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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Mi Familia Vota, *et al.*,

Plaintiffs,

v.

Katie Hobbs, *et al.*,

Defendants.

Case No.: 2:22-cv-00509-PHX-SRB

Living United for Change in Arizona, *et al.*,

Plaintiffs.

v.

Katie Hobbs,

Defendant,

and

State of Arizona, *et al.*,

Intervenor-Defendants.

1 Poder Latinex, Chicanos Por La Causa, and
2 Chicanos Por La Causa Action Fund,

3 Plaintiff,

4 v.

5 Katie Hobbs, in her official capacity as
6 Secretary of State of Arizona, Mark
7 Brnovich, in his official capacity as
8 Attorney General of Arizona, Stephen
9 Richer, in his official capacity as Maricopa
10 County Recorder, Gabriella Cazares-Kelly,
11 in her official capacity as Pima County
12 Recorder, and Richard Colwell, in his
13 official capacity as Yuma County Recorder,

14 Defendants.

15
16 United States of America,

17 Plaintiff,

18 v.

19 State of Arizona, *et al.*,

20 Defendants,

21 and

22 Republican National Committee,

23 Intervenor-Defendant.
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**MEMORANDUM OF LAW AS *AMICUS CURIAE* IN SUPPORT OF DEFENDANTS' MOTION
TO DISMISS FROM ADVOCATES FOR VICTIMS OF ILLEGAL ALIEN CRIME**

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CERTIFICATE OF INTERESTED PERSONS

The case number for this *amicus curiae* brief is No. **2:22-cv-00509-PHX-SRB**, *Mt. Familia vota et al v. Katie Hobbs, et al.*

Amicus Curiae Advocates for Victims of Illegal Alien Crime is a non-profit corporation which has no parent corporation, and no publicly held corporation owns 10% or more of its stock.

Pursuant to the Federal Rule of Procedure, the undersigned counsel of record certifies that the parties' list of persons and entities having an interest in the outcome of this case is complete, to the best of the undersigned counsel's knowledge, with the following additions:

Advocates for Victims of Illegal Alien Crime, *Amicus Curiae*

M. Ryan Williams, Esq., counsel for *Amicus Curiae*

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Lorraine G. Woodwark, Esq., counsel for *Amicus Curiae*

These representations are made in order that the judge of this court may evaluate possible disqualification or recusal.

Respectfully submitted, this 23rd day of September, 2022.

/s/ M. Ryan Williams

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Alien Crime*

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IDENTITY, INTEREST AND AUTHORITY TO FILE¹

Amicus curiae Advocates for Victims of Illegal Alien Crime (“AVIAC”) is a 26 U.S.C. § 501(c)(3) non-profit organization that was founded in 2017. AVIAC is led by individuals who have lost family members because of crimes committed by undocumented immigrants.² AVIAC’s mission includes being a source of support for such victims across the country and a resource for policies that will enforce the nation’s immigration laws and prevent governmental incentives for illegal immigration.

AVIAC objects to providing non-citizens with the right to vote in any election, whether local, state, or federal as it dilutes the votes of eligible U.S. citizens. Proof of citizenship is fundamental to ensuring that only U.S. citizens vote to protect America’s representative democracy. This case concerns the attempt by several Plaintiffs to override the United States Constitution’s requirements that only U.S. citizens vote in elections, the Constitution of the State of Arizona and House Bill 2492, which requires proof of U.S. citizenship to vote in elections. AVIAC supports the State of Arizona’s Consolidated Motion to Dismiss based on Plaintiffs’ failure to state a viable claim, including but not limited to, violations of the National Voter Registration Act of 1993.

