that have addressed the question. *See Arcia*, 772 F.3d at 1343–44; *Va. Coal. for Immigrant Rts. v. Beals*, No. 24-2071, 2024 WL 4601052, at *1–3 (4th Cir. Oct. 27, 2024). The Court should affirm.

A. The plain text of the quiet-period provision applies to systematic removals of suspected noncitizens.

Plain text is dispositive here, as it often is. The term "voter" refers to "a person who performs [the] act of voting," or "a person who has the qualifications entitling him to vote." *Voter*, *Black's Law Dictionary* (6th ed. 1990). The term "ineligible" means "legally disqualified," *Ineligible*, *Black's Law Dictionary* (7th ed. 1999), or "not eligible," *Ineligible*, *Webster's Third New International Dictionary* (1981). Arizona requires U.S. citizenship as a "qualification" to vote, A.R.S. § 16-101(A)(1), so a person who lacks that status is "legally disqualified" and "not eligible" to "perform[] [the] act of voting" in Arizona, *i.e.*, an "ineligible

voter." Automated efforts to remove such individuals from the rolls are therefore "program[s] the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters." 52 U.S.C. § 20507(c)(2)(A). That should be the end of the analysis.

The RNC fixates on the fact that noncitizens cannot be "voters" in Arizona because they lack the required qualifications. RNC Br. 42. Just so. That is why they are "*ineligible* voters," a qualifier that the RNC rather glaringly downplays when fixating on the term "voter." *See id.* The RNC's point is akin to arguing that the term "unlicensed physician," *e.g.*, La. Rev. Stat. Ann. § 37:1284, does not include someone practicing medicine without a license because "physician" typically refers to someone "licensed to practice medicine," *Physician*, *American Heritage Dictionary of the English Language* (3d ed. 1992), or that a purported marriage involving an already-married participant is not a "void marriage" because a marriage must be a "legal union," *Marriage*, *Black's Law Dictionary* (12th ed. 2024), and the law prohibits bigamy, *e.g.*, Cal. Fam. Code § 2201(a).

The RNC and United States instead push for a convoluted reading in which "ineligible voters" does not mean *all* ineligible voters, but only *newly* ineligible voters, so that States may undertake systematic programs to remove voters who have *always* been ineligible at any time, even right before elections. U.S. Br. 31; RNC Br. 45–46. This is simply not what the NVRA says. It prohibits systematic efforts to remove "ineligible voters" shortly before federal elections. It does

not prohibit only efforts to remove "newly ineligible voters." Nothing in the text of § 20507(c)(2) draws the distinction between newly ineligible and always ineligible voters that the RNC and the United States demand. And there is every reason to think Congress had in mind always ineligible voters, too, because a major purpose of the NVRA was "to remove the names of ineligible voters from the official lists of eligible voters." 52 U.S.C. § 20507(a)(4).

Lurking behind Petitioners' argument is an apparent belief that citizenship stands as a unique eligibility criterion that should lead it to, *sub silentio*, fall outside the scope of the 90-day provision. *E.g.*, RNC Br. 44–45. Nothing in the NVRA supports that view. The NVRA is "premised on the assumption that citizenship is one of the requirements for eligibility to vote." *Arcia*, 772 F.3d at 1344. It refers to citizenship as an "eligibility requirement" three times—and each time, it does so in the context of requiring registration forms to list "each eligibility requirement," including citizenship. 52 U.S.C. §§ 20504(c)(2), 20506(a)(6), 20508(b)(2). That reinforces that citizenship status is simply one "eligibility requirement" among several that, if not satisfied, might make someone an "ineligible voter." Arizona law is much the same: it makes citizenship one of half-a-dozen eligibility criteria for voting. *See* A.R.S. § 16-101. That surely informs the scope of the term "ineligible voter," since *who* is an eligible voter is ultimately the State's call to make. *See ITCA*, 570 U.S. at 17 ("Prescribing voting qualifications . . . 'forms no part of the power to be conferred upon the national government'" by the Constitution. (quoting *The Federalist No. 60*, at 371 (Alexander Hamilton))).

