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 PETITIONER

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QUESTION PRESENTED

Like every other State, Arizona permits only United States citizens to vote in federal elections. To enforce that qualification, Arizona requires every applicant who registers to vote using its state form to produce "satisfactory evidence of citizenship." Ariz. Rev. Stat. §16-121.01(C). If election officials obtain "information" from periodic inspections of Arizona's voter rolls that "confirms" a "person registered is not a United States citizen," they "cancel the registration." *Id.* §16-165(A)(10).

The Ninth Circuit held that the National Voter Registration Act—52 U.S.C. §§20506(a)(6)(A)(ii), 20508(b)(1), 20507(c)(2)(A)—preempts those provisions of Arizona law. It also held that Arizona cannot require voter-registration applicants to produce proof of citizenship because in 2018, a previous Arizona Secretary of State entered a consent decree with private litigants. The questions presented are:

(1) Does the National Voter Registration Act or a federal consent decree prohibit Arizona from requiring voter-registration applicants to produce "satisfactory evidence" of U.S. citizenship when registering with a state registration form?

(2) Does the National Voter Registration Act prohibit Arizona from implementing a program within 90 days of a federal election to cancel the registrations of noncitizens?

PARTIES TO THE PROCEEDING

Petitioner is the Republican National Committee. The RNC was intervenor-defendant in the consolidated district court proceedings and appellant in the court of appeals proceedings.

Respondents Mi Familia Vota, Voto Latino, Living United for Change in Arizona, League of United Latin American Citizens, 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, Chicanos Por La Causa Action Fund, Democratic National Committee, 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 consolidated district court proceedings and appellees in the court of appeals proceedings.

Respondent United States was a plaintiff in the consolidated district court proceedings and appellee in the court of appeals proceedings. The United States did not appeal the district court rulings that are the subject of certiorari. The United States filed a brief in support of certiorari in this case.

Respondents the State of Arizona, the Arizona Secretary of State, the Attorney General of Arizona, 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 consolidated district court proceedings. They did not appeal the district court rulings that are the subject of certiorari.

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

RULE 29.6 DISCLOSURE STATEMENT

I, Gilbert C. Dickey, counsel for the Republican National Committee and a member of the Bar of this Court, certify that the Republican National Committee has no parent corporation, and that no publicly held company owns 10% or more of its stock.

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INTRODUCTION

American elections are by and for Americans. Every State requires U.S. citizenship as a qualification to vote. That unanimous agreement reflects a principle "at the heart of our political institutions," that "a democratic society is ruled by its people." *Foley v. Connelie*, 435 U.S. 291, 296 (1978). And the Constitution protects that principle from federal interference: States have constitutional authority to set voter qualifications for state and federal elections. U.S. Const. art. I, §2. But that authority "is of little value without the power to enforce those requirements." *Arizona v. Inter Tribal Council of Ariz.*, 570 U.S. 1, 17 (2013).

Arizona passed laws to ensure that only U.S. citizens can vote. On the front end, Arizona requires applicants using its state voter-registration form to provide proof of U.S. citizenship. And on the back end, Arizona tasks election officials with removing noncitizens who erroneously made it onto the voter rolls.

Arizona's laws are consistent with the National Voter Registration Act—a law enacted to "increase the number of eligible citizens" registered and "enhanc[e] the participation of eligible citizens" in federal elections. 52 U.S.C. §20501(b)(1)-(2). The NVRA created a federal superstructure for voter registration and maintenance of voter rolls. But it reserved authority to the States to create their own forms, requiring information "necessary" to verify voter eligibility. *Id.* §20508(b)(1). And it permitted States to distribute those forms at public assistance agencies so long as they are "equivalent" to the federal form. *Id.* §20506(a)(6)(A)(ii). The NVRA also required States to maintain their voter rolls by removing "ineligible voters," subject to a 90-day bar before an election. *Id*. §20507(c)(2)(A). Arizona's laws fit squarely within the States' reserved authority.

The Ninth Circuit's contrary decision cannot be squared with the NVRA's text or context, or with *Inter Tribal Council*'s observation that "state-developed forms may require information the Federal Form does not." 570 U.S. at 12. Proof of citizenship is well suited to the statutory end it is supposed to serve—"to enable the appropriate state election official to assess the eligibility of the applicant." 52 U.S.C. §20508(b)(1). And that is all the NVRA's use of "necessary" requires. As this Court has long recognized, when used to describe means to an end, the term "necessary" means "plainly adapted," not just the "mean[s] without which the end would be entirely unattainable." *McCulloch v. Maryland*, 17 U.S. 316, 413-14, 421 (1819). Arizona's form is also "equivalent" to the federal form because it meets the same statutory criteria and is "[s]imilar or identical in function or effect." American Heritage Dictionary 287 (3d ed. 1994).

Nothing in a consent decree from a different case supports the Ninth Circuit's new injunction. Courts must tailor injunctions to federal violations, and here there is not one. The old consent decree disclaimed any federal violation. It rested instead on compliance with then-applicable state law. So it cannot support a new injunction against a new state law.

Finally, Arizona's effort to remove noncitizens from its voter rolls is consistent with the NVRA's restriction of programs removing "ineligible voters" 90 days before an election. 52 U.S.C. §20507(c)(2)(A).

The NVRA consistently uses the term "voter" to refer only to individuals who either are, or once were, eligible to vote in federal elections. Noncitizens do not qualify.

By prohibiting proof of citizenship on the front end and removal on the back end, the Ninth Circuit thwarted Arizona's attempts to "stop foreign citizens from voting." App.126a. The NVRA does not require that constitutionally dubious result. This Court should reverse.

OPINIONS BELOW

The Ninth Circuit's opinion (App.1a-76a) and accompanying dissent (App.77a-154a) are reported at 129 F.4th 691. The order denying rehearing en banc and accompanying opinions (App.155a-187a) are reported at 152 F.4th 1153. The District of Arizona's amended bench trial opinion (App.188a-335a) is reported at 719 F. Supp. 3d 929. The District of Arizona's summary judgment opinion (App.336a-384) is reported at 691 F. Supp. 3d 1077.

JURISDICTION

The court of appeals entered its judgment and published its opinion on February 25, 2025. The court of appeals denied rehearing en banc on September 22, 2025. Justice Kagan granted the RNC's timely application to extend the time to file a petition for a writ of certiorari to February 19, 2026. *See* No. 25A673. The RNC filed its petition on that date, and the Court granted the petition on June 29, 2026. The Court has jurisdiction under 28 U.S.C. §1254(1).

PERTINENT PROVISIONS OF FEDERAL LAW

Pertinent constitutional, statutory, and regulatory provisions are reproduced in the petition appendix at App.434a-473a.

STATEMENT

A. Legal Background

1. States have authority to set voter qualifications for congressional elections. The Voter Qualifications Clause provides that "Electors" voting in House elections are governed by the same "Qualifications" that apply for electors of the "most numerous Branch of the State Legislature." U.S. Const. art. I, §2, cl. 1. The Seventeenth Amendment extends that rule to Senate elections.

States also have primary—though not exclusive—authority over the "Times, Places and Manner of holding Elections for Senators and Representatives." *Id.* art. I, §4, cl. 1. Congress can "at any time by Law make or alter such Regulations." *Id.* The Elections Clause thus "invests the States with responsibility for the mechanics of congressional elections, but only so far as Congress declines to preempt state legislative choices." *Foster v. Love*, 522 U.S. 67, 69 (1997) (citation omitted). The Electors Clause is the counterpart for the Executive Branch, but it gives Congress power over only the "Time of chusing the Electors" for the offices of President and Vice President. U.S. Const. art. II, §1, cl. 4. The "Manner" of their appointment rests with "the Legislature" of each State. *Id.*

2. In 1993, Congress invoked those powers to enact the NVRA. The Act created a "complex superstructure" governing registration for federal elections.

Inter Tribal Council, 570 U.S. at 5. This superstructure aims both to create "procedures that will increase the number of eligible citizens who register" and "to ensure that accurate and current voter registration rolls are maintained." 52 U.S.C. §20501(b).

To facilitate voter registration, the NVRA contemplates different kinds of forms: a federal form, state form, driver's license form, and public assistance-agency forms. As relevant, voters can register with the federal "mail voter registration" form issued by the Election Assistance Commission. *Id.* §20505(a)(1). The NVRA requires "[e]ach State" to "accept and use" that federal form to register voters for federal elections. *Id.* A State can also develop its own "mail voter registration" form. *Id*. §20505(a)(2). These state forms must meet the same "criteria" as the federal form. *Id.* Mail-registration forms "may require 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 the election. *Id.* §20508(b)(1). And the forms must include an attestation that the applicant "meets each" voter-eligibility requirement "including citizenship." *Id*. §20508(b)(2). Agencies that "provide public assistance" must provide benefit applicants with either the federal form or another form that is "equivalent to" the federal form. *Id*. §20506(a)(2)(A), (6)(A)(i)-(ii).

After registration, the NVRA sets rules for voter-roll maintenance. Once an "eligible applicant" has been "registered," the NVRA limits her removal. *Id.* §20507(a)(1). Such a "registrant" can be "removed from the official list of eligible voters" only for statutorily defined reasons—registrant request, criminal conviction or mental incapacity, death, or a change in residence. *Id.* §20507(a)(1), (3)-(4).

At the same time, States must "conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters" due to "death" or "a change in the residence of the registrant." *Id.* §20507(a)(4). Each State must "complete … any program … to systematically remove the names of ineligible voters from the official lists of eligible voters" at least "90 days" before any "primary or general election for Federal office." *Id.* §20507(c)(2)(A).