Given its interest in strong borders and the protection of national sovereignty, AVIAC has an interest in the continuation of the United States as a democracy in which

¹ All parties with the exception Plaintiff and Plaintiff-Intervenors Mi Familia Vota, Poder Latinex, Chicanos Por La Causa and Chicanos Por La Causa Action Fund have consented to the filing of this brief by *Amicus*. Pursuant to F.R.CIV.P. 7 and FED. R. APP. P. 29(a)(4)(E), undersigned counsel certifies that: counsel for the *Amicus* authored this brief in whole; no counsel for a party authored this brief in any respect; and no person or entity – other than *Amicus*, its members, and its counsel – contributed monetarily to this brief’s preparation or submission.

² <https://www.aviac.us/> (viewed Aug. 21, 2022).

1 the people of the United States—that is, U.S. citizens—are the sovereign’s representatives.
 2 AVIAC is concerned about incursions on the sovereignty of American citizens by non-
 3 citizens voting in local, state and federal elections. Accordingly, AVIAC seeks to ensure
 4 that only American citizens are permitted to vote in Arizona’s municipal, county, statewide
 5 and federal elections.
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7 SUMMARY OF ARGUMENT

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 9 Every state has the right to prevent non-citizens from voting in local, state, and
 10 national elections. In fact, the United States Constitution excludes non-citizens from the
 11 privilege, and with good reason. “Regulation of the electoral process receives unusual
 12 scrutiny because ‘the right to exercise the franchise in a free and unimpaired manner is
 13 preservative of other basic civil and political rights.’” *Mathews v. Diaz*, 426 U.S. 67, 78-
 14 79, 96 S. Ct. 1883, 1890-91 (1976), quoting *Reynolds v. Sims*, 377 U.S. 533, 562; 84 S.Ct.
 15 1362; 12 L.Ed.2d 506 (1964). See also, *Dunn v. Blumstein*, 405 U.S. 330, 336; 92 S. Ct.
 16 995; 31 L. Ed. 2d 274 (1972). In other words, the right to vote is accorded extraordinary
 17 treatment because it is, in equal protection terms, an extraordinary right: a citizen cannot
 18 hope to achieve any meaningful degree of individual political equality if granted an inferior
 19 right of participation in the political process.” *Plyler v Doe*, 457 U.S. 202, 233; 102 S. Ct.
 20 2382; 72 L. Ed. 2d 786, 810 (1982). The Court has further stated that “[t]he fact that all
 21 persons, aliens and citizens alike, are protected by the Due Process Clause does not lead to
 22 the further conclusion that all aliens are entitled to enjoy all the advantages of
 23 citizenship.... [A] host of constitutional and statutory provisions rest on the premise that
 24 a legitimate distinction between citizens and aliens may justify attributes and benefits for
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one class not accorded to the other, [e.g.,] [t]he Constitution protects the privileges and immunities only of citizens, Amdt. 14, § 1; see Art. IV, § 2, cl. 1, and the right to vote only of citizens. Amdts. 15, 19, 24, 26. *Mathews, supra* at 78-79, n. 12.

Not only does the Constitution protect citizens' right to vote, but nothing in that document could ever authorize the executive, legislative or judicial branch of the federal government to force the states to allow non-citizens to exercise the same privileges accorded citizens of the United States and of the several states. Moreover, the States have a compelling right (and interest) in preserving the integrity of their election processes by ensuring that it protects against fraud and assures citizens of its integrity so that they will exercise their right to vote with vigor and confidence.

ARGUMENT

I. ARIZONA'S PROOF OF CITIZENSHIP REQUIREMENT IS CONSTITUTIONAL AND DOES NOT VIOLATE THE NVRA

Arizona has had a citizenship requirement for voting since it became a State in 1912. Ariz. Const., Art. VII, § 2. While the Arizona Constitution itself does not prescribe the qualifications of voters, it does provide that, "[n]o person shall be entitled to vote at any general election,..., or upon any question which may be submitted to a vote of the people, *unless such person be a citizen of the United States...*" *Id.* See also *Ahrens v. Kerby*, 44 Ariz. 269, 340, 37 P.2d 375, 377 (1934) (*emphasis added*).

