IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CAMPAIGN LEGAL CENTER; AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF TEXAS; MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND, INC.; LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW; and DEMOS A NETWORK FOR IDEAS AND ACTION, LTD.,

Plaintiffs,

v.

JOHN B. SCOTT, in his official capacity as Secretary of State of the State of Texas,

Defendant.

Civil Action No. 1:22-cv-92

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PLAINTIFFS' REPLY MEMORANDUM OF LAW IN SUPPORT OF THEIR RULE 65 MOTION FOR PRELIMINARY INJUNCTION AND TO CONSOLIDATE PRELIMINARY INJUNCTION HEARING WITH TRIAL ON THE MERITS

INTRODUCTION

Plaintiffs submitted valid requests for list maintenance records ("Requested Records") pertaining to Texas's program of purging voters from the registration rolls based on national origin ("New Voter Purge Program"). The National Voter Registration Act ("NVRA") requires Defendant Scott to produce these records. None of the bases cited by Defendant Scott justify his refusal to produce these records. The parties agree consolidation with the merits of this case is appropriate. The Court should grant Plaintiffs' motion for preliminary and/or permanent injunctive relief and order Defendant Scott to produce the Requested Records.

ARGUMENT

I. The Requested Records Are Not Exempt from the NVRA's Public Disclosure Requirements.

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Defendant Scott argues that an "investigative privilege" should apply to the Requested Records and exempt them from production under the NVRA's Public Disclosure Provision. *See* Defs. PI Opp. Br. ("Opp."), ECF 27 at 3-8. But Defendant Scott's argument fails because his own evidence demonstrates that there is no ongoing criminal investigation. *See* Decl. of Brian Keith Ingram ("Ingram Decl."), ECF 27-1 (Apr. 4, 2022).

In a declaration *submitted by Defendants* Brian Keith Ingram, Director of the Elections Division at the Texas Secretary of State's Office, explains that the records Plaintiffs seek were generated pursuant to a statutory process conducted for the purposes of voter list maintenance, not criminal investigation. *See* Ingram Decl. (citing Tex. Elec. Code § 16.0332 and Election Advisory 2021-11 (Ex. A)). Neither the code provision, nor the election advisory outlining the process that generated the records requested, suggests that the registrants identified by the process are subject to criminal investigation. Indeed, as Mr. Ingram admits, "[a] person's mere presence on the initial dataset or a weekly file does not by itself prove that the person is a non-citizen or that the person

engaged in criminal conduct." *Id*. at ¶ 15.[1] And Mr. Ingram further confirms that Defendant Scott has "not yet determined whether any of the information received through the revised process warrants an investigation by the Attorney General" and consequently has not referred a single individual for such investigation. *Id.* at ¶ 12.[2]

As Mr. Ingram's declaration establishes, the requested records do not and have not triggered criminal investigations. But they *do* trigger list maintenance activity whereby it is "the responsibility of each county election official to review records sent to them through the revised process and determine whether an individual identified as a potential non-United States citizen is currently eligible for registration in their county." *Id.* at ¶ 6. To the extent these records are a part of any "ongoing investigation," Opp. at 5, it is one conducted by local election administrators—not law enforcement—for purposes of list maintenance, not criminal investigation. No privilege attaches to such conduct; rather, that is precisely the conduct the NVRA's public disclosure provision was designed to encompass. Plaintiffs urge the Court to reject Defendant Scott's argument to the extent it asserts that routine list maintenance activities by state and local officials

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[1] Mr. Ingram's declaration states that "[r]equiring the SOS to publicly release information about such allegations while our review remains pending could inhibit the SOS's ability to conduct a frank, comprehensive evaluation of the matter and, in certain instances, could discourage individuals from submitting election complaints to the SOS." *Id.* at ¶ 14. But Plaintiffs do not seek any records related to "election complaints" or allegations of criminal conduct nor does Mr. Ingram identify any overlap between the requested lists and any complaints or allegations of criminal conduct the SOS has received.