3. Since it joined the Union in 1912, Arizona has required U.S. citizenship as a qualification to vote. Ariz. Const. art. VII, §2. Arizona isn't alone. Every State requires that a voter be a U.S. citizen to vote. Voter Registration Rules, Vote.Org (2026), perma.cc/VSC3-E5BU. Federal law echoes those requirements. *See* 18 U.S.C. §§611, 1015.

For over two decades, Arizona has sought to enforce its citizenship requirement. Arizona's efforts have been the subject of many lawsuits—including in this Court. In *Inter Tribal Council*, this Court held that the NVRA preempted an Arizona law requiring proof of citizenship with the federal voter-registration form. 570 U.S. at 20. But it said that state forms "may require information the Federal Form does not," including proof of citizenship. *Id.* at 12. Reading the NVRA to bar "a State from obtaining the information necessary to enforce its voter qualifications," including "citizenship," "would raise serious constitutional doubts." *Id.* at 16-17.

After the 2020 election, Arizona enacted two laws that amended its voter-registration rules. *See* H.B. 2243, 55th Leg., 2d Reg. Sess. (Ariz. 2022); H.B. 2492, 55th Leg., 2d Reg. Sess. (Ariz. 2022). These laws included new provisions designed to ensure that only U.S. citizens are voting in Arizona elections: a registration provision and removal provisions.

The registration provision requires election officials to "reject" a state-form application "that is not accompanied by satisfactory evidence of citizenship." Ariz. Rev. Stat. §16-121.01(C). "Satisfactory evidence of citizenship" includes a photocopy of a "birth certificate" or a U.S. passport, "naturalization documents," a "tribal enrollment number," the "number of the applicant's driver license" for which evidence of citizenship was required, and numerous other documents and identification numbers. *Id.* §16-166(F). If election officials reject an application for lack of citizenship evidence, they must send notice to the applicant within ten business days. *Id.* §16-121.01(C); §16-134(B). The notice must identify the information required to complete registration. *Id.* §16-134(B). Any applicant who provides that information before 7:00 p.m. on election day will be "deemed … registered on the date" of the original application. *Id.*

The removal provisions require election officials to periodically check, research, and cancel the registrations of noncitizens. For example, the Secretary of State must conduct monthly comparisons of "the statewide voter registration database to the driver license database" and inform "the appropriate county recorder" about registered noncitizens. *Id.* §16-165(G). County recorders must conduct regular comparisons of voter-registration information with various databases, including "the social security administration database," "the electronic verification of vital events system maintained by a national association for public health statistics and information systems," and other "relevant" databases. *Id.* §16-165(H), (J), (K).

The county recorder must "cancel the registration" when "the person registered is not a United States citizen." *Id.* §16-165(A)(10). But first the recorder must "send … notice by forwardable mail" informing the registered person that her registration "will be cancelled in thirty-five days unless the person provides satisfactory evidence of United States citizenship." *Id.* §16-165(A)(10). The notice must "include a list of documents the person may provide and a postage prepaid preaddressed return envelope." *Id.* A registration is cancelled only if the person "does not provide satisfactory evidence within thirty-five days." *Id.* Once a registration has been cancelled, the county recorder must send another notice informing the person removed and providing "instructions on registering to vote if the person is qualified." *Id.* §16-165(L).

B. The District Court

This case arises from eight consolidated pre-enforcement challenges to Arizona's 2022 election laws. The plaintiffs challenged various aspects of those laws under the NVRA, including the registration and removal provisions. The Republican National Committee intervened to defend its interests in the rules governing Arizona's elections. Doc.10, No. 2:22-cv-1369 (D. Ariz.) (motion to intervene); Doc.18 (order granting intervention). After summary judgment and a bench trial, the district court gave the Plaintiffs "virtually everything they wanted." App.78a (Bumatay, J., dissenting).

1. The district court enjoined election officials from enforcing the proof-of-citizenship rule, but its judgment did not rest on Plaintiffs' theory that the NVRA preempted the requirement. App.366a-367a & n.13. Its judgment rested instead on a consent decree from an older case. App.428a-429a.

In 2018, the League of United Latin American Citizens Arizona—one of the Plaintiffs here—challenged earlier policies requiring proof-of-citizenship from state-form applicants. *LULAC v. Reagan*, Doc.37, No. 2:17-cv-4102 (D. Ariz. 2018) (reproduced at App.474a-494a). Alleging that Arizona's "dual registration system" for federal- and state-form applicants unconstitutionally burdened the right to vote, LULAC sought an injunction blocking the Arizona Secretary of State and the Maricopa County Recorder from requiring proof of citizenship with the state form. *Id.*, Doc.1.

A few months before the 2018 election, the *LULAC* court approved the parties' consent decree. App.494a. The *LULAC* decree directed the Secretary of State to provide guidance to county recorders. App.484a-486a. The Secretary's guidance would say that, when a submitted state form lacked proof of citizenship, the county recorder must search Arizona Department of Transportation records. *See* App.484a-485a. If the recorder could confirm the applicant's citizenship, the applicant would be registered as a full-ballot voter; if citizenship could not be confirmed, the applicant would be registered as a "Federal Only" voter. App.486a.

The consent decree did not rest on any federal violation. Indeed, even while signing the consent decree, "[t]he Secretary denie[d] that Arizona's voter registration policies violate the First and Fourteenth Amendments or are otherwise illegal under state or federal law." App.476a. The defendants approved the consent decree to make voter registration easier while "continuing to comply with Arizona law." App.478a-479a. The district court retained jurisdiction over the consent decree until December 31, 2020. App.494a.

Almost two years after the decree's termination date, the Arizona Legislature amended state law to require proof of citizenship with state voter-registration forms, Ariz. Rev. Stat. §16-121.01(C), and Plaintiffs sued, alleging that the law "require[d] the Secretary to violate a federal consent decree." LUCHA Pls.' 1st Am. Compl., Doc.67, ¶90, No. 2:22-cv-509 (D. Ariz. 2022). The district court agreed, finding that "Arizona agreed to refrain from precisely the conduct" required by the registration provision. App.366a. The district court enjoined Defendants from requiring proof of citizenship with the state mail-registration form. App.364a-366a, 383a.

2. Turning to the removal provisions, the district court ruled that Arizona's efforts to remove noncitizens were prohibited by the NVRA's bar on "systematic cancellation of registrations within 90 days" before a federal election. App.357a-360a. Even though those registrations belong to noncitizens who were never eligible to register in the first place, the court noted that the 90-day provision applied to "any program" for the systematic removal of registrants. App.358a. And it thought a broad prohibition on removals was consistent with Congress's dual purposes of ensuring accurate voter rolls and enhancing participation by eligible citizens. App.358a-359a.

C. The Ninth Circuit

The RNC sought a partial stay of the district court's order. A unanimous motions panel stayed the district court's judgment to the extent it barred Arizona from requiring proof of citizenship with the state form, but a divided merits panel vacated that partial stay two weeks later "[i]n an extraordinary move." App.78a-79a. This Court ultimately granted a partial stay of the district court's order "to the extent it enjoins enforcement of" the proof-of-citizenship requirement for the state form. *RNC v. Mi Familia Vota*, 145 S. Ct. 108 (reproduced at App.426a).

Back at the Ninth Circuit, a divided panel upheld the district court's injunction of Arizona's election laws.

1. On the registration issue, the Ninth Circuit both affirmed the district court's reasoning and added an alternative holding on the NVRA. The court held that the 2018 *LULAC* consent decree barred Arizona from enforcing its proof-of-citizenship requirement for state-form applicants. App.47a-48a. It started with the premise that "[c]onsent decrees are binding final judgments that remain in force permanently." App.47a. And because Arizona's new law "would require county recorders to do the opposite" of what the consent decree required "and reject state-form applications" lacking proof of citizenship, the consent decree "bars enforcement" of that provision. App.48a. The Ninth Circuit thus held that "the LULAC Consent Decree bars Arizona election officials" "from enforcing" Arizona's new proof-of-citizenship requirement for "state-form applications." App.49a.

The Ninth Circuit then went further, holding that the NVRA preempts the proof-of-citizenship requirement. The court first observed that state registration forms "may seek only information 'necessary' to assess an applicant's eligibility to vote." App.50a (citing 52 U.S.C. §§20505(a)(2), 20508(b)(1)). Proof of citizenship is not "necessary," the majority concluded, because a "checkbox" on the state form already provides enough proof of citizenship. App.50a. The majority also found that requiring proof of citizenship violated the NVRA's requirement that a form distributed by a public assistance agency be "equivalent" to the federal form because asking for proof of citizenship means the two forms are not "virtually identical." App.51a-52a (quoting 52 U.S.C. §20506(a)(6)(A)(ii)).

Judge Bumatay dissented. He would have held that "neither the consent decree nor the NVRA bars enforcement" of Arizona's proof-of-citizenship requirement for state registration forms. App. 103a (Bumatay, J., dissenting). Judge Bumatay would have applied the longstanding rule that "when a change in statutory law conflicts with a consent decree, it's the statute that governs." App.106a. Although "state laws" must "yield to federal constitutional rights," "[a]t no point did the district court that entered the LULAC Consent Decree hold that the requirement of proof-of-citizenship violates federal law." App.106a. The decree rested on "consent alone." App.106a.