The Arizona Constitution further requires that "[t]here shall be enacted registration and other laws to secure the purity of elections and guard against abuses of the elective franchise." Ariz. Const, art. VII, § 12. This requirement places an affirmative duty upon

1 the Arizona Legislature to ensure the integrity of elections. *Ahrens* at 44 Ariz. 269, 341, 37
2 P.2d 375, 377 (“In fact, in section 12 of this article 7, it places upon the law-making branch
3 of the government the duty of enacting ‘registration and other laws to secure the purity of
4 elections and guard against abuses of the elective franchise.’”).

5
6 In fulfilling Arizona’s constitutional requirements, the Arizona legislature passed
7 an amendment that requires voter registrants to submit proof of citizenship - Arizona HB
8 2492. The Plaintiffs and Plaintiff-Interveners object to this law for several reasons, among
9 them, the United States, which incorrectly alleges that because the National Voter
10 Registration Act requires merely an attestation but does not require proof of citizenship,
11 the State of Arizona may not require the latter. See *U.S.A. v. State of Arizona*, 2:22-cv-
12 01124-SRB. (The Federal Form specifies that an applicant must be a *United States citizen*
13 to vote in federal elections, requires the applicant to attest to the applicant’s citizenship...
14 52 U.S.C. § 20508(b)(2)).

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17 This is nonsense. Under the existing Constitution of the United States, the federal
18 government, acting through the Executive, Legislative, or Judicial branch, cannot force a
19 state to allow people who are not citizens of the United States to cast votes in federal
20 elections. States are not required to accept applicants for voter registration who cannot
21 prove United States Citizenship. *Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1,
22 15; 133 S. Ct. 2247; 186 L.Ed.2d 239 (2013). And indeed, as to Time, Place, and Manner,
23 the requirement that an eligible voter prove United States citizenship is constitutional and
24 unassailable by the federal government. *Id.*

1 The Elections Clause empowers Congress to regulate how federal elections are held,
 2 but not who may vote in them. Nothing in the Constitution provides that “voting
 3 qualifications in federal elections are to be set by Congress.” *Id.* at 16, citing *Oregon v.*
 4 *Mitchell*, 400 U.S. 112, 210; 91 S.Ct. 260; 27 L.Ed.2d 272 (1970) (Harlan, J., concurring
 5 in part and dissenting in part); see also *U.S. Term Limits v. Thornton*, 514 U. S. 779, 833-
 6 834; 115 S. Ct. 1842; 131 L. Ed. 2d 881 (1995); *Tashjian v. Republican Party of Conn.*,
 7 479 U. S. 208, 231-232; 107 S. Ct. 544; 93 L.Ed. 2d 514 (1986) (Stevens, J., dissenting).
 8 If an applicant is unable to prove citizenship, the state can reject that applicant’s
 9 registration. *Id.*

12 The requirement of national citizenship to vote in national elections was never in
 13 doubt among the framers of the Constitution. The Supreme Court has consistently shored
 14 up the notion that non-citizens are not, and should not be, entitled to vote in federal
 15 elections.³ There is an unwritten, but just as fundamental, right and privilege of national
 16 citizenship to vote in national elections. *Ex parte Yarbrough*, 110 U.S. 651, 665; 4 S. Ct.
 17 152; 28 L. Ed. 274 (1884); *Wiley v. Sinkler*, 179 U.S. 58; 21 S. Ct. 17; 45 L.Ed. 84, 88
 18 (1900). In *Yarbrough*, in ruling that Congress had the power to enact the Fifteenth
 19 Amendment to prohibit the states from denying the right to vote to citizens on the basis of
 20 race, the Court noted it was merely affirmation of a guarantee “as necessary to the right of
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 25 ³ Congress has also reaffirmed this principle in various statutory provisions. *See e.g.*, 18 U.S.C. § 611 (it is a crime
 26 punishable by a fine and up to one year in prison for an alien to vote in a federal election); 8 U.S.C. § 1227 (any alien
 27 who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is
 28 deportable); 42 U.S.C. § 1973gg-10(2) (any false statement concerning an applicant’s citizenship status that is made
 on a registration form submitted to election authorities is a crime); 18 U.S.C. § 911 (knowing and willful false
 assertions of United States citizenship in order to vote are punishable by up to three years in prison) 18 U.S.C. §
 1015(f) (it is a criminal offense for an individual to make a false statement or claim that he or she is a citizen of the
 United States in order to register or to vote).