The RNC's and the United States's contrary arguments seem primarily motivated by a concern that, if their convoluted construction of the statute is not adopted, the NVRA might prohibit States from *ever* removing voters who were always ineligible. RNC Br. 51–52; U.S. Br. 4, 37–39. But that concern is entirely misplaced. It stems from a *different* provision of the NVRA, 52 U.S.C. § 20507(a)(3), which need not be construed to bar such removals—regardless of how the Court construes the 90-day provision. Section 20507(a)(3) provides that "the name of a *registrant* may not be removed from the official list of eligible voters" except at their request, after a criminal conviction or finding of incapacity, or due to "death" or "change in residence." *That* provision, which addresses removal generally and not during the 90-day quiet period, does seem to be focused mainly on eligible voters who become ineligible, rather than never-eligible voters. But the solution is to construe § 20507(a)(3) as allowing the removal of those who were never eligible through a narrow construction of the term "registrant." Nothing about doing so requires *also* construing the different language of the quiet-period provision—which refers to "ineligible voters," not "registrants"—as likewise excluding never-eligible voters. After all, "different terms usually have different meanings." *Pulsifer v. United States*, 601 U.S. 124, 149 (2024).

Contrast that straightforward solution with Petitioners' approach. *See* RNC Br. 42–46; U.S. Br. 33–35, 37. Petitioners start by claiming that "ineligible voters" in the 90-day provision must be defined by reference to the NVRA's earlier use of the term "registrant"

in the general removal provision—notwithstanding that *nothing* in the NVRA defines any specific relation between these two terms. Petitioners then claim that "registrant" must be limited by yet another phrase, "eligible applicant." They then assert that only "eligible applicants" can be "registrants," and only "registrants" can be "ineligible voters," so a noncitizen who was never eligible does not count as an "ineligible voter."

This argument asks the Court to perform "textual backflips to find some way—*any* way—to narrow the reach" of the 90-day provision by seizing on an unrelated oddity in a different statutory provision. *Fischer v. United States*, 603 U.S. 480, 506 (2024) (Barrett, J., dissenting). "That is not how courts interpret statutes," *Va. Coal.*, 2024 WL 4601052, at *1, because Congress does not "alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions," *Whitman v. Am. Trucking Ass'ns,* 531 U.S. 457, 468 (2001). Instead, if Congress intended to exempt programs aimed at suspected noncitizens (or other never-eligible voters) in the quiet period provision, "it likely would have done so in the definition" of ineligible voters "or in some other prominent manner" like the 90-day provision's list of exceptions—not through the "winding path" Petitioners suggest. *King*, 576 U.S. at 497; *see also United States v. Johnson*, 529 U.S. 53, 58 (2000) (when Congress provides exceptions in a statute, "the proper inference . . . is that Congress considered the issue of exceptions and, in the end, limited the statute to the ones set forth.").

This circuitous reading of the provision is so unintuitive that the dissent below required a chart to spell out how it works. *See* App.125a. But statutory interpretation is not a game of "connect-the-dots." *King*, 576 U.S. at 497. The dots here also do not connect of their own accord. Nothing in the statutory text actually ties applicants to registrants to voters to ineligible voters in the manner on which Petitioners' entire argument rests. Instead, the dissent's chart supplies its own arrows and lines to interconnect statutory terms that are *not* otherwise defined in that manner, invents its own terms without statutory ground (*i.e.*, "ineligible applicant"), and demarcates various arbitrary "phases" of the registration process that appear nowhere in the NVRA. And it does so with little discernible rhyme or reason. For instance, it places § 20507(a)(3) in the "post-registration" phase when the provision itself is clearly about the removal process—which the chart deems a different phase. App.125a; 52 U.S.C. § 20507(a)(3) (addressing who "may . . . be removed from the official list of eligible voters").