On the NVRA, Judge Bumatay concluded that this Court properly read the statute when it observed that "'state-developed forms may require information the Federal Form does not.'" App.111a (quoting *Inter Tribal Council*, 570 U.S. at 12)). He rejected the majority's cramped reading of "'necessary,'" explaining that other provisions use the more limiting language "'only the minimum amount of information necessary'" where Congress intended a stricter limit. App.111a (quoting 52 U.S.C. §§20508(b)(1), 20504(c)(2)(B)). Proof of citizenship is "necessary" because it "would ensure … a necessary qualification." App.112a. Judge Bumatay also concluded that "an 'equivalent' form need only have the same 'effect' for purposes of registration." App.115a. It would "be odd," he explained, "if Congress gave States the flexibility to create their own form in §20505(a) but then took away all that freedom through the 'public assistance agencies' provision of §20506(a)(6)(A)." App.115a-116a.

2. On the removal issue, the Ninth Circuit held that the NVRA prohibits county recorders from removing noncitizens from the voter rolls within 90 days before a federal election. App.41a. The majority reasoned that "any program" for the removal of "ineligible voters" must be given "an expansive meaning." App.42a. And because Arizona's law "does not limit cancellation to at least 90 days before a federal election," the Ninth Circuit held that it "violates the 90-day Provision" barring "systematic" removal of voters during that period. App.43a-44a.

Again, Judge Bumatay dissented. He concluded that "because the phrase 'ineligible voters' in the 90-Day Provision doesn't include foreign citizens, the provision doesn't apply to Arizona's cancellation program." App.119a. Judge Bumatay explained that the

NVRA uses different terminology to describe the pre-registration process, post-registration process, and removal programs. App.120a-122a. The "ineligible voters" addressed by the NVRA's removal provisions are once-qualified "'registrant[s]' who have lost eligibility to vote because of" a statutorily defined ground. App.122a-123a (alteration in original) (quoting 52 U.S.C. §20507(a)(4)). In contrast, "foreign citizens can never be 'ineligible voters' or 'eligible voters'" protected from removal. App.123a. Judge Bumatay also noted that the majority's reading created an absurd result where States "can't stop foreign citizens from voting in our elections" even though non-citizenship is "easier to verify" than other grounds for removal. App.126a.

The RNC petitioned for rehearing en banc on the registration issue and the removal issue. The Ninth Circuit denied rehearing, with eleven judges dissenting in total. App.163a, 187a. Judge Nelson dissented on the registration provision, joined by six others, and on the removal provisions, joined by five others. App.169a, 184a. Judge Bress, joined by two others, dissented separately on the registration provision. Judge Collins dissented separately on both issues. App.187a.

SUMMARY OF THE ARGUMENT

I. Arizona's "state-developed forms may require information the Federal Form does not," including a "proof-of-citizenship requirement." *Arizona v. Inter Tribal Council of Ariz.*, 570 U.S. 1, 20 (2013).

A.1. As this Court has already recognized, the NVRA does not bar Arizona from requiring proof of citizenship. State officials can gather information "necessary to enable" them to "assess the eligibility" of an applicant and "administer voter registration." 52 U.S.C. §20508(b)(1). Contemporary dictionaries and this Court's precedents confirm that "necessary" can mean "useful" or "helpful." That's the ordinary understanding when "necessary" describes a means to an end. *See McCulloch v. Maryland*, 17 U.S. 316, 413-14 (1819). And context confirms that Congress employed that sense here: Officials are entitled to information "to enable" them "to assess" qualifications. Both phrases give officials discretion to consult relevant documents. Surrounding provisions point the same direction; the NVRA's two-track system of forms would lose "any meaningful function" if States could not create "a more demanding state form." *Inter Tribal Council*, 570 U.S. at 12-13 & n.4.

A.2. Nor must the state registration form be "virtually identical" to the federal registration form. When public assistance agencies "distribute" mail voter-registration applications, they can hand out either the federal form or an "equivalent" form. 52 U.S.C. §20506(a)(6)(A). Arizona's state registration form is "equivalent" to the federal form because it is "similar … in function or effect." American Heritage Dictionary 287 (3d ed. 1994). Like the federal form, it results in registration for federal elections. And like the federal form, it checks all the NVRA's boxes for the contents of a voter-registration form. Surrounding provisions contemplate "flexibility" in designing registration forms, *Inter Tribal Council*, 570 U.S. at 13, a structure inconsistent with the Ninth Circuit's holding that the state form must be a carbon copy of the federal form. Indeed, "it would raise serious constitutional doubts if a federal statute precluded a State from obtaining the information necessary to enforce its voter qualifications." *Id.* at 17.

B. An old consent decree not based on a finding of a violation of federal law cannot undermine the legislature's authority to require proof of citizenship. New injunctive relief against state officials must be tailored to remedy a federal violation. *See Horne v. Flores*, 557 U.S. 433, 448 (2009). But the *LULAC* consent decree disclaimed any finding that requiring proof of citizenship with a state form violated federal law. Even if the *LULAC* decree could rest on consent alone, it could not constrain the State beyond its terms. And the decree was premised on the understanding that it would comply with state law. Because its terms no longer comply with state law, they cannot serve as a basis for a new injunction.

II. Even if Arizona can't confirm citizenship at registration, it can at least remove noncitizens from its voter rolls after registration. The NVRA requires States to end "any program the purpose of which is to systematically remove ineligible voters from the list of eligible voters" at least 90 days before a federal election. 52 U.S.C. §20507(c)(2). Removing noncitizens doesn't trigger that 90-day provision. To start, noncitizens aren't "ineligible voters." They're not "voters" at all. Congress carefully described how "eligible applicants" become "registrants" and then "voters." But noncitizens cannot qualify to vote in Arizona. They are at best ineligible "applicants" who made it on the voter rolls through mistake or fraud, and can thus be removed at any time. The NVRA protects "the right of citizens of the United States to vote." *Id.* §20501(a)(1). Construing the NVRA to prohibit States from removing noncitizens from their voter rolls undermines that purpose and damages the integrity of Arizona's elections.

ARGUMENT

I. Arizona can require proof of citizenship as part of its state voter-registration form.

When this Court last confronted Arizona's proof-of-citizenship rules, it approved what became Arizona's current system. In *Arizona v. Inter Tribal Council of Arizona*, the Court held that Arizona could not require proof of citizenship with the federal voter-registration form. 570 U.S. 1, 20 (2013). Requiring extra documents, the Court reasoned, violated the "NVRA's mandate that Arizona 'accept and use' the Federal Form." *Id.* at 9.

State registration forms are different. The Court emphasized that "States retain the flexibility to design and use" their "own, state-specific voter-registration forms." *Id.* at 12. "These state-developed forms may require information the Federal Form does not," including a "proof-of-citizenship requirement." *Id.* The majority thus envisioned that "a less demanding federal form" would "exist alongside a more demanding state form." *Id.* at 12 n.4. It rejected the notion that these forms had to require identical "information" since then the federal "backstop" would "ceas[e] to perform any meaningful function." *Id.* at 12-13.

Arizona did exactly what the Court said it could. The provision Plaintiffs challenge requires "satisfactory evidence of citizenship" for only the state form. Ariz. Rev. Stat. §16-121.01(C).

Inter Tribal Council all but resolves this issue. In fact, "Arizona's proof-of-citizenship requirement" was this Court's "*example* of the type of information" that a state form can require. App.112a (Bumatay, J., dissenting). But the Ninth Circuit ducked the decision, never even citing the case in its discussion of the registration issue. App.50a-52a. This Court was correct when it said Arizona can require proof of citizenship as part of the state form. And neither the NVRA nor a consent decree undermines that conclusion.

A. The National Voter Registration Act does not bar Arizona from requiring proof of citizenship.

States must "accept and use" the federal registration form. 52 U.S.C. §20505(a)(1). But States also "may develop and use" their own "mail voter registration form." *Id.* §20505(a)(2). Only two state-form requirements are in dispute. First, state forms can require any identifying information "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). Second, a state form may be distributed at public assistance agencies if it is "equivalent" to the federal form. *Id.* §20506(a)(6)(A)(ii). Arizona's state form satisfies both requirements.

1. Arizona can require more than the bare minimum on its state registration form.

Text, context, and structure show that proof of citizenship is "necessary to enable" election officials to "assess" applicants' eligibility and to "administer" elections. *Id.* §20508(b)(1). And because the State decides what is "necessary" for its officials to do their jobs, "§20508(b) is no straitjacket on the States." App.111a (Bumatay, J., dissenting).

Text. "Necessary" is a word of many meanings. Its entry in the Oxford English Dictionary spans nearly a full page. *See* 10 Oxford English Dictionary 275-76 (2d ed. 1989) [OED]. "In the strictest sense of the term, something is 'necessary' only if it is essential." *Ayestas v. Davis*, 584 U.S. 28, 44 (2018) (citing Webster's Third New International Dictionary 1510 (1993); 10 OED, *supra*, at 275-76). But "in ordinary speech, the term is often used more loosely to refer to something that is merely important or strongly desired." *Id.* Given that "range of meanings," this Court has called the term standing alone "ambiguous." *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 282 (2022) (quoting Black's Law Dictionary 928 (5th ed. 1979); American Heritage Dictionary of the English Language 877 (1971)). At the time Congress enacted the NVRA, Black's Law Dictionary cautioned that the "word must be considered in the connection in which it is used, as it is a word susceptible of various meanings." *Necessary*, Black's Law Dictionary (6th ed. 1990).