1 other citizens to vote...and to the right to vote in general as to the right to be protected
2 against discrimination.” *Id.* at 665. In both instances, the Court concluded, the exercise of
3 the right was protected by the Constitution. *Id.*

4 *Wiley, supra*, instructs that the states must ensure that the qualifications they impose
5 for voting in national elections mirrors the requisite qualifications implicitly, if not
6 explicitly, required by the National Constitution. *Wiley*, 179 U.S. at 64. Thus, the right to
7 vote in national elections is fundamentally based on the Constitution, and the Constitution
8 requires that the states guarantee those privileges and defend those rights that obtain
9 uniquely from national citizenship. *Id.*

12 More specifically, the Court described the privilege as a fundamental constitutional
13 right preservative of all others. *Yick Wo v. Hopkins*, 118 U.S. 356, 370, 6 S. Ct. 1064,
14 1071, 30 L.Ed. 220, 226 (1886). As the Court later confirmed, an infringement upon this
15 right occurs where a legal citizen’s vote is diluted or nullified. This nullification of an
16 individual choice occurs whenever *any illegitimate vote is cast*, whether it be by a non-
17 citizen, a non-registered, or a non-existent “voter”. *Reynolds v. Sims*, 377 U.S. 533, 565;
18 84 S. Ct. 1362, 1383; 12 L.Ed.2d 506 (1964) (“each citizen [has] an equally effective voice
19 in the election ... and the Constitution demands, no less.”).

22 Thus, a citizen’s right to a vote free of arbitrary impairment by state action has been
23 judicially recognized as a right secured by the Constitution, when such impairment resulted
24 from dilution by a false tally, cf. *United States v. Classic*, 313 U.S. 299, 314-15; 61 S. Ct.
25 1031; 85 L.Ed. 1368 (1941); or by a refusal to count votes from arbitrarily selected
26 precincts, cf. *United States v. Mosley*, 238 U.S. 383, 386-88; 35 S. Ct. 904; 59 L.Ed. 1355

1 (1915); or by a stuffing of the ballot box, cf. *Ex parte Siebold*, 100 U.S. 371, 388; 25 L.Ed.
2 717 (1879); *United States v. Saylor*, 322 U.S. 385, 389; 64 S. Ct. 1101; 88 L.Ed. 1341
3 (1944). See also, *Baker v. Carr*, 369 U.S. 186, 208; 82 S. Ct. 691; 7 L.Ed.2d 663 (1962)
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5 As the Court has stated when discussing the privileges of citizenship, a new citizen's
6 right to vote and to participate in the democratic decision-making process "is the honorable
7 prerogative which no alien has a constitutional right to enjoy." *Foley v. Connelie*, 435 U.S.
8 291, 311; 98 S. Ct. 1067; 55 L.Ed.2d 287 (1978). Therefore, "it is clear that a State may
9 deny aliens the right to vote;" and "the right to participate in the making of policy...." *Id.*
10 at 291, 296-97. These principles "lie at the heart of our political institutions." *Id.* at 291,
11 citing *Sugarman v. Dougall*, 413 U.S. 634, 647; 93 S. Ct. 2842; 37 L.Ed.2d 853 (1973).
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14 Thus, the affirmative protections that the state may afford by way of statutes
15 requiring proof of citizenship to vote must be considered in light of the implied protections
16 afforded by the Constitution to all citizens by virtue of their status as such. It is no more
17 an affront to the fundamental constitutional rights of citizens that their vote is cancelled or
18 nullified by the casting of a fraudulent vote, than by a vote that is cast by someone who
19 does not possess the privilege. *Baker, supra* (recognizing that an important "badge of
20 citizenship is the right to vote."). Obviously, if a non-citizen exercises this right, it removes
21 this privilege from citizens and dilutes their choice. Thus, States may define and regulate
22 the qualifications of its voters, and there is nothing in the Constitution that would prohibit
23 the State from affirming by positive law that which is implicitly acknowledged in the
24 Constitution.
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1 For an added measure of assurance, it is declared that “[t]he enumeration in the
2 Constitution, of certain rights, shall not be construed to deny or disparage others retained
3 by the people.” U.S. Const. Amend. 9. It was universally agreed by the Framers that there
4 are additional fundamental rights, protected from governmental infringement, which exist
5 alongside those specifically mentioned in the first eight amendments. I Annals of Congress
6 439 (Gales and Seaton ed. 1834). See also II Story, Commentaries on the Constitution of
7 the United States (5th ed. 1891), pp. 626-627. “The [Ninth] Amendment...was proffered
8 to quiet expressed fears that a bill of specifically enumerated rights could not be sufficiently
9 broad to cover all essential rights and that the specific mention of certain rights would be
10 interpreted as a denial that others were protected.” *Marbury v. Madison*, 5 U.S. (1 Cranch)
11 137, 174 (1803). See also *Myers v. United States*, 272 U.S. 52, 229; 47 S. Ct. 21, 63 (1926).