Petitioners' argument leads to yet more problems. For one, given the exceptions in § 20507(c)(2)(B), the effect of Petitioners' reading is to functionally reduce the 90-day provision to applying to just a single subset of voters: those who lose eligibility by moving away. *E.g.*, U.S. Br. 39–40; RNC Br. 47–48. Yet Congress chose for the quiet period to apply to "any program," language that cannot be squared with Petitioners' insistence the provision applies to just one such program. *Cf. Ali v. Fed. Bureau of Prisons*, 552 U.S. 214, 220 (2008). That outcome would be particularly odd

given that § 20507(c)(2) expressly delineates numerous exceptions (though notably not programs concerned with citizenship status). Had Congress wished the quiet period to reach only change-of-residence programs, it would have said so affirmatively—as it did elsewhere in the same section, *see* 52 U.S.C. § 20507(a)(4)(B), (c)(1)—rather than enacting a broad rule only to whittle it down to a single application (which it does not name), while at the same time listing a bunch of carve-outs (which are not exhaustive).

Beyond this statutory mismatch, Petitioners' reading also makes the 90-day provision's operation turn on a voter's *status* as a newly ineligible versus never-eligible voter—which is often only known after-the-fact—rather than on the specific eligibility criteria the program reviews for. That creates administrability problems for States, which must know beforehand whether a systematic removal program needs to be "complete[] not later than 90 days" before an election. *Id.* § 20507(c)(2)(A). Imagine that a State, within the quiet period, wishes to systematically remove voters whom it thinks may reside elsewhere. Whether such a program runs afoul of the 90-day provision would, under Petitioners' view, turn on whether impacted individuals resided outside the State at the time they registered (not protected by the quiet period on Petitioners' account), or whether they previously resided in the State and then moved (protected by the quiet period on Petitioners' account). It would therefore require States conducting systematic removal programs in the 90 days before federal elections to engage in a historical investigation of voters' *prior* eligibility, ra-

ther than focusing on their *current* eligibility. Petitioners offer no reason to think Congress would have compelled that unnecessary exercise, particularly when the risk of erroneous removal of *eligible* voters is equally present regardless of whether election officials believe the voter was ever eligible or not. A plain construction of "ineligible voter" avoids this problem, by providing a bright-line rule against any last-minute systematic programs based on any ineligibility criterion, save those expressly exempted by Congress.

In sum, Petitioners rely upon a contrived distinction between citizenship and other eligibility criteria—and a distinction between newly- and always-ineligible voters—that has no grounding in the NVRA or Arizona law, and that makes no sense as a practical matter. The better course is to simply read the term "ineligible voter" as any ordinary English speaker would—precisely as all three courts of appeals that have addressed this issue did.

B. Reading the quiet-period provision to preclude systematic removals of suspected noncitizens is consistent with the statutory purpose.

The tentpole assumption undergirding Petitioners' argument, as well as that of the dissent below, is that Congress could not have intended for the 90-day provision to "offer[] . . . protection for foreign citizens." App.126a; *e.g.*, RNC Br. 3, 41, 51–52; U.S. Br. 31–35. That fundamentally misunderstands the NVRA's intent and operation. Congress enacted the quiet period to protect *eligible* voters from wrongful removal due to systematic efforts close to an election—at which point

it is often too late to remedy mistaken removals. That risk to *eligible* voters exists regardless of whether a systematic removal program is meant to purge voters who have moved away or who might not be citizens. Congress therefore exercised its judgment to decide that the risk of wrongful removal was too significant to allow any systematic removal programs during the 90-day lead up to a federal election.

Petitioners seem to imagine the 90-day provision as instead offering a grace period for formerly eligible voters who move. *See* U.S. Br. 33, 39–42; RNC Br. 45–48. But that is simply not what the 90-day provision says or does. In addition to allowing for individual removals, nothing in the 90-day provision provides that the ineligible voters it protects from systematic removal may lawfully vote. 52 U.S.C. § 20507(c)(2). In contrast, the Voting Rights Act does expressly create a limited grace period to allow otherwise ineligible voters who move shortly before election day to vote for President and Vice President in their prior State, notwithstanding their "nonresident status," if they cannot lawfully vote in their new one due to a durational residency requirement. *See id.* § 10502(e). That grace-period is phrased entirely differently from the 90-day provision, providing that covered voters "shall be allowed to vote" in their prior State where the requirements are met. *Id.* The 90-day provision contains no similar language, because its purpose is not to protect ineligible voters at all—it is to protect eligible voters against erroneous removal.