[2] Further, the Attorney General does not have independent prosecutorial authority over criminal violations of the Texas Election Code. On December 15, 2021, the Texas Court of Criminal Appeals issued an 8-1 decision holding that "[a]bsent the consent and deputization order of a local prosecutor or the request of a district or county attorney for assistance, the Attorney General has no authority to independently prosecute criminal cases in trial courts," such as prosecuting criminal violations of the Election Code. *State v. Stephens*, No. PD-1032-20, 2021 WL 5917198, at *10 (Tex. Crim. App. Dec. 15, 2021) (not released for publication) (motion for reconsideration pending).

constitute an "investigation" that would trigger the investigative privilege because such an exception would swallow the NVRA's public disclosure provision whole.

The Fifth Circuit has limited the law enforcement investigative privilege to "ongoing criminal investigation[s]," which do not include "people who merely are suspected of a violation without being part of an ongoing criminal investigation." *In re U.S. Dep't of Homeland Sec.*, 459 F.3d 565, 569, 571 (5th Cir. 2006). There is no ongoing criminal investigation related to the Requested Records and Defendant Scott does not point to any Fifth Circuit caselaw indicating a broader privilege. *See* Opp. at 5 (citing nonbinding caselaw); *cf. Becker v. Tools & Metals, Inc.*, No. 3:05-CV-627-L, 2010 WL 11537569, at *3 (N.D. Tex. Nov. 19, 2010) (rejecting an expansion of the law enforcement privilege because the Fifth Circuit only "protects government files related to an ongoing *criminal* investigation") (emphasis in the original); *Fed. Trade Comm'n v. Liberty Supply Co.*, No. 4:15-CV-829, 2016 WL 4272706, at *5, 9 (E.D. Tex. Aug. 15, 2016) (same).

It is also noteworthy that the cases on which Defendant relies to argue for application of this privilege outside the criminal context in fact applied that privilege to investigations conducted *by* law enforcement. *See United State v. Lockheed Martin Corp.*, No. 1:09-cv-324, 2011 WL 13228302 (S.D. Miss. Jan. 11, 2011) (applying the law enforcement investigative privilege to "investigative files . . . prepared by law enforcement agents and attorneys of the United States"); *In re Sealed Case*, 856 F.2d 268, 272 (D.C. Cir. 1988) ("[D]isclosure of [requested] information would jeopardize on-going [SEC] investigations by prematurely revealing facts and investigatory materials to potential subjects of those investigations."). Because the law enforcement

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investigative privilege is inapplicable here, so too are Defendant Scott's arguments about overriding privilege. *See* Opp. at 5-7.[3]

Nevertheless, Mr. Ingram asserts that because "individuals on the list are part of SOS's ongoing review into whether to refer matters to the Attorney General" they must be treated as confidential under Texas law. *See* Ingram Decl. ¶ 12; *see also* Opp. at 8. Section 31.006(a) of the Texas Election Code states:

> If, after receiving or discovering information indicating that criminal conduct in connection with an election has occurred, the secretary of state determines that there is reasonable cause to suspect that criminal conduct occurred, the secretary shall promptly refer the information to the attorney general. . . .

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Tex. Elec. Code § 31.006(a). Confidentiality attaches to documents and information submitted under 31.006(a) under certain circumstances. *Id.* at § 31.006(b). But there is no "information indicating that criminal conduct in connection with an election has occurred," *id.* at § 31.006(a), where, as here, the data merely "reflects *potential* non-United States citizens." Ingram Decl. ¶ 15 ("A person's mere presence on the initial dataset or a weekly file does not by itself prove that the person is a non-citizen or that the person engaged in criminal conduct."). Further, while Mr. Ingram states that the Department has "treated the information as confidential," *id.* at ¶ 12, the Election Advisory does not state that this information is confidential but rather instructs local

[3] Even if a privilege applied here, and it does not, "determining privilege is a particularistic and judgmental task of balancing the need of the litigant . . . against the harm to the government if the privilege is lifted," *In re U.S. Dep't of Homeland Sec.*, 459 F.3d 565, 569, 570 (5th Cir. 2006), and the factors to which courts look in evaluating whether to override investigative privilege weigh in Plaintiffs' favor. *See United States v. Lockheed Martin Corp.*, No. 1:09CV324HSO-JMR, 2011 WL 13228302, at *5 (S.D. Miss. Jan. 11, 2011) (listing factors courts use). Defendant Scott has not explained how any government process or investigation would be harmed by disclosure of the Requested Records where county election administrators have already been directed to notify listed individuals that their registration status is under review. *See* Election Advisory No. 2021-11.

officials to use the information to contact voters directly. *See* Ex. A. As such, several counties have provided Plaintiffs with piecemeal components of this data already. *See* Pls. Mot. for Preliminary Injunction ("Pls. PI Mot."), ECF 20, Ex. E, ECF 20-7, Ex. F, ECF 20-8, and Ex. G, ECF 20-9. The data requested plainly is not confidential data related to an ongoing criminal investigation, but rather commonplace list maintenance data available to election officials in all 254 counties.

