No. 24-1260

IN THE SUPREME COURT OF THE UNITED STATES

MICHAEL WATSON, MISSISSIPPI SECRETARY OF STATE,

Petitioner,

v.

REPUBLICAN NATIONAL COMMITTEE, *et al.*,

Respondents.

MOTION OF RESPONDENTS VET VOICE FOUNDATION AND MISSISSIPPI ALLIANCE FOR RETIRED AMERICANS FOR DIVIDED ARGUMENT

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ROBERT B. MCDUFF
PALOMA WU
MISSISSIPPI CENTER FOR JUSTICE
210 E. Capitol Street, Suite 1800
Jackson, MS 39201
(601) 352-2269

MARC E. ELIAS
Counsel of Record
ELISABETH C. FROST
DAVID R. FOX
CHRISTOPHER D. DODGE
RICHARD A. MEDINA
TINA MENG MORRISON
ELIAS LAW GROUP LLP
250 Massachusetts Ave. NW, Suite 400
Washington, DC 20001
(202) 968-4490
eliasm@elias.law

January 29, 2026

Pursuant to Supreme Court Rule 28.4, Respondents supporting Petitioners Vet Voice Foundation and the Mississippi Alliance for Retired Americans ("Vet Voice Respondents"), respectfully move to divide Petitioner's time for oral argument equally between one attorney for Petitioner Secretary of State Michael Watson and one attorney for Vet Voice Respondents. Petitioner opposes this motion; the other Respondents consent.

This case concerns the lawfulness of Miss. Code § 23-15-637(1)(a), under which voters who vote absentee must mark their absentee ballot and either deliver it directly to their clerk's office before election day or place it in the mail so that it is postmarked by election day, and the ballot will be considered timely as long as it is delivered within five business days after election day. In the decision below, the Fifth Circuit held that longstanding federal statutes setting the "day of the election" of members of Congress and presidential electors preempt Mississippi's law—reasoning that would also invalidate similar laws in thirty other states. No other court has interpreted the federal election day statutes in a similar way. The question presented in this case is whether the Fifth Circuit was correct.

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The nationwide consequences of the Fifth Circuit's holding for voters—in particular military voters, who the Vet Voice Respondents represent—would be immense. Seventeen states allow post-election ballot receipt for military and overseas voters specifically, *see* Vet Voice Br. at 7 n.3—all laws that the Fifth Circuit's holding would preempt. These laws ensure that ballots completed and placed in the mail by election day are not rejected because of minor mail delivery delays, and give absentee

voters the same clear deadline to make their final choices as in-person voters—election day.

Vet Voice Respondents intervened in the district court to protect the interests of military voters and other voters—including the elderly and disabled—who rely on absentee voting. Respondent Vet Voice Foundation is a national non-profit, non-partisan organization dedicated to empowering veterans across the country to become civic leaders and policy advocates. Its constituency includes active servicemembers, including those deployed away from home, as well as veterans who are often disabled. The Mississippi Alliance for Retired Americans is the Mississippi chapter of the national Alliance for Retired Americans, a non-profit, non-partisan organization with millions of members across the country including in Mississippi. Its membership is overwhelmingly comprised of retirees over the age of 65 who often rely on absentee voting.

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Though Petitioner and the Vet Voice Respondents both seek reversal of the decision below, they have distinct perspectives on the question presented and represent distinct interests in this case. While Petitioner represents the perspective of election officials charged with implementing Mississippi's law, Vet Voice Respondents are well positioned to speak to the interests of voters nationwide who have been able to have a say in their states' elections because of the sensible policy choices made by Mississippi and thirty other states to accept ballots that are cast by election day but arrive by a specified date shortly thereafter. Reflecting their different

interests in this case, Vet Voice Respondents make several arguments that Petitioner does not.

First, in their Brief, Vet Voice Respondents demonstrate at length that a key premise of the Fifth Circuit's and the other Respondents' position—that post-election ballot receipt deadlines are a recent invention that deviate from historical practice—is false. Vet Voice Br. at 32–38. Petitioner argues, correctly, that the mere fact that post-election ballot receipt "was not a practice" at the time the relevant federal statutes were enacted is not evidence "that any State set an election-day ballot-receipt deadline because it thought the federal election-day statutes require it." Pet. Br. at 32. But, unlike Vet Voice Respondents, Petitioner does not meaningfully dispute the core premise of the claim that these types of receipt deadlines are a modern invention. They are not, and the fact that many states throughout history did have such deadlines is strong evidence that those states did not understand federal law to require election-day receipt. Vet Voice Respondents explain the history of these laws in detail in their Brief.

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Second, Vet Voice Respondents explain that, throughout the twentieth century, Congress has repeatedly legislated with the clear understanding that federal law does not set a receipt deadline for absentee ballots. Vet Voice Br. at 38–47. The 1942 Soldier Voting Act, the 1970 Voting Rights Act Amendments, and UOCAVA—to name a few—explicitly recognize that ballot receipt deadlines are a question of state law. To adopt the Fifth Circuit's holding would render several provisions of federal law nonsensical. Vet Voice Respondents explain in detail why this is so,

including by analyzing the legislative history of the relevant statutes. While Petitioner's Brief identifies the flaws in the Fifth Circuit's treatment of UOCAVA, Pet. Br. at 44–45, it does not advance this affirmative argument based on related federal statutes.

Third, Vet Voice Respondents emphasize the burdens that the Fifth Circuit's holding would impose on voters, particularly military voters. Vet Voice Br. at 31–32. And they explain that imposing such burdens would run counter to the purpose of the election-day statutes and other federal laws that are designed to make it easier for servicemembers to vote. *Id.* Petitioner does not advance this argument.

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In light of these differences, Vet Voice Respondents believe that the Court's adjudication of the question presented would be best served by allowing them to present divided argument. *See* Stephen M. Shapiro, *et al.*, Supreme Court Practice 777 (10th ed. 2013) ("Having more than one lawyer argue on a side is justifiable . . . when they represent different parties with different interests or positions."). This Court has regularly granted motions for divided argument in cases where private litigants and state parties appear on the same side—including in cases involving challenges to state election laws. *E.g.*, *Brnovich v. Democratic Nat'l Comm.*, 141 S. Ct. 1263 (2021) (mem.); *Trump v. CASA, Inc.*, 145 S. Ct. 2679 (2024) (mem.); *Louisiana v. Callais*, 145 S. Ct. 1164 (2025) (mem.); *Env't Prot. Agency v. Calumet Shreveport Refining, LLC*, 145 S. Ct. 1164 (2025) (mem.); *see also Nat'l Republican Senatorial Comm. v. Fed. Election Comm'n*, No. 24-261, 2025 WL 2906485 (U.S. Oct.

14, 2025) (granting motion of Court-appointed *amicus curiae* and intervenors for divided argument).

CONCLUSION

For the foregoing reasons, Vet Voice Respondents respectfully request that the Court grant their motion for divided argument and divide Petitioner's time for oral argument equally between Petitioner and the Vet Voice Respondents.

Respectfully submitted,

Robert B. McDuff
Paloma Wu
MISSISSIPPI CENTER FOR JUSTICE
210 E. Capitol Street,
Suite 1800
Jackson, MS 39201
(601) 259-8484

Marc E. Elias
Counsel of Record
Elisabeth C. Frost
David R. Fox
Christopher D. Dodge
Richard A. Medina
Tina Meng Morrison
ELIAS LAW GROUP LLP
250 Massachusetts Ave. NW,
Suite 400
Washington, DC 20001
(202) 968-4490
eliasm@elias.law

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Counsel for Vet Voice Foundation and the Mississippi Alliance for Retired Americans