No. 26A512

IN THE SUPREME COURT OF THE UNITED STATES

DAVID M. SCANLAN, ET AL,

Applicants,

v.

COALITION FOR OPEN DEMOCRACY,

Respondent.

ON EMERGENCY APPLICATION FOR STAY

AMICUS CURIAE BRIEF OF REPUBLICAN NATIONAL COMMITTEE IN SUPPORT OF APPLICANTS

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INTEREST OF AMICUS CURIAE[1]

The Republican National Committee is a national committee under 52 U.S.C. § 30101. It manages the Republican Party's business, coordinates election strategy, and supports Republican candidates nationwide. The RNC coordinates fundraising and election strategy and develops and promotes the national Republican platform. The RNC's membership consists of the party chair, national committeeman, and committeewoman for each State and territory, including multiple representatives from New Hampshire who are registered New Hampshire voters. The RNC has interests in the rules and procedures governing New Hampshire's elections. These interests are heightened given the imminent elections for federal and state office.

The RNC has extensive expertise in election law, election administration, and voting rights. And its members, candidates, and voters are among those most affected by lawsuits challenging election rules in New Hampshire and nationwide.

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[1] Under Supreme Court Rule 37.6, counsel for *amicus curiae* certifies that no counsel for any party authored this brief in whole or in part and that no entity or person, aside from *amicus curiae* made any monetary contribution toward the preparation or submission of this brief. Counsel for all parties were provided notice by e-mail of Amicus's intent to file this brief per Supreme Court Rule 37.2.

SUMMARY OF THE ARGUMENT

Election day is imminent. But less than a month before the election, the district court issued an injunction that threatens to disrupt identity verification in New Hampshire's looming elections. That injunction, so close to an election, violates this Court's guidance from *Purcell*. The Court should stay the injunction.

I. The district court partially enjoined the State's voter ID law less than 30 days before election day in violation of the *Purcell* principle. *Purcell* applies to voter identification laws. And courts at all levels, including this Court, have concluded across election cases that it is now too close to the election to issue injunctions which could disrupt elections and confuse voters and officials. Worse still, the New Hampshire district court previously declined to enter injunctive relief ahead of the primary, so the injunction now will cause confusion by subjecting voters and voting officials to different sets of rules between the primary and the general election.

II. The Coalition for Open Democracy unreasonably delayed in its request to enjoin the State. It waited 130 days after the law was enacted to even file a complaint, and only then requested urgent preliminary relief. A party seeking preliminary relief must show reasonable diligence even in the ordinary course. In election cases that implicate *Purcell*, undue delay is fatal. Here, where the Coalition provided no excuse for its delay, the district court issued an injunction to remedy an emergency of the Coalition's own making.

ARGUMENT

The First Circuit recognizes that this Court "has offered a special caution about the perils of federal courts changing the rules on the eve of an election." *Common*

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Cause R.I. v. Gorbea, 970 F.3d 11, 16 (1st Cir. 2020) (citing *Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006)). But the district court and the First Circuit did not heed *Purcell*'s "special caution." *Id.* "[W]hen a lower court intervenes and alters the election rules so close to the election date," a reviewing court "should correct that error." *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 589 U.S. 423, 425 (2020). The "election is close at hand," so "the rules of the road must be clear and settled." *Merrill v. Milligan*, 142 S. Ct. 879, 880-81 (2022) (Kavanaugh, J., concurring in grant of stay applications).

I. *Purcell* precludes enjoining state voter-ID rules so close to an election.

The *Purcell* principle is a "bedrock tenet of election law." *Id.* It instructs that "lower federal courts should ordinarily not alter the election rules on the eve of an election." *RNC*, 589 U.S. at 424. To "overcome" *Purcell*, plaintiffs must show "at least" that "the underlying merits are entirely clearcut" in their favor, they "would suffer irreparable harm absent the injunction," they have "not unduly delayed," and "the changes in question are at least feasible before the election without significant cost, confusion, or hardship." *Milligan*, 142 S. Ct. at 881 (Kavanaugh, J., concurring). The Coalition has not met those stringent requirements.

Purcell applies to voter-verification laws of the sort the Coalition challenges here. *Count US IN v. Morales*, 172 F.4th 974, 976 (7th Cir. 2026) (per curiam); *Colon-Marrero v. Conty-Perez*, 703 F.3d 134, 139 (1st Cir. 2012). That's because "[c]ourt orders affecting elections … can themselves result in voter confusion and consequent incentive to remain away from the polls." *Purcell*, 549 U.S. at 4-5. Indeed, those

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principles apply with special force to "an injunction suspending the voter identification rules," because "[v]oters who fear their legitimate votes will be outweighed by fraudulent ones will feel disenfranchised." *Id.* at 4, 6. So "[t]he concerns that underlie *Purcell*—the risk of voter confusion and the unfairness of unexpected administrative burdens" apply at least as much here as they do to "other types of belated voting changes." *Tenn. Conf. of the NAACP v. Lee*, 105 F.4th 888, 897 (6th Cir. 2024) (per curiam).