Even if confidentiality under Section 31.006(b) could be deemed to extend to any voters identified as potentially ineligible and thus subject to removal, under the theory that all such identified voters may have committed a crime, such a broad application would be preempted by the NVRA's Public Disclosure Provision. *See* Pls. PI Mot. at 13-15. Defendant Scott notified county election administrators of their New Voter Purge Program responsibilities via Election Advisory No. 2021-11, the subject line of which reads "List Maintenance Activity Involving Potential Non-United States Citizens." *See* Ingram Decl. ¶ 7. The NVRA's Public Disclosure Provision covers records related to just such list maintenance activities. *Compare* Ex. A, *and* 52 U.S.C. § 20507(i) ("Each state . . . shall make available for public inspection . . . all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.").

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Defendant Scott's argument is not bolstered by his reliance on *Public Interest Legal Foundation, Inc. v. North Carolina State Board of Elections*, 996 F.3d 257 (4th Cir. 2021) (*PILF*); *see* Opp. at 4. Unlike here, the *PILF* plaintiffs sought documents that were related to "sealed criminal investigations" where the United States Attorney's Office had subpoenaed the State Board of Elections for registration records to be used in grand jury proceedings. *Id.* at 262, 266–67. The *PILF* court was therefore concerned that some of the requested information could associate an individual with "alleged criminal activity." *Id.* at 267. Nonetheless, the court found that the

NVRA's disclosure provisions were applicable and that risk of association with criminal activity "d[id] not render the requested documents affiliated with potential noncitizens immune from disclosure." *Id.* at 265, 267. Accordingly, the *PILF* court ordered the records be disclosed pursuant to the NVRA with a "system of redaction" to "advance these privacy interests while permitting the [plaintiff] to identify 'error and fraud' based on citizenship status in 'maintenance of voter rolls.'" *Id.* at 267–68. Plaintiffs' case for disclosure under the NVRA is even stronger here, where Defendant admits that there are no active criminal investigations underway.

Indeed, rather than supporting Defendant Scott's blanket claim that "[n]on-disclosure is . . . appropriate" given the risk of reputational harm, Opp. at 8, *PILF* supports balancing privacy concerns against the public interest in oversight of voter roll programs under the NVRA. *See* 996 F.3d at 267–68. Applying a similar balancing test in the Freedom of Information Act ("FOIA") context, the D.C. Circuit found that privacy concerns of individuals involved in a grand jury proceeding favored withholding information only where the "*specific* information being withheld" was not tied to the public interest. *Senate of the Commonwealth of Puerto Rico on Behalf of Judiciary Comm. v. U.S. Dep't of Just.*, 823 F.2d 574, 588 (D.C. Cir. 1987).

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In contrast, here the Requested Records relate directly to evaluation of the legality of the New Voter Purge Program and are of significant public interest. *See* Pls. Compl. ¶¶ 9, 12 (seeking, *inter alia*, date of voter registration and date of interactions with DPS to evaluate compliance with the 2019 settlement agreement). Plaintiffs are willing to engage in good faith negotiations with Defendant Scott to address any legitimate privacy concerns,[4] but they are entitled to records sufficient to identify any errors in the New Voter Purge Program. *See PILF*, 996 F.3d at 267–68.

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[4] Contrary to Defendant's assertions, Plaintiffs do not seek just the identity of voters on the relevant lists but detailed voter registration data "including the date each individual registered to vote, the

Finally, Defendant Scott's argument that the Driver's Privacy Protection Act ("DPPA") precludes disclosure of the Requested Records is also unfounded. *See* Opp. at 7. The DPPA restricts the disclosure of "personal information . . . obtained by the [State department of motor vehicles] in connection with a motor vehicle record." 18 U.S.C.A. § 2721(a). Nevertheless, despite the DPPA, and the fact that many voters register to vote at the motor vehicles office, "completed voter registration applications generally are subject to disclosure under the NVRA." *PILF*, 996 F.3d 257, 265.