Dictionaries still help narrow the range of meanings. "Necessary" can mean "absolute physical necessity or inevitability." *Necessary*, Black's 6th, *supra*. When commanded by an authority, it can mean "[r]equired by obligation, compulsion, or convention." American Heritage Dictionary of the English Language 1207 (3d ed. 1996); 10 OED, *supra*, at 276 ("compelled by practical necessity, or by some law or regulation"). But in legal settings, it often means "convenient, useful, appropriate, suitable, proper, or conducive to the end sought." *Necessary*, Black's 6th, *supra*; *accord* Ballentine's Law Dictionary 356 (1994) ("Appropriate; convenient; useful"); William C. Burton, Legal Thesaurus 346, 816 (2d ed. 1992) ("critical," "essential," "expedient," "important," and "significant"); *Necessary*, Black's Law Dictionary (2d ed. 1910) ("As used in jurisprudence," the word "frequently imports no more than that one thing is convenient or useful or essential to another.").

That more flexible legal usage is why courts often say something is *legally* necessary even if it's not *physically* necessary. "A cooking stove," for example, "is 'household furniture necessary for sustaining life,' although the owner may also have an oven and fireplace." Irving Browne, The Judicial Interpretation of Common Words and Phrases 279 (1883) (quoting *Crocker v. Spencer*, 2 D. Chip. 68, 69 (Vt. 1824)). This Court thus observed long ago that the term "does not" "always import an absolute physical necessity." *McCulloch v. Maryland*, 17 U.S. 316, 413 (1819). Rather, "it frequently imports no more than that one thing is convenient, or useful, or essential to another." *Id.*

Context. Surrounding words show that Congress employed a more lenient sense of "necessary" in the NVRA.

First, the NVRA permits States to require information "necessary" to a particular end: "to enable the appropriate State election official" to perform his duties. 52 U.S.C. §20508(b)(1). This Court has long recognized that—in the context of "means necessary to an end"—"necessary" "is generally understood" to include "any means calculated to produce the end, and not as being confined to those single means, without which it is unattainable." *McCulloch*, 17 U.S. at 413-14. A more restrictive reading would "abridge, and almost annihilate" the authority to "select … means" since some alternative approach can always be imagined. *Id*. at 419. Thus, in this context, "necessary" encompasses "all means which are appropriate, which are plainly adapted to that end." *Id.* at 421.

The question is thus whether requiring certain information—such as proof of citizenship—is a "plainly adapted" means for state election officials to perform their duties.

The verb "enable" confirms this reading. To "enable" means "to give legal power or license to." 5 OED, *supra*, at 201. Information necessary "to enable" is different from information necessary "to prove" or "to establish." The latter might imply a tighter connection between the information and the facts to be established. But information that "enables" officials to find those facts is simply information that is helpful or relevant.

Indeed, Congress frequently uses the phrase "information necessary to enable" to confer power to obtain *relevant* documents, not *essential* documents. The FCC, for example, can obtain from common carriers "information necessary to enable the Commission to perform the duties and carry out the objects for which it was created." 47 U.S.C. §218.[1] Courts

[1] *See, e.g.*, 5 U.S.C. §9008; 12 U.S.C. §§2404, 5233; 15 U.S.C. §§4806, 8515, 9055; 16 U.S.C. §410cc-35; 25 U.S.C. §2708; 29 U.S.C. §2635; 41 U.S.C. §8502; 42 U.S.C. §§1395vv, 1396m, 10267; 54 U.S.C. §312304. The Court of Federal Claims even

have interpreted similar phrases to permit gathering information "so long as the information is relevant" to the official's "function." *United States v. Westinghouse Elec. Corp.*, 788 F.2d 164, 171 (3d Cir. 1986) (interpreting the "Inspector General's determination of what information is 'necessary to carry out the functions assigned by this Act'"). The same is true here—information "necessary to enable" state officials refers to information relevant to their duties.

Second, those state officials consult information partly "to assess" a voter's qualifications. 52 U.S.C. §20508(b)(1). That phrase describes a fact-finding process. In that context, "a finding is 'necessary' if it [is] central to the route that led the factfinder to the judgment reached, even if the result 'could have been achieved by a different, shorter and more efficient route.'" *Hoult v. Hoult*, 157 F.3d 29, 32 (1st Cir. 1998) (citation omitted). That usage of "necessary" "does not foreclose a particular means to an end merely because other means are hypothetically available to achieve the desired end." *Cellular Telecomms. & Internet Ass'n v. FCC*, 330 F.3d 502, 509-10 (D.C. Cir. 2003) (deciding whether certain telecommunications regulations are "necessary to ensure" reasonable rates). No particular document "is 'indispensable' in the sense that it is absolutely required," since some other document "might do as well to achieve the desired goal." *Id.* But so long as the information required is relevant, it "is necessary to achieve the desired goal." *Id.* A birth certificate could be evidence of both age and citizenship. And a driver's license number could

uses the phrase interchangeably with "relevant." *See* RCFC, App'x B, Rule 4(A)(1)-(2).

confirm both citizenship and residence. These documents are not rendered "unnecessary" simply because some other piece of evidence could show the same qualifications. A document need not be indispensable in every case to be necessary "to assess" a voter's qualifications.

Third, the NVRA authorizes state officials to gather information partly "to administer" the registration and election process. 52 U.S.C. §20508(b)(1). That is, not all information need be evidence of qualifications. Very little of an applicant's information is truly *essential* "to administer voter registration and other parts of the election process." *Id*. A registrar can in theory "administer" that process without a birth certificate, passport, or proof of citizenship. But those documents are helpful to an efficient, trustworthy process. Each of these terms—"to enable," "to assess," and "to administer"—underscores that "necessary" cannot mean "essential" in this context.

Structure. Neighboring provisions cement that Congress used the more lenient sense of "necessary."

Start with the very next provision. Subsection (b)(2) directs that a mail registration form "shall" include an "attestation that the applicant meets each" voter-registration "requirement" signed "under penalty of perjury." 52 U.S.C. §20508(b)(2). This command doesn't fit with treating any information beyond that attestation as unnecessary "to assess eligibility." *Id*. §20508(b)(1). If that's what Congress had meant, it could have much more easily stated that subsection (b)(2)'s attestation is the *only* information that applicants must provide. It's unlikely that Congress would have granted authority to "require" information "necessary to enable" an eligibility assessment in (b)(1) only to render that grant superfluous through (b)(2)'s attestation requirement.

Next consider that the NVRA preserves States' discretion to use "a more demanding state form." *Inter Tribal Council*, 570 U.S. at 12 n.4. Arizona law requires state officials to collect and verify proof of citizenship. So it's a "necessary" part of their citizenship assessment insofar as "necessary" means "compelled by practical necessity, or by some law or regulation." 10 OED, *supra*, at 276; *accord* Am. Heritage 1996, *supra*, at 1207. Just as the Election Assistance Commission possesses "validly conferred discretionary executive authority" to determine what's "necessary" for the federal form, *Inter Tribal Council*, 570 U.S. at 19, States have similar discretion with respect to their own forms. Otherwise, Congress "would have had little reason to include this separate permission for states to use their own forms." *Cf. League of Women Voters of U.S. v. Newby*, 838 F.3d 1, 10 (D.C. Cir. 2016) (holding that the EAC "determines necessity" for the federal form). The NVRA's two-track system of forms would "ceas[e] to perform any meaningful function" if States could require nothing more than the statutorily mandated attestation. *Inter Tribal Council*, 570 U.S. at 13. Recognizing States' discretion to determine what information is necessary is the best reading of the statute, and the only one that avoids "serious constitutional doubt." *Id.*

Finally, consider the NVRA's other uses of "necessary." In two more places, the NVRA uses "necessary" to describe something that would be merely suited to the performance of a duty. It allows the Attorney General to sue "for such declaratory or injunctive relief as is necessary to carry out this chapter." 52 U.S.C. §20510(a). And the Election Assistance Commission "shall prescribe such regulations as are necessary to carry out" the provisions relating to the federal form. *Id.* §20508(a)(1). But Congress changed the language when it wanted to apply a "stricter principle." *Fish v. Kobach*, 840 F.3d 710, 734 (10th Cir. 2016). Voter-registration applications included as part of a driver's license application—where duplicative requirements are a greater concern—can "require only the *minimum* amount of information necessary to (i) prevent duplicate voter registrations; and (ii) enable State election officials to assess the eligibility of the applicant and to administer voter registration and other parts of the election process." 52 U.S.C. §20504(c)(2)(B) (emphasis added). That the NVRA uses the term "necessary" in "the qualified manner" in this driver's license provision suggests that where there is "no qualification of the necessity; it need not be absolute." *Cf. McCulloch*, 17 U.S. at 387-88 (comparing "absolutely necessary" in Article I, §10 with "necessary and proper" in Article I, §8).

The Ninth Circuit ignored context and structure. Citing two dictionaries, the majority asserted that the context-less "ordinary meaning of 'necessary' is 'essential.'" App.50a. It ended the statutory analysis there, ignoring this Court's instruction that the term "does not" "always import an absolute physical necessity." *McCulloch*, 17 U.S. at 413.

The majority's analysis fails even on its own terms. Contemporary dictionaries—and this Court's precedents—confirm that "necessary" does not have a singular ordinary meaning. It "must be considered in the connection in which it is used, as it is a word susceptible of various meanings." *Necessary*, Black's 6th, *supra*; *accord Ayestas*, 584 U.S. at 44. And in this context—a grant of authority "to achieve a certain result or effect," Am. Heritage 1996, *supra*, at 1207—the ordinary meaning of "necessary" is "appropriate" and "plainly adapted," *McCulloch*, 17 U.S. at 421.