12 As “it cannot be presumed that any clause in the constitution is intended to be
13 without effect...effect should be given to all the words it uses.” *United Pub. Workers v.*
14 *Mitchell*, 330 U.S. 75, 94-96; 67 S. Ct. 556 (1947). And, indeed, a right to political
15 affiliation and political choice has been addressed as protected, at least in part, by this
16 amendment. This includes, of course, the fundamental right to vote. *Id.* See also
17 *Reynolds*, 377 U.S. at 560.

18 That the latter is the fundamental and primary right among all other fundamental
19 rights, enumerated or not, is evident in the fact it is self-executing. Infringement upon it
20 cannot occur under the Constitution if the government is, in fact, one that is duly and legally
21 chosen by the People. Any government that asserts a federal mandate to rule on the basis
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1 of fraud or illegality effectuates an instant infringement on the sovereign’s will, and, of
 2 necessity, has no legitimacy.

3 **II. STATES HAVE A COMPELLING INTEREST IN PROTECTING** 4 **VOTER INTEGRITY AND PREVENTING DILUTION OF CITIZEN** 5 **VOTES**

6 “A State indisputably has a compelling interest in preserving the integrity of its
 7 election process.” *Purcell v. Gonzalez*, 549 U.S. 1, 4; 127 S. Ct. 5; 166 L. Ed. 2d 1 (2006),
 8 citing *Eu v. San Francisco County Democratic Central Comm.*, 489 U.S. 214, 231; 109
 9 S.Ct. 1013; 103 L.Ed.2d 271 (1989). “Confidence in the integrity of our electoral processes
 10 is essential to the functioning of our participatory democracy. Voter fraud drives honest
 11 citizens out of the democratic process and breeds distrust of our government. Voters who
 12 fear their legitimate votes will be outweighed by fraudulent ones will feel disenfranchised.
 13 ‘[T]he right of suffrage can be denied by a debasement or dilution of the weight of a
 14 citizen’s vote just as effectively as by wholly prohibiting the free exercise of the franchise.’
 15 *Reynolds*, 377 U.S. at 555. Countering the State’s compelling interest in preventing voter
 16 fraud is the plaintiffs’ strong interest in exercising the ‘fundamental political right’ to vote.
 17 *Dunn v. Blumstein*, 405 U.S. 330, 336, 92 S.Ct. 995, 31 L.Ed.2d 274 (1972) (internal
 18 quotation marks omitted). *Id.*

19 In *Reynolds*, 377 U.S. at 554-55, the Court held that “the right of suffrage can be
 20 denied by a debasement or dilution of the weight of a citizen’s vote just as effectively as