The erroneous-removal risk that the 90-day provision targets is fully present—perhaps *especially* so—

when voters are targeted for removal as suspected noncitizens. Naturalized citizens in particular are at heightened risk of errant last-minute removal due to the systematic use of databases containing stale citizenship information. A database-driven removal program in Texas initially identified 98,000 registered voters as noncitizens, but only around 80 were later confirmed to be ineligible to vote—a false positive rate north of 99%. *Tex. League of United Latin Am. Citizens v. Whitley*, No. CV SA-19-CA-074-FB, 2019 WL 7938511, at *1 (W.D. Tex. Feb. 27, 2019). Texas later admitted it had "an 'oops' moment, realizing that 25,000 names should not have been included" even on the preliminary list. *Id.* Even so, thousands of "legal naturalized Americans were burdened with . . . ham-handed" removal efforts, *id.*, illustrating precisely why Congress enacted the 90-day provision. Courts have frequently confronted similar scenarios just in the last few years. *E.g.*, *Va. Coal.*, 2024 WL 4601052, at *2 (recounting district court's finding that "eligible citizens . . . have had their registrations canceled and were unaware that this was even so"); *Ala. Coal. for Immigrant Just. v. Allen*, No. 2:24-CV-1254-AMM, 2024 WL 4510476, at *2 (N.D. Ala. Oct. 16, 2024) (concluding a last-minute "purge list included thousands of United States citizens" who were referred for "criminal investigation"). The 90-day provision thus accounts for the fact that States are "far from perfect" when it comes to systematic removals. *Arcia*, 772 F.3d at 1339.

Outdated motor vehicle records are a particular source of concern. Arizona, like many States, does not

require naturalized citizens to update their driver's license when they obtain citizenship. App.202a–03a. In 2024, Idaho compiled a list of "678 potential noncitizens" based upon citizenship status associated with a driver's license.[7] But after more thorough review, more than 600 of these individuals were found to be citizens and fewer than 35 were ultimately removed from the rolls. *Id.* Similarly, Iowa relied upon motor vehicle data to compile a list of 2,186 "potential noncitizens," approximately 88% of whom later turned out to be citizens.[8] Iowa subsequently entered into a settlement agreement to not generate purge lists within 90 days of an election based solely on such data, presumably because it is not on its own a reliable indicator of *current* citizenship status.[9] The point is clear: systematized list maintenance based on state motor vehicle data carries an extremely high risk of removing eligible voters based on outdated information.

Similarly, DHS's Systematic Alien Verification for Entitlements (SAVE) system heightens the risk to naturalized citizens. Many States have run their voter lists through SAVE recently and obtained results with

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[7] Letter from Phil McGrane, Idaho Sec'y of State, to Idaho Senators 1 (Mar. 14, 2025) (S. State Affs. Comm. Minutes, Attach. 1 (Mar. 17, 2025)), https://perma.cc/N33K-YKLF.

[8] Press Release, Iowa Sec'y of State, *Iowa Secretary of State's Audit of Voter Registration Lists Finds 277 Confirmed Noncitizens Registered to Vote* (Mar. 20, 2025), https://perma.cc/H5FN-U49C; Order Den. Mot. for TRO & Prelim. Inj. at 4, *Selcuk v. Pate*, No. 4:24-CV-00390 (S.D. Iowa Nov. 3, 2024), ECF No. 32.