The Ninth Circuit's application of its definition highlights the defects with its interpretation. The majority didn't dispute that U.S. citizenship is a necessary qualification, or even that some form of proof is necessary. Rather, the majority held that the voter's attestation of citizenship renders documentary proof unnecessary. That interpretation transforms the "necessary" requirement into a least-restrictive-means test. But courts "have explicitly found that a measure may be 'necessary' even though acceptable alternatives have not been exhausted." *NRDC v. Thomas*, 838 F.2d 1224, 1236 (D.C. Cir. 1988); *see also FTC v. Rockefeller*, 591 F.2d 182, 188 (2d Cir. 1979) (rejecting the "notion that 'necessary' means that the Commission must pursue all other 'reasonably available alternatives'"). For good reason—one can always imagine some alternative to render a chosen means unnecessary. *Cf. McCulloch*, 17 U.S. at 419.

The Ninth Circuit's least-restrictive-means reading leads to absurd results. It would mean that once a State has information about a qualification, it cannot gather any other information about that qualification. The majority could not explain, for example, why a birthdate is "necessary" to assess qualifications when the federal form asks, "Will you be 18 years old on or before election day?"[2] Indeed, under the majority's reading, it's unclear why the attestation is not sufficient evidence of *all* qualifications.[3] That's especially clear on the federal form: applicants simply attest that they "meet the eligibility requirements of [their] state." EAC Form, *supra* note 2.

Statutory text, context, and structure show that proof of citizenship is "necessary to enable the appropriate State election official to assess the eligibility of the applicant." 52 U.S.C. §20508(b)(1). The Ninth Circuit erred in concluding otherwise.

2. The state registration form need not be identical to the federal registration form.

The NVRA "imposes certain mandates on states." *Young v. Fordice*, 520 U.S. 273, 286 (1997). Among those mandates, it directs that public assistance agencies must "distribute" mail voter-registration applications. 52 U.S.C. §20506(a)(6)(A). But "[t]he NVRA still leaves room for policy choice." *Young*, 520 U.S. at 286. And that flexibility is reflected in a public assistance agency's ability to decide which form to distribute—the federal form or "the office's own form if it is equivalent to the [federal] form." 52 U.S.C. §20506(a)(6)(A)(ii).

The Ninth Circuit all but eliminated this flexibility, reading the NVRA to permit distribution of only a near carbon copy of the federal form. It held that "the

[2] Voter Registration Application, Election Assistance Comm'n, perma.cc/LZ88-7B5A [EAC Form].

[3] Arizona Voter Registration Form, Ariz. Sec'y of State, perma.cc/Y2L9-FGCG [AZ Form].

NVRA requires that state forms supplied by public assistance agencies be "'equivalent" or "virtually identical'" to the federal form." App.51a (misquoting 52 U.S.C. §20506(a)(6)(A)(ii)).[4] The court concluded that Arizona's state form is not "virtually identical" because it requires proof of citizenship. App.51a-52a. That holding conflicts with the NVRA's text, context, and structure. And it expands a provision governing public assistance agencies beyond its limited context.

Like "necessary," "equivalent" ranges in meaning. Black's Law Dictionary contemporaneously defined "equivalent" as "[e]qual in value, force, measure, volume, power, and effect or having equal or corresponding import, meaning or significance; alike, identical." *Equivalent*, Black's 6th, *supra*. That is, things can be equivalent if they are equal in "effect" or have "corresponding import." *Id.* And "alike" is as permissible a meaning as "identical." *Id.* Another definition says, "Similar or identical in function or effect." Am. Heritage 1994, *supra*, at 287; *accord* Am. Heritage 1996, *supra*, at 622 ("Having similar or identical effects."). Even the Ninth Circuit's preferred definition has a similar range: "virtually the same thing; identical *in effect*; tantamount." 5 OED, *supra*, at 359 (emphasis added); *see* App.39a.

The question is thus in what way the NVRA requires forms to be similar. Two forms can be

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[4] The phrase "virtually identical" appears nowhere in the NVRA. It does appear elsewhere in the U.S. Code, however, showing at least that Congress knows how to use that phrase when it wants to. *E.g.*, 10 U.S.C. §8677(a) (regulating substitution of retired naval vessels when "the vessel substituted has virtually identical capabilities").

"equivalent" in different respects. They can be the same color or the same weight. They can have the same number of words or checkboxes. But no one contends that those similarities are what Congress was focused on when it commanded that the forms be "equivalent."

Rather, a form is "equivalent" for the purpose of the NVRA when it meets the criteria for the contents of a voter-registration form, 52 U.S.C. §20508(b), and has the same effect as the federal form when submitted—registration to vote "for elections for Federal Office," *id.* §20508(a)(2); *see also id.* §20501(b)(1). In that way, the state form has the same "function" as the federal form because it meets the same standard for the contents of voter-registration form, and it has the same "effect" because it results in registration of eligible voters. Am. Heritage 1994, *supra*, at 287.

Arizona's state form meets both requirements. It "meets all of the criteria stated in section 20508(b)" for the federal form. 52 U.S.C. §20505(a)(2). And like the federal form, Arizona accepts it for the "registration of voters in elections for Federal office." *Id.*

This reading fits with the "flexibility" granted to States by the NVRA. *Inter Tribal Council*, 570 U.S. at 13. The NVRA permits States to "design and use their own forms." *Id.* These forms need not be identical to the federal form; they "may require information that the Federal Form does not." *Id.* Against this background, the NVRA specifically permits a public assistance agency to use its "own form." 52 U.S.C. §20506(a)(6)(A)(ii). This scheme would make little sense if the equivalency requirement meant that public assistance agencies can create little more than a photocopy of the federal form. It would turn the option for a public assistance form "into mere duplicative paperwork." *Cf. League of Women Voters*, 838 F.3d at 10 (rejecting interpretation that would render the federal form "a facsimile of the state registration form"). If Congress had wanted to mandate use of the federal form by public assistance agencies, it could have said so. "Allowing some variation between the federal form and the public assistance agencies' 'own form' best accounts for the NVRA's 'context' and 'overall statutory scheme.'" App.115a (Bumatay, J., dissenting) (quoting *King v. Burwell*, 576 U.S. 473, 486 (2015)). Reading "equivalent" to require forms to meet the same criteria and have the same effect as the federal form allows for that variation. That's "the best way to harmonize all these provisions." App.116a (Bumatay, J., dissenting).

At a minimum, this statutory scheme permits "some variation" between a public assistance agency's form and the federal form, even if it doesn't permit the use of any form that meets the statutory criteria for registering individuals to vote for federal elections. App.115a (Bumatay, J., dissenting). The Ninth Circuit's approach permitted no variation. The court identified a single difference—the state form's proof-of-citizenship requirement. App.51a. The court then declared that the state form is not "virtually identical" to the federal form. App.52a. But if requiring a single piece of evidence were enough to bar the use of a form, an agency's authority to use its "own form" would be illusory. 52 U.S.C. §20506(a)(6)(A)(ii).

One additional feature of the NVRA illustrates that "equivalent" does not require a virtually identical form. When Congress sought to specify the contents of an application, it did so directly. In the NVRA, Congress specified that a driver's license voter application can "require only the minimum amount of information necessary" to meet statutorily defined purposes, *id.* §20504(c)(2)(B), and cannot "require any information that duplicates" the driver's license application, *id.* §20504(c)(2)(A). The voter-registration portion must require the applicant's signature and include eligibility statements, an attestation, and other information. *Id.* §20504(c)(2)(C), (D). The word "equivalent" in the public-assistance-agencies provision does not do that same work. *Cf. FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 133 (2000) (Courts "must interpret the statute 'as a symmetrical and coherent regulatory scheme,' and 'fit, if possible, all parts into an harmonious whole.'" (citations omitted)).

Even if Arizona's state-developed form is not "equivalent to" the federal form, that's no justification for enjoining any use of a state form that requires proof of citizenship. At most, the "proper remedy" would be to require "Arizona's 'public assistance agencies' [to] distribute the federal form." App.116a (Bumatay, J., dissenting). But the Ninth Circuit held that "[b]ecause public assistance agencies in Arizona typically use the state form to register individuals to vote, the state form must be 'equivalent' to the federal form." App.38a. That reasoning is backwards. The NVRA does not say that the state mail-registration form must be equivalent to the federal form. The state form need only meet "the criteria stated in section 20508(b)." 52 U.S.C. §20505(a)(2). "Equivalent" is used in the statute only when referencing forms distributed by public assistance agencies. The Ninth

Circuit thus erred by leveraging a narrow requirement for public assistance agencies to "redesign Arizona's chosen form." App.116a (Bumatay, J., dissenting). Whatever "equivalent" means, it cannot support the district court's injunction against "reject[ing] any State Form without accompanying Documentary Proof of Citizenship." App.428a-429a.

* * *

If any doubt remains, the Constitution requires construing "necessary" and "equivalent" to permit Arizona to collect proof of citizenship with its state forms. States have constitutional authority to determine who may vote in their elections. Under the Voter Qualifications Clause, "the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature" in elections for the federal House of Representatives. U.S. Const. art. I, §2. Congress has power "to regulate *how* federal elections are held, but not *who* may vote in them." *Inter Tribal Council*, 570 U.S. at 16. That power rests with the States. *See id.* "Indeed, the States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised." *Carrington v. Rash*, 380 U.S. 89, 91 (1965) (cleaned up). The NVRA is thus best read to permit "a State's choice to use government-issued photo identification as a relevant source of information concerning a citizen's eligibility to vote." *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 192 (2008).