However, this Court need not address the precise contours of the DPPA's scope because Plaintiffs are entitled to the information in the Requested Records under the DPPA exception for "investigation in anticipation of litigation." 18 U.S.C.A. § 2721(b)(4). This exception is "best understood to allow background research to determine whether there is a supportable theory for a complaint, a theory sufficient to avoid sanctions for filing a frivolous lawsuit, or to locate witnesses for deposition or trial testimony." *Maracich v. Spears*, 570 U.S. 48, 63-64 (2013).

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Here, Plaintiffs seek the Requested Records to determine whether the State is in compliance with the 2019 settlement agreement, and whether litigation is necessary to protect voters from an unlawful voter purge program, which falls under the DPPA's litigation exception. *See, e.g.*, *Brewster v. City of Los Angeles*, No. EDCV14-2257-JGB-SPX, 2018 WL 6133413, at *5 (C.D. Cal. May 9, 2018) (allowing disclosure of information, including names, to "give class notice" and "locate and contact witnesses"). Defendant Scott's cited cases are not to the contrary.

effective date of each individual's voter registration; the date each individual provided documentation to DPS, the issuance date of each individual's current driver's license or personal identification; the documents provided to DPS showing proof of lawful presence but not U.S. Citizenship; and the voting history of each of these individuals." Thus, while Plaintiffs do not believe redaction of identifying information would be appropriate here, redaction of that information would not render the request "futile." Opp. at 8.

See Pub. Int. Legal Found. v. Boockvar, 431 F. Supp. 3d 553, 564 (M.D. Pa. 2019) (finding that plaintiff's asserted "governmental-function exception"—a different DPPA exception than the one applicable here—did not apply in that case); *PILF*, 996 F.3d at 268 (stating, without consideration of potential DPPA exceptions, that the DPPA "*may* preclude the disclosure of documents" and remanding to the district court for further consideration) (emphasis added). Further, "at a minimum, if the court orders production of such information, [Plaintiffs] would not be in violation of the DPPA." *Brewster*, 2018 WL 6133413, at *6 (citing 18 U.S.C. § 2721(b)(4)).

II. Defendant's Refusal to Permit Public Inspection of the Requested Documents Violates the NVRA.

Defendant Scott alleges that Plaintiffs' Record Requests "did not seek inspection or photocopying" pursuant to the NVRA, Opp. at 9, because Plaintiffs requested the records be produced to them in electronic format. But courts have consistently presumed that "disclosure" under the NVRA requires the production of the records at issue. *See, e.g.*, *True the Vote v. Hosemann*, 43 F. Supp. 3d 693, 723 (S.D. Miss. 2014) (finding disclosure satisfied by electronic production of the requested records); *Project Vote, Inc. v. Kemp*, 208 F. Supp. 3d 1320, 1349 (N.D. Ga. 2016) (finding that "making available" required actual production of the requested records). Here, the data requested is kept in electronic format. Ingram Decl. ¶ 3. There is no reason why the State cannot produce the records to Plaintiffs to inspect in the same manner it is kept in the usual course of business, and every reason why it would be absurd for Plaintiffs to request that Defendant make the records available for photocopying.

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Defendant offers an unduly cramped view of the NVRA's Public Disclosure Provision when a plain reading of the statute imposes no limit on the means by which Defendant should make records available for inspection. Further, the provision is entitled "Public disclosure of voter registration activities," evidencing the Act's intent to require meaningful disclosure. 52 U.S.C.

§ 20507(i). In addition to providing for inspection, the provision requires "photocopying at a reasonable cost," which necessarily contemplates the production of covered records. *Id*. Finally, the provision requires public disclosure "for the purpose of ensuring the accuracy and currency of official lists of eligible voters." *Id*. To accept Defendant's position—that a request to inspect records via electronic production does not constitute a request for public inspection or photocopying and is therefore invalid under the NVRA—would frustrate that purpose. The public cannot determine the accuracy and currency of the voter list absent a *meaningful* opportunity to review and inspect the same.