Election season is underway. This Court applied the *Purcell* principle just three weeks ago, reminding courts yet again that they "'should not alter the election rules of a State on the eve of an election.'" *People Not Politicians v. Onder*, 609 U.S. ___, slip op. at 3 (2026) (per curiam) (quoting *Allen v. Milligan*, 608 U.S. 511, 514 (2026) (per curiam)). And this summer, this Court reversed a district court for violating *Purcell* by enjoining "Alabama's ongoing efforts to conduct its imminent 2026 congressional elections under maps that its elected representatives selected." *Allen*, 608 U.S. at 514. In fact, the first instance of this Court applying *Purcell* in this election cycle goes as far back as December 2025 when a district court "improperly inserted itself into an active primary campaign." *Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418, 419 (2025). When "a State's election machinery is already in progress, equitable considerations might justify a court in withholding the granting of immediately effective relief," even if that relief would ordinarily be justified. *Reynolds v. Sims*, 377 U.S. 533, 585 (1964). Already, "candidates, election officials, and voters have relied on the rules in place." *Malliotakis v. Williams*, 146 S.

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Ct. 809, 811 (2026) (Alito, J., concurring in grant of stay) (mem.). "By changing the election rules so close to the election date, … the District Court contravened this Court's precedents and erred by ordering such relief." *RNC*, 589 U.S. at 424.

For many months now, courts across the country have concluded that *Purcell* "counsels strongly against the issuance of an injunction" this late in the election cycle. *E.g.*, *Foster v. Mississippi*, 2026 WL 2352910, at *7-15 (N.D. Miss. Aug. 13, 2026); *Carpenter v. Landry*, 2026 WL 2473631, at *5 (M.D. La. Aug. 4, 2026); *Sherman v. Hargett*, 2026 WL 1471870, at *7 (M.D. Tenn. May 26, 2026); *Ams. for Citizen Voting Pac v. Wolfe*, 2026 WL 1329715, at *3 (E.D. Wis. May 12, 2026); *Shafii v. City of Charleston*, 2026 WL 1244855, at *5 (S.D. W. Va. May 6, 2026); *Colo. Republican Party v. Griswold*, 2026 WL 1145559, at *3 (D. Colo. Apr. 28, 2026); *Gardner v. Henderson*, 2026 WL 496448, at *7 (D. Utah Feb. 23, 2026) (three-judge court); *Coll. Democrats of N.C. v. N.C. State Bd. of Elections*, 2026 WL 327927, at *3 (M.D.N.C. Feb. 8, 2026). In the few recent cases where district courts granted relief, circuit courts quickly stayed those orders because they were "a clear violation of *Purcell*." *E.g.*, *Count US IN*, 172 F.4th at 976 (staying "preliminary injunction prohibiting the application of a statutory provision impacting voter eligibility"); *Red Wine & Blue v. LaRose*, 2026 WL 2922945, at *6-7 (6th Cir. Sep. 23, 2026) (injunction issued "about a month before a looming registration deadline" "appears to run afoul of *Purcell.*" (citation modified)). The district court's order here splits with the many courts faithfully applying *Purcell* this election cycle.

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Indeed, the district court split with its own prior order. App. 1a–14a; *Coal. for Open Democracy v. Scanlan*, 2026 WL 2583044, at *6 (D.N.H. Sept. 1). In September, the district court held that "the operational window to redistribute guidance, retain poll workers, and re-educate voters before more ballots are cast is close to closing. This is the type of compressed timeline that *Purcell* was designed to guard against." App. 13a. The general election is now less than a month away. *Purcell* itself stayed "an injunction issued about a month before an election." *Tenn. Conf. of the NAACP*, 105 F.4th at 897. And in the last federal election cycle, this Court partially stayed a much earlier "district court's May 2, 2024 judgment" affecting voter-registration rules. *RNC v. Mi Familia Vota*, 145 S. Ct. 108 (2024) (mem.).

The *Purcell* principle "not only prevents voter confusion but also prevents election administrator confusion—and thereby protects the [local] interest in running an orderly, efficient election and in giving citizens (including the losing candidates and their supporters) confidence in the fairness of the election." *Democratic Nat'l Comm. v. Wis. State Legislature*, 592 U.S. 1039, 1044 (2020) (Kavanaugh, J., concurring). The risk of confusion is heightened here because the primary election operated under the very rules that the district court has now enjoined. New Hampshire held its primary elections on September 8, 2026. Forcing the State and voters to follow new rules for the general election than applied in the primary election is exactly the sort of "conflicting guidance" that "could create an 'incentive' for voters to 'remain away from the polls.'" *Tenn. Conf. of the NAACP*, 105 F.4th at 900 (quoting *Purcell*, 549 U.S. at 5).