[9] Settlement Agreement, *Selcuk v. Pate*, No. 4:24-CV-00390 (S.D. Iowa Feb. 11, 2026), ECF No. 89-1.

startling false positive rates. *See generally* Fredreka Schouten, *Trump's Push to Audit Voter Rolls Is Already Snaring US Citizens*, CNN (Feb. 9, 2026), https://www.cnn.com/2026/02/09/politics/trump-voter-roll-audit-push. After Texas did so, its Secretary of State wrote to U.S. Citizenship and Immigration Services acknowledging that election officials "have obtained citizenship documentation from some Texas voters who were identified in the SAVE system as potential non-citizens."[10] She further acknowledged that Texas's own "state driver's license records inaccurately reflect a person's current citizenship status." *Id.* After Missouri ran its voter list through SAVE, more than 70 of its county clerks circulated a letter noting SAVE generated "deeply flawed" lists that "include individuals . . . know[n] to be U.S. citizens—our neighbors, colleagues, and even voters [officials] have personally registered at naturalization ceremonies."[11] *These* are the individuals Congress chose to protect through the 90-day provision.

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[10] Letter from Jane Nelson, Tex. Sec'y of State, to Andrew Davidson, Acting Assoc. Dir., Fraud Detection & Nat'l Sec., U.S. Citizenship & Immigr. Servs. (Apr. 28, 2026), *in* Democracy Forward, Public Information Request No. 26-0619, at 11 (2026), https://perma.cc/Y62T-LSEY.

[11] Letter from Mo. Cnty. Clerks & Election Auths. to Hon. Jonathan Patterson, Speaker, Mo. House of Representatives 2 (Dec. 3, 2025), https://www.documentcloud.org/documents/26496308-missouri-clerk-letter-to-legislature/.

Most recently, DHS told Nevada that federal records showed the State may have nearly 16,000 noncitizens on its rolls.[12] When pressed, DHS then cut the number to 185 that it suspects are noncitizens based on manual review—meaning the agency wrongly flagged over 15,000 citizens as possible noncitizens.[13] Even then, Nevada election officials informed DHS that "[a]s for the 185 individuals, our records indicate that they were citizens," and DHS provided nothing to suggest otherwise. *Id.* This uncertainty illustrates the risks to *eligible* voters from systematic removal programs of suspected noncitizens on the eve of an election.

Petitioners fulminate that the reading adopted by the Ninth, Eleventh, and Fourth Circuits will hamstring election integrity efforts. Not so. Arizona is free to run its systematic checks anytime *outside* the 90-day quiet period. App.431a. Even within the 90-day period, States may continue "to conduct *individualized* inquiries." *Dep't of Homeland Sec. v. League of Women Voters*, No. 26A308, 2026 WL 2879700, at *3 (U.S. Sep. 25, 2026). That is all on top of the *express* exceptions the NVRA includes for the 90-day provi-

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[12] Press Release, U.S. Dep't of Homeland Sec., *DHS Secretary Markwayne Mullin Sends Letters to Secretaries of State Warning About Non-Citizens on Voter Rolls* (July 17, 2026), https://perma.cc/9T3Y-LU5U.

[13] Nick Corasaniti, *From 16,000 to 185 to Zero: Trump's Claims of Illegal Voting in Nevada Fizzle*, N.Y. Times (Sep. 24, 2026), https://www.nytimes.com/2026/09/24/us/politics/nevada-voters-homeland-security-trump.html.

sion—which tellingly does not include systematic removals based on citizenship. *See* 52 U.S.C. § 20507(c)(2)(B); *see also id.* § 20507(a)(3)–(4). The 90-day provision therefore imposes only a modest obligation on States in "the final days before an election," at which point "[e]ligible voters . . . will likely not be able to correct the State's errors in time to vote." *Arcia*, 772 F.3d at 1346. That reflects the "careful balance" at the heart of the NVRA, *id.*, a balance that Petitioners seek to lopsidedly upend.

Simply put, when States conduct systematic, bulk removal programs right before an election, they cannot have full confidence that the voters they remove are in fact ineligible. While erroneous removals can often be corrected in due course, that is not so "[i]n the final days before an election." *Id.* at 1346. The NVRA thus permits States to remove noncitizens through ordinary list maintenance while protecting eligible voters from eleventh-hour mistakes. The Ninth Circuit's reading permits States to achieve those twin pursuits, while Petitioners would eviscerate the second goal with little advancement on the first.

CONCLUSION

The decision below should be affirmed.

Respectfully submitted,

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