Defendant Scott cites no case to support his contention that a request for electronic production of requested records does not constitute a request for public inspection of records under the NVRA. *See* Opp. at 8-9. Further, even if the NVRA did not provide for electronic disclosure and only required states to provide in-office-only inspection of records or photocopies produced at a reasonable cost as Defendant Scott asserts, he has not made either option available to Plaintiffs, despite Plaintiffs' Record Requests explicitly stating that they were made pursuant to the Public Disclosure Provision of the NVRA. *See* Pls. PI Mot. Exs. H, J, K, and M.

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III. The NVRA Does Not Violate the Anti-Commandeering Doctrine.

Defendant Scott contends that the NVRA's requirement that he "maintain and make available" records relating to Texas's New Voter Purge Program violates the anti-commandeering doctrine, and thus is unconstitutional. Opp. at 9-12. But Defendant Scott fails to acknowledge that courts—including the Supreme Court—have uniformly upheld the NVRA as a proper exercise of Congress's authority to make and alter state laws regulating elections under Article I, Sec. 4 of the Constitution. This Court should reject Defendant's constitutional challenge.

The Elections Clause, Art. 1, § 4, cl. 1, "empowers Congress to pre-empt state regulations governing the 'Times, Places and Manner' of holding . . . elections." *Arizona v. Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1, 8 (2013). It grants Congress "the power to alter [state] regulations or supplant them altogether." *Id.* (citing *U.S. Term Limits, Inc. v. Thornton*, 514 U.S 779, 804-05 (1995)). Since it was first enacted, courts have upheld the NVRA as a proper exercise of Congress's authority under the Elections Clause and rejected the proposition that it violates the anti-commandeering doctrine. *See Association of Community Organizations for Reform Now v. Miller*, 129 F.3d 833, 836 (6th Cir. 1997) (finding that the NVRA does not violate the anti-commandeering doctrine on the grounds that the Constitution's grant of authority to Congress under the Elections Clause is broader than that under the Commerce Clause); *id*. (finding that the Elections Clause "specifically grants Congress the authority to force states to alter their regulations regarding federal elections"); *Voting Rights Coalition v. Wilson*, 60 F.3d 1411, 1415 (9th Cir. 1995) (distinguishing anti-commandeering principles under the Commerce Clause and holding that under the Elections Clause "Congress may conscript state agencies to carry out voter registration"); *see also Inter Tribal*, 570 U.S at 14-15 ("Unlike the States' historic police powers, the States' role in regulating congressional elections—while weighty and worthy of respect—has always existed subject to the express qualification that it terminates according to federal law.").[5]

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Defendant Scott fails to wrestle with this longstanding precedent. Instead, he turns to *Branch v. Smith*, 538 U.S. 254, 280 (2003) (plurality op.), in which a plurality of the Court rejected the application of the anti-commandeering doctrine. Defendant's analysis of this case is muddled,

[5] Defendant's reliance on *Brackeen v. Haaland*, 994 F.3d 249 (5th Cir. 2021) (*en banc*) is inapposite. Opp. at 10. *Brackeen*, which addresses a provision of the Indian Child Welfare Act, does not involve the Elections Clause, and thus, unlike the precedent relied upon herein, does not account for the Constitution's explicit grant of authority to Congress to regulate state election procedures for congressional elections.

but he appears to contend that the anti-commandeering doctrine prohibits Congress from regulating elections except when states "default[] on any obligations under the Times, Places and Manner Clause." Opp. at 10-11. This proposition not only ignores the large body of precedent cited above, it also directly contradicts the text of the Elections Clause, which authorizes Congress to make or alter state election regulations "at any time," Art. 1, § 4, cl. 1. Further, it finds no support whatsoever in *Branch* itself. The *Branch* plurality cited by Defendant simply found that it is the Constitution, "and not any mere statutory requirement" that confers upon the states the obligation to prescribe the times, places, and manner of congressional elections. 538 U.S. at 280. It then found that in enacting a statute requiring that Representatives be elected from single-member districts, Congress did not engage in commandeering because it did not "plac[e] a statutory obligation on the state legislatures" but rather "regulat[ed] (as the Constitution specifically permits) the manner in which a State is to fulfill its pre-existing constitutional obligations" under the Elections Clause. *Id.* (citation omitted); *see id.* ("[T]o be sure, [the statute at issue] envisions legislative action, but in the context of Article 1, § 4, cl.1, such 'Regulations' are expressly allowed.") (internal citation omitted). So too here—it is the Elections Clause, not the NVRA, that requires states to regulate congressional elections. The NVRA merely regulates the manner in which states fulfill their obligations under Constitution, as expressly allowed by the Elections Clause itself. *See* U.S. Const. art. 1, § 4, cl. 1. Plaintiffs rely on this lawful exercise of Congress's authority—as repeatedly recognized by federal courts, including the *Branch* plurality—not on Defendant's tortured reading of *Branch*.[6]