The Ninth Circuit's contrary holding runs headlong into Arizona's power over voter qualifications. This Court has explained that "it would raise serious constitutional doubts if a federal statute precluded a State from obtaining the information necessary to enforce its voter qualifications." *Inter Tribal Council*, 570 U.S. at 17. But that's exactly what the Ninth Circuit's holding does. It prohibits Arizona from obtaining proof of citizenship with its state registration form. The RNC's interpretation is at least "fairly possible" and the only one that "avoid[s]" the constitutional issue. *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001).

As this Court counseled more than a decade ago, the federal form is a "backstop." *Inter Tribal Council*, 570 U.S. at 12. It's not a mold. This Court should reverse.

B. The *LULAC* consent decree does not bar Arizona from requiring proof of citizenship in perpetuity.

In the absence of a federal violation, the Ninth Circuit's primary justification for enjoining enforcement of Arizona's proof-of-citizenship requirement was a consent decree. But the *LULAC* decree itself disclaimed any federal violation. It was rooted only in consent, and that consent was premised on compliance with state law. Since federal injunctive relief against state officials must be tailored to remedy a federal violation, *see Horne v. Flores*, 557 U.S. 433, 448-50 (2009), the *LULAC* decree cannot justify a new injunction that prevents the state legislature from exercising its constitutionally enshrined powers.

1. The Ninth Circuit erred by affirming a new injunction based on the *LULAC* consent decree.

This Court has long recognized limits on the equitable authority of the federal courts. *See Salazar v. Buono*, 559 U.S. 700, 714 (2010) (plurality op.); *Trump v. CASA, Inc.*, 606 U.S. 831, 841-42 (2025). No doubt federal courts "must vigilantly enforce federal law." *Horne*, 557 U.S. at 450. But an injunction should not be "granted as a matter of course," especially when it "implicates public interests." *Salazar*, 559 U.S. at 714. And courts should be especially cautious when injunctive relief against state officers raises "sensitive federalism concerns." *Horne*, 557 U.S. at 448.

For this reason, "[f]ederal courts may not order States or local governments, over their objection, to undertake a course of conduct not tailored to curing a [federal] violation that has been adjudicated." *Rufo v. Inmates of Suffolk Cnty. Jail*, 502 U.S. 367, 389 (1992). Prospective relief must be limited to "reasonable and necessary implementations of federal law." *Frew v. Hawkins*, 540 U.S. 431, 441 (2004). It must "fi[t] … the wrong … that has been established." *Salazar*, 559 U.S. at 718. By definition, where no federal violation has been found, relief cannot be "tailored" to it. *Rufo*, 502 U.S. at 389; *see also Castañon-Nava v. DHS*, 175 F.4th 828, 842-43 (7th Cir. 2026) (reiterating that any enforcement of a consent decree must be grounded 'on the existence of a substantial claim under federal law'"). An injunction thus "exceed[s] appropriate limits" when it is "aimed at a condition that does not violate federal law or does not flow from such a violation." *Horne*, 557 U.S. at 450 (cleaned up).

An old consent decree does not excuse a court from this obligation. True, this Court has recognized that a federal court can provide broader relief than it otherwise would have through an "agreed-upon decree." *Rufo*, 502 U.S. at 389. But the issuing court must consider "changing circumstances" to ensure that its order does not become "an instrument of wrong" even in the same case, let alone when issuing a new injunction. *United States v. Swift & Co.*, 286 U.S. 106, 115 (1932). Since prospective relief reflects "what the court believes will be the future course of events," 11A M. Kane & A. Lahav, Federal Practice & Procedure §2961 (3d ed. 2026), courts must consider changes that part with the beliefs "'underlying the injunction,'" *Salazar*, 559 U.S. at 714 (quoting 11A Wright & Miller, Federal Practice and Procedure §2942 (2d ed. 1995)).

Thus, courts may be asked to consider whether changes in "law or fact" have undermined a decree. *Sys. Fed'n No. 91 v. Wright*, 364 U.S. 642, 647 (1961). In particular, a decree ordinarily must yield to a "significant change … in law." *Rufo*, 502 U.S. at 383. These changes can come in several forms. A new law might "make legal what the decree was designed to prevent." *Id.* at 388. Or it might confirm that the parties had "based their agreement on a misunderstanding," as when "the parties" incorrectly believed that relief is "mandated by the Constitution." *Id.* at 390. Or more recent precedents might have "undermined the assumptions" of older decisions even if "the general principles … have not changed." *Agostini v. Felton*, 521 U.S. 203, 222 (1997). Each situation warrants modification since "[t]he parties have no power to require of the court continuing enforcement of rights" no longer recognized under law. *Wright*, 364 U.S. at 652.

When a federal court enjoins a State, the court must undertake this assessment "seek[ing] to return control to state and local officials as soon as [the] violation of federal law has been remedied." *Horne*, 557 U.S. at 451. Public officials may "consent to" relief that reaches "well beyond what is required by federal law." *Id.* The resulting decree will "bind state and local officials to the policy preferences of their predecessors." *Id.* at 449. This kind of decree "improperly deprive[s] future officials of their designated legislative and executive power." *Frew*, 540 U.S. at 441.

These principles require a consent decree to yield when its terms would violate a new state law and are not required to remedy a violation of federal law. And that's especially the case when the decree is premised on compliance with state law. The change in law—requiring conduct that the decree enjoined—is no less "significant" than when a change in federal law legalizes conduct that was previously enjoined. *Rufo*, 502 U.S. at 388. In both cases the parties' agreement is "based on" what is now "a misunderstanding," *id.* at 389, since state officials "cannot" use consent decrees "to evade state law," *League of Residential Neighborhood Advocs. v. City of L.A.*, 498 F.3d 1052, 1055 (9th Cir. 2007). This conflict is most evident where, as here, the state officials expressly consented to the decree only because it was consistent with then-extant state law. Barring enforcement of a newly enacted state law in these circumstances—a decree based on consistency with state law, not a federal violation—improperly undermines state officials' "duties as democratically-elected officials." *Horne*, 557 U.S. at 449.

The Ninth Circuit's decision approved new injunctive relief based on just such an improper decree, making four critical errors along the way.

First, the Ninth Circuit affirmed a new injunction not tailored to remedying any violation of federal law. In *LULAC*, the plaintiffs alleged that requiring proof of citizenship violated the First and Fourteenth Amendments because it burdened the right to vote. *LULAC v. Reagan*, Doc.1 at 23-26, No. 2:17-cv-4102 (D. Ariz. Nov. 7, 2017). But the Secretary "denie[d]" that Arizona's proof-of-citizenship law was "illegal under state or federal law," App.476a, and the court never found otherwise. Plaintiffs in this case brought a similar challenge, alleging that providing proof of citizenship was an "undue burden" under the First and Fourteenth Amendments. App.308a. Even though the district court gave them "virtually everything they wanted," App.78a (Bumatay, J., dissenting), it rejected that claim, App.319a. The new injunction was thus trying to remedy an alleged constitutional violation that the district court itself rejected.

Second, the Ninth Circuit allowed a decree premised on consistency with state law to be used as a tool to "evade state law." *League of Residential Neighborhood Advocs.*, 498 F.3d at 1055. The state parties in *LULAC* agreed that it would make registration easier "consistent with the provisions of Arizona law." App.476a. One of their two goals was "continuing to comply with Arizona law." App.478a-479a. Thus, the law that the decree was "based on" was the then-extant state law. *Rufo*, 502 U.S. at 390. But Arizona has changed that law. Election officials are now *required* to do what was permitted at the time of the *LULAC* decree: reject state forms that lack proof-of-citizenship. Ariz. Rev. Stat. §16-121.01(C).

Third, the Ninth Circuit approved an intrusion into an "are[a] of core state responsibility," and particularly the state legislature's responsibility. *Horne*, 557 U.S. at 448. States have constitutional power to determine who may vote in federal elections. *Inter Tribal Council*, 570 U.S. at 17. *See* U.S. Const. art. I, §2; *accord id.*, art. II, §1. That power must entail the ability to "enforce" voter qualifications. *Inter Tribal Council*, 570 U.S. at 17. And the Constitution specifies that the state "Legislature" will set rules for the "Times, Places, and Manner" of elections. U.S. Const. art. I, §4. It is thus the "duty" of the state legislature "to craft the rules governing federal elections." *Moore v. Harper*, 600 U.S. 1, 29 (2023).

But the Ninth Circuit's decision interferes with these core responsibilities. It bars Arizona's attempt to obtain proof-of-citizenship. And it transfers power over election rules from the Legislature to the Secretary of State who entered the LULAC decree, even though the Secretary professed a desire to continue enforcing state law. App.478a-479a. That transfer of power is a bug, not a feature of the Ninth Circuit's reasoning. State officials cannot use federal litigation to "improperly deprive future officials of their designated legislative and executive powers." *Frew*, 540 U.S. at 441. That is one of the reasons why federal courts "see[k] to return control" to state officials once a federal violation "has been remedied," not permanently hamper state officials. *Horne*, 557 U.S. at 451; *see also Carson v. Simon*, 978 F.3d 1051, 1060 (8th Cir. 2020) (holding that "the Secretary has no power to override the [State] Legislature" through a consent decree).