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Election season was already imminent when the Coalition filed its complaint. New Hampshire has been "in the thick of election season" for months now. *Democratic Nat'l Comm. v. Wis. State Legislature*, 592 U.S. at 1039 (Roberts, C.J., concurring in denial of application to vacate stay). The district court remade voter verification policy without enough time remaining to implement the ordered change. That order violates *Purcell*. "Given the imminence of the election and the inadequate time to resolve the factual disputes," this Court should "of necessity allow the election to proceed without an injunction suspending the voter identification rules." *Purcell*, 549 U.S. at 5.

II. The Coalition unduly delayed.

Even if the injunction wouldn't impose "significant cost, confusion, or hardship" on voters and election officials, the Coalition's months-long delay in seeking relief is inexcusable. *Milligan*, 142 S. Ct. at 881 (Kavanaugh, J., concurring). Although similar to the doctrine of laches, *see* App. 61a-63a, undue delay has special consequences in the election context—to "overcome" the "*Purcell* principle," one of the showings the Coalition must make is that it "has not unduly delayed bringing the complaint to court." *Id.* Even outside the election context, "a party requesting a preliminary injunction must generally show reasonable diligence." *Benisek v. Lamone*, 585 U.S. 155, 159 (2018) (per curiam). The "balance of equities … tilt[s] against" a party who cannot show reasonable diligence. *Id.* at 158. "The longer the delay, the more pervasive the doubt" that urgent, preliminary relief is warranted. *Charlesbank Equity Fund II v. Blinds to Go*, 370 F.3d 151, 163 (1st Cir. 2004).

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That the Coalition never provided a "'reasonable explanation'" for its delay should have been reason enough to deny their motion. *Tenn. Conf. of the NAACP*, 105 F.4th at 898 (quoting *Crookston v. Johnson*, 841 F.3d 396, 398 (6th Cir. 2016)). Again, the district court's own prior order explains why that principle should have precluded relief here. "The Governor signed HB 323 into law on April 3, 2026, and it took effect on June 2, 2026. The plaintiff waited 130 days after enactment and 70 days after the law took effect before filing suit and simultaneously demanding emergency relief." App. 12a-13a. During that delay, the Secretary of State "updated the Election Procedure Manual, ballot clerk manuals, student voting guides, polling place posters, its website, and the statewide voter registration system." App. 25a.

Months passed, and election season began, in the time that the Coalition waited. That delay is not "reasonable diligence." *Benisek v. Lamone*, 585 U.S. at 159. The First Circuit has previously declined to afford relief to a litigant who, "well aware of the requirements of the election laws, chose not to bring this suit until August 5, … shortly before the November 2 elections … and two months after the primary election." *Respect Me. PAC v. McKee*, 622 F.3d 13, 16 (1st Cir. 2010). Yet after the primary elections, the district court did an about-face on its conclusion of unreasonable delay, even though the conclusion of the primaries was a factor *against* injunctive relieve in *McKee*. *See* 622 F.3d at 16. The harms and confusion that *Purcell* guards against do not reset after a primary—they are heightened because voters and officials should be able to reasonably assume that the same rules apply in a primary and a general election. *See Purcell*, 549 U.S. at 4–5.

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The Coalition's delay undercuts the "District Court's late-breaking injunction." *Milligan*, 142 S. Ct. at 881 (Kavanaugh, J., concurring). The principle that "courts will generally decline to grant an injunction to alter a State's established election procedures" is "especially true when a plaintiff has unreasonably delayed bringing his claim." *Crookston*, 841 F.3d at 398.

The Coalition's delay is inexcusable. It waited months, then sought an emergency preliminary injunction rather than litigate the case in a timely fashion from the beginning. The "'emergency' is largely one of their own making." *McKee*, 622 F.3d at 16; App. 12a-13a. The district court apportioned blame between the parties for a poorly developed record and insufficient briefing. App. 61a-62a. But it did not and could not lay any portion of the blame for the delayed filing and request for relief at the Sate's feet. The Coalition's "cries of urgency are sharply undercut by" their delay. *Charlesbank Equity Fund II*, 370 F.3d at 163. And any reason to leave the injunction in place during this appeal cannot survive their neglect. Failing to stay this injunction would encourage future litigants to wait until the last few days before an election to seek relief, so that a district court's preliminary injunction could provide all the relief they seek through the general election. Courts should not bless such gamesmanship.

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CONCLUSION

The Court should stay the district court's injunction pending proceedings in the First Circuit and in this Court.

Respectfully submitted,

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