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[6] Defendant makes much of the fact that *Branch* involved a constitutional claim, whereas Plaintiffs have alleged a statutory violation. Opp. at 10-11. But the nature of the claim was irrelevant to the plurality's discussion of the anti-commandeering issue.

Next, Defendant Scott attempts to cast doubt on whether Congressional authority to regulate elections extends to voter registration, describing this proposition as a "recent" invention by the court. Opp. at 11-12.[7] But the Supreme Court has long acknowledged that "[t]he Clause's substantive scope is broad" and encompasses "regulations related to 'registration.'" *Inter Tribal*, 570 U.S. at 8; *see Smiley v. Holm*, 285 U.S. 355, 366 (1932)). In *Smiley*, the Court held that:

> It cannot be doubted that these comprehensive words ["Times, Places and Manner"] embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved.

285 U.S. at 366; *see also Inter Tribal*, 570 U.S. at 9 (quoting *Smiley*, 285 U.S. at 366 for the proposition that the Elections Clause embraces "regulations relating to 'registration'").

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Finally, Defendant Scott asserts that the public disclosure provision is not a proper exercise of Congress's power under the Elections Clause because it does not itself regulate registration, but rather enforces compliance with the NVRA. Opp. at 12. But Congress's "plenary and paramount jurisdiction" to regulate elections includes the power to enforce its regulations. *Ex parte Siebold*, 100 U.S. 371, 388-89 (1879) (holding that Congress's power over congressional elections extends to enforcement, including the right "to examine [state officials] personally and inspect all their proceedings and paper"); *id.* at 395 ("We hold it to be an incontrovertible principle, that the government of the United States may . . . execute on every foot of American soil the powers and

[7] Defendant cites *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 833 (1995) as supporting a more limited construction of Congressional authority over elections. Opp. at 11. But *U.S. Term Limits* simply found that "the Framers understood the Elections Clause as a grant of authority to issue procedural regulations, and not as a source of power to dictate electoral outcomes, to favor or disfavor a class of candidates, or to evade important constitutional restraints," and specifically cites *Smiley* as a case that reflects this understanding. 514 U.S. at 833-34 (citing *Smiley*, 285 U.S at 366).

functions that belong to it. This necessarily involves the power to command obedience to its laws"); *see also Smiley*, 285 U.S. at 366 (finding that congressional authority under the Elections Clause to enact "requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved . . . would be nugatory" absent the power to enforce the same); *id*. at 366-67 (finding that Congress "has a general supervisory power over the whole subject."). Because the public disclosure provision allows Congress—and the public—to monitor state voter registration practices, it falls squarely within the scope of Congressional authority under the Elections Clause.

CONCLUSION

Plaintiffs respectfully request that this Court advance the merits of this case and enter a preliminary and/or permanent injunction ordering Defendant Scott to provide Plaintiffs with electronic copies of the Requested Records.

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Dated: April 18, 2022

Respectfully submitted,

By: <u>*/s/ Danielle Lang*</u>

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CERTIFICATE OF SERVICE

I hereby certify that on this day, I served all parties a true and correct copy of **PLAINTIFFS' REPLY MEMORANDUM OF LAW IN SUPPORT OF THEIR RULE 65 MOTION FOR PRELIMINARY INJUNCTION AND TO CONSOLIDATE PRELIMINARY INJUNCTION HEARING WITH TRIAL ON THE MERITS**, by filing the same with the clerk of court using the CM/ECF system, which will automatically send email notification of such filing to all attorneys of record.

This 18th day of April, 2022.

By: *_/s/ Danielle Lang_*
Danielle Lang

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