Fourth, the Ninth Circuit's decision ignores the consent decree's own terms. The *LULAC* court "retain[ed] jurisdiction" only "until December 31, 2020 to enter such further relief as may be necessary for the effectuation of the terms of th[e] Consent Decree." App.494a. If district courts have authority to enforce a consent decree formed by "consent alone," App.106a (Bumatay, J., dissenting), it is only "to the extent authorized" by "the decree," *Pigford v. Veneman*, 292 F.3d 918, 923 (D.C. Cir. 2002). Selectively enforcing one term (the injunction) but not another term (the end date) denies one party "the benefit of its bargain." *Id.* at 925. After all, "[w]ho would sign a consent decree if district courts had free-ranging interpretive or enforcement authority untethered from the decree's negotiated terms?" *Id.* And even if someone would sign a decree in such circumstances, this Court "teaches that district courts enjoy no free-ranging 'ancillary' jurisdiction to enforce consent decrees, but are instead constrained by the terms of the decree and related order." *Id.* at 924 (citing *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 381 (1994)). The termination date is as much a part of the decree as any other term.

2. Plaintiffs cannot justify an indefinite injunction based on consent alone.

The Ninth Circuit based its contrary holding on the *LULAC* decree's finality. "Consent decrees," the court explained "are binding final judgments that remain in force permanently." App.47a. Since Arizona's proof-of-citizenship requirement conflicts with the

*LULA*C decree's requirement to "accept state-form applications without" proof, its implementation would "nullify a final judgment." App.48a-49a.

This reasoning is wrong legally and factually. Legally, this Court has long recognized that prospective relief is subject to revision in response to new law. *See Miller v. French*, 530 U.S. 327, 347 (2000) ("[W]hen Congress changes the law underlying a judgment awarding prospective relief, that relief is no longer enforceable to the extent it is inconsistent with the new law."). That's especially so in circumstances like these, where the consent decree is not rooted in any violation of federal law. *Wright*, 364 U.S. at 651 ("authority" for a decree "comes only from the statute it is intended to enforce"); *see also Frew*, 540 U.S. at 441 (prospective relief against state officials must be justified by "reasonable and necessary implementations of federal law").

Factually, the new injunction was unnecessary to protect the "finality" of the *LULAC* decree. The decree would have remained unchanged whether or not the district court issued a new injunction. No doubt an effort to enforce might have faced headwinds, but a party would have remained free to ask the LULAC court to reopen the case and enforce the decree. *See Mamma Mia's Trattoria, Inc. v. Original Brooklyn Water Bagel Co.*, 768 F.3d 1320, 1324 (11th Cir. 2014).

Nor does it matter that Defendants could have sought modification of the *LULAC* decree under Federal Rule of Civil Procedure 60(b). *E.g.*, LUCHA.Opp.20-21. Put aside that, as a non-party in the *LULAC* litigation, the RNC may not even be able to seek relief under Rule 60. Shifting that burden to

Defendants gets things backwards. It was up to *Plaintiffs* to justify a new injunction. If Plaintiffs truly believed the consent decree prohibited the proof-of-citizenship requirement, they should not be encouraged to abandon "civil contempt"—the "almost hornbook" method to enforce a judgment. *Mamma Mia's Trattoria*, 768 F.3d at 1324 (cleaned up). A collateral enforcement proceeding is the worst of both worlds: It allows parties to evade their burden to establish the propriety of a new injunction, insulates a decree's terms from review, and directs litigation over those terms away from the court most familiar with the case.

II. Arizona can remove noncitizens from its voter rolls.

The Ninth Circuit's errors were not limited to the registration phase; it also barred Arizona from *removing* noncitizens who nevertheless made it onto the voter rolls. But the NVRA does not "forc[e] States to accept foreign citizens in their voting booths." App.126a (Bumatay, J., dissenting). Its 90-day removal bar applies only to "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). Noncitizens are not "ineligible *voters*" in the NVRA's scheme. A person must have been qualified at some point to be a "voter." *See Voter*, Black's 6th, *supra* ("a person who has the qualifications entitling him to vote"); 52 U.S.C. §20507(a)(1), (3)-(4) (providing that only "eligible applicant[s]" become registrant[s]" or "voters"). Thus, the 90-day provision does not apply to removal of noncitizens who never should have been on the voter rolls in the first place. The "who, what, and why" of that provision confirm the point.

A. Start with the "who." The 90-day removal bar applies only to "program[s] the purpose of which is to systematically remove … ineligible voters." 52 U.S.C. §20507(c)(2)(A). But noncitizens are not "voters" at all. A "voter" is someone "who has a right to vote." 19 OED, *supra*, at 769; *see also*, *Voter*, Black's 6th, *supra* ("a person who has the qualifications entitling him to vote"). And noncitizens don't have the right to vote in Arizona or federal elections. A noncitizen is no more an "ineligible *voter*" than a 16-year-old is.

True, "voter" can also mean someone "who gives a vote." *See, e.g.*, 19 OED, *supra*, at 769. But that meaning makes little sense for a statute focused on registration. No one thinks that a person must cast a ballot before being on the "official lists of eligible voters." 52 U.S.C. §20507(c)(2)(A). The more natural usage at the registration stage is thus that "voters" are "eligible citizens." *Id.* §20501(b)(2). In any event, noncitizens wouldn't fall under either definition because they cannot give a valid vote. So noncitizens are neither "eligible voters" nor "ineligible voters." They fall outside those categories entirely, because they're not "voters" at all.

The NVRA's scheme confirms that noncitizens are not "voters" covered by the 90-day provision. Congress used careful terms to describe the people involved at each stage of the registration process. The pre-registration phase concerns "applicant[s]." *Id.* §§20503-20504, 20506. When election officials are positioned to register those applicants, they must "ensure" that "eligible applicant[s]" are "registered to vote." *Id.*

§20507(a)(1). When an "eligible applicant" is registered, she becomes a "registrant." *Id.* §20507(a)(3). Then the post-registration rules kick in. States must follow procedures for removing "ineligible voters" from the lists of "eligible voters." *Id.* §§20507(a)(3)-(4). The NVRA distinguishes citizens, applicants, eligible applicants, registrants, voters, eligible voters, and ineligible voters. And Congress's careful terminology informs how the NVRA applies.

The pre-registration stage focuses on distributing applications to "applicants." Sections 20503 through 20506 set procedures for national voter registration (§20503), DMV registration (§20504), mail registration (§20505), and agency registration (§20506). Those sections make clear that an "applicant" is someone who is given a "voter registration application." *Id.* §20504(a)(1). And they tell States when, where, and how to provide those applications.

Not every applicant is eligible to register or vote. That's why applications demand information that "enable[s] State election officials to assess the eligibility of the applicant." *Id.* §20504(c)(2)(B); *see also id.* §20508(b)(1). That's also why States must "inform applicants" of "voter eligibility requirements." *Id.* §20507(a)(5).[5] And it's why each applicant must "attes[t]" to her "eligibility." *Id.* §20504(c)(2)(C).[6] In fact, not every "applicant" will actually apply. Some will "declin[e] to register to vote." *Id.* §20504(c)(2)(D)(ii).

It's not until the State is poised to *register* the person as a voter that the NVRA introduces a new term:

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[5] *See also* 52 U.S.C. §§20504(c)(2)(C), 20506(a)(6)(A)(i).

[6] *See also* 52 U.S.C. §20506(a)(6)(A)(i).

"eligible applicant." Congress tasked States with ensuring "that any eligible applicant is registered to vote." *Id.* §20507(a)(1). Some "applicants" will seek to register but nevertheless be ineligible. States need not "ensure" that those *ineligible* applicants are "registered to vote." *Cf. id.* Noncitizens fall in that category. There's no dispute about that—even if noncitizens are sometimes "applicants," they are by definition not "eligible applicants" in Arizona. So Arizona need not "ensure" that they are "registered to vote." *Id.*

The NVRA then shifts gears to post-registration roll maintenance. The language reflects that shift. "[E]ligible applicants" become "registrant[s]." *Id.* §20507(a)(3). The NVRA generally prohibits States from removing "the name of a registrant … from the official list of eligible voters except" at her "request," because of "criminal conviction or mental incapacity[,]" or according to a "general program" that removes "ineligible voters" due to "death" or "change in … residence." *Id.* §20507(a)(3)-(4). It also directs the State to "complete" "any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters" at least "90 days prior to the date of a primary or general election." *Id.* §20507(c)(2)(A).

But neither the general restriction nor the 90-day provision applies to noncitizens; noncitizens are neither "registrants" nor "ineligible voters." The only people who become "registrant[s]" are "eligible applicant[s]" who are "registered to vote." *Id.* §20507(a)(1), (3)-(4). The NVRA never treats "registrants" as including accidental *ineligible* additions to the voter rolls. The term first appears in the context of a "registrant" who submits a change-of-address form at the DMV. *Id.* §20504(d). It next appears when clarifying that a registrant may provide notice of a change of address via a mail-registration form. *Id.* §20505(a)(3). There and after, the word universally refers to persons who are either "eligible voters" or who were once "eligible voters." *Id.* §20507(a), (c), (d), (e). Registrants can become ineligible due to "death" or "by reason of criminal conviction," "mental incapacity," or a "change in … residence." *Id.* §20507(a)(3)-(4). The same subsection that contains the 90-day provision, for example, provides procedures to remove "a registrant" who "has moved." *Id.* §20507(c)(1)(B); *see also, e.g.*, *id.* §20507(d) (describing procedures to remove "a registrant … on the ground that the registrant has changed residence"). Not once does the NVRA use "registrant" to describe someone who appeared on the voter rolls by mistake or fraud—someone who was never "eligible" in the first place. Throughout the statute, Congress treats "registrants" as those who were *properly* registered to vote.

Neither does it make sense to call noncitizens "ineligible voters." The NVRA discusses "eligible voters" and "ineligible voters" in the context of roll-maintenance after they have become "registrants." "[R]egistrant[s]" become "ineligible voters" when they are no longer eligible for one of four reasons: criminal conviction, mental incapacity, death, or change in residence. *Id.* §20507(a)(3)-(4). Each describes a *change* that makes a once-eligible voter ineligible. Unlike those individuals, a noncitizen doesn't move from "eligible voter" to "ineligible voter." A noncitizen was never an "eligible voter" in the first place. So the 90-day provision's bar on removals of "ineligible voters" does not cover noncitizens.

Any doubt that "ineligible voters" excludes never-eligible noncitizens is removed by Congress's use of broader language—including in the roll-maintenance context—when it meant to cast a broader net. Just one subsection before the 90-day provision, the NVRA generally prohibits removals of "any *person* … by reason of the person's failure to vote." *Id.* §20507(b)(2). Had Congress wanted to include never-eligible persons in the 90-day provision, it could have easily repeated that language. Instead, it chose a narrower term—"ineligible vote[r]"—that appears only in the context of once-eligible "registrants." *Id.* §20507(c)(2)(A).[7]

In sum, noncitizens are neither "registrants" nor "ineligible voters." They are at most ineligible "applicants." So the 90-day bar on programs "the purpose of which is to systematically remove the names of ineligible voters" does not prohibit the removal of noncitizens. *Id.*

B. The "what" likewise shows that the NVRA's removal provisions target formerly eligible registrants, not never-eligible noncitizens. The NVRA requires States to "conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters" for two reasons: "death" and change in "residence." *Id.*

[7] This protection of a "person" from removal for "failure to vote" is consistent with removal of noncitizens. 52 U.S.C. §20507(b)(2). The reason to remove noncitizens is that they were never qualified to vote in the first place, not that they failed to vote.

§20507(a)(4). The NVRA then requires States to "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." *Id.* §20507(c)(2)(A). When the NVRA instructs States to "complete … any program" by 90 days before an election, it's referring back to the "general program" in subsection (a)(4). Several textual features make that clear.

First, the 90-day provision dovetails into the "general program" provision. Subsection (a)(4) requires States to conduct a "general program" to remove "ineligible voters" from the rolls. A program to remove voters for a change in "residence" must be "in accordance with subsections (b), (c), and (d)." *Id.* §20507(a)(4)(B). Subsection (c), titled "[v]oter removal programs," begins by detailing how a "State may meet the requirement of subsection (a)(4)." *Id.* §20507(c)(1). It then provides the 90-day bar on "any program" to "systematically remove … ineligible voters." *Id.* §20507(c)(2)(A). So when Congress instructed States to "complete" their "[v]oter removal programs" "not later than 90 days" before an election, it was referring to a program established under "subsection (a)(4)," not a program to remove never-eligible noncitizens. *Id.* §20507(c).

Second, the 90-day provision and the "general program" provision use the same language to describe covered programs. Both refer to a program to "remove the names of ineligible voters from the official lists of eligible voters." *Id.* §20507(a)(4), (c)(2)(A). That phrase appears twice in the statute—once in reference to the "general program," and once in reference to the 90-day provision. They use the same phrase because they describe the same thing: a "general program" to remove voters due to "death" and "change in … residence," not non-citizenship.

Third, Congress identified voter rolls as lists of "eligible voters." Even granting Plaintiffs an expansive definition of "registrant," Congress did not describe voter rolls as lists of "registrants." Instead, when the NVRA describes voter rolls, it identifies them virtually every time as the State's "official list[s] of eligible voters." *See id.* §20507(a)(3)-(4), (c)(2)(A), (d)(1), (d)(3), (f), (i)(1). Someone who is not an "eligible voter" does not belong on the list. Someone who was *never* an eligible voter has no claim to be on the list at all.

It would be strange if the 90-day provision barred removal due to mistaken or fraudulent registration, while permitting removal due to death, criminal conviction, and incapacity. *See id.* §20507(c)(2)(B). Plaintiffs claim that treating those categories differently makes sense because criminal defendants are afforded other "protections" and the removal follows "easily verified judicial judgments." *E.g.*, DNC.Opp.18. But States can employ just as reliable evidence of non-citizenship as for death or conviction.

Nor does it make sense that Congress would be fearful of mistakes in one type of removal, but not mistakes in another type. The 90-day provision is concerned with "the purpose" of a removal, not the procedure used. 52 U.S.C. §20507(c)(2)(A); *see also id.* §20507(c)(2)(B)(i) (excluding removals "on a basis" of death, conviction, incapacity, or request). In Arizona, for example, death, incapacitation, and felony conviction do not require notice and an opportunity to respond before cancellation. Ariz. Rev. Stat. §16-165(A)(2)-(4). And cancellation for non-citizenship requires 35 days' notice and an opportunity to "provid[e] satisfactory evidence of United States citizenship" before cancellation. *Id.* §16-165(A)(10). These cancellations are afforded *more* procedure, not less.

Ignoring this context, the Ninth Circuit focused on the word "any" as it modifies "program." It reasoned that "[b]ased on the ordinary meaning of 'any,' 'program' should be construed to have an expansive meaning." App.42a. But the word "any" doesn't expand the kind of "program" covered. *See Regions Bank v. Legal Outsource PA*, 936 F.3d 1184, 1194 (11th Cir. 2019) ("The word or term that is modified by 'any' is still defined by its ordinary meaning."). And Congress included only one kind of program—one that "systematically remove[s] the names of ineligible voters." 52 U.S.C. §20507(c)(2)(A). The 90-day provision applies to "any" of those programs, regardless of how they're designed. It does not apply to Arizona's efforts to remove noncitizens from the voter rolls. By reading the term "any" "in isolation," the Ninth Circuit read the 90-day provision assuming "the broadest imaginable definitions of its component words." *See Dubin v. United States*, 599 U.S. 110, 120 (2023).

C. The "why" removes any doubt that the NVRA does not bar States from removing noncitizens from their voter rolls. The NVRA protects "the right of *citizens* of the United States to vote." 52 U.S.C. §20501(a)(1) (emphasis added). Congress enacted the NVRA for four reasons: to "increase the number of eligible citizens who register to vote"; to encourage state and federal laws that "enhanc[e] the participation of eligible citizens as voters in elections for Federal office"; to "protect the integrity" of elections; and to ensure "accurate and current" voter-roll maintenance. *Id.* §20501(b). Construing the NVRA to *prohibit* States from removing noncitizens from their voter rolls is antithetical to those purposes and undermines the integrity of Arizona's elections.

That Congress wanted to guard against removing eligible voters "due to mistake or neglect" is no answer. *E.g.*, LUCHA.Opp.29; DNC.Opp.16-17. Congress could have enacted a blanket ban on removals of "names" or "people" if it had wanted to eliminate any risk of mistaken removals. Or Congress could have barred any removals of "eligible voters." But Congress didn't opt for either of those approaches. Instead, it enacted a 90-day bar that turns on "the purpose" of a removal program, barring only programs that target "ineligible voters." 52 U.S.C. §20507(c)(2)(A). That language—not any singular purpose—defines how far Congress sought to prevent mistaken removals in the 90 days before an election.

In any event, permitting States to remove noncitizens fits better with Congress's overarching purpose and scheme. Congress rarely "pursue[s] any single purpose at all costs." *Martin v. United States*, 605 U.S. 395, 408 (2025) (cleaned up). And here, "the participation of eligible citizens" is threatened by leaving ineligible persons on the voter rolls, just as it is threatened by mistaken removal of eligible citizens. 52 U.S.C. §20501(b)(2). So Congress adopted a balanced approach. This balance is reflected in the 90-day provision's exceptions for removals based on request, criminal conviction or incapacity, and death. *Id.* §20507(c)(2)(B)(i). And it is reflected no less in

Congress's limitation of the 90-day provision to programs targeting "ineligible voters." *Id.* §20507(c)(2)(A).

Nor does distinguishing "'individualized' removal program[s]" from "systematic" removal programs save the Ninth Circuit's opinion. App.43a. If noncitizens can be "registrants" and "ineligible voters," then the NVRA prohibits their removal entirely—whether individual, systematic, or otherwise—since "non-eligibility" is not a listed reason for removal. *See* 52 U.S.C. §20507(a)(3) (providing that "the name of a registrant may not be removed from the official list of eligible voters except" for the enumerated reasons). Indeed, if read as Plaintiffs suggest, then the NVRA also prohibits the removal of 16-year-olds from voter rolls. But "[i]n creating a list of justifications for removal, Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote in the first place." *Bell v. Marinko*, 367 F.3d 588, 591-92 (6th Cir. 2004).

The absurdity of the Ninth Circuit's holding should put it to rest. If the 90-day provision applied to any systematic removal for any reason, it would mean that even when a State discovers a data error permitting thousands of noncitizens to register—as New Jersey discovered just last month[8]—the State couldn't remove those noncitizens from the rolls. That result would undermine both elections themselves and public confidence in them. Whether by mistake or fraud, noncitizens will end up on the voter rolls. The NVRA does not render States powerless to address that

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[8] Statement by Governor Mikie Sherrill, New Jersey (July 21, 2026), perma.cc/ZCS4-SGML.

problem. Congress did not by implication "grant, and then protect, the franchise of persons not eligible to vote." *Id.* at 592.

CONCLUSION

The Court should reverse the Ninth Circuit's judgment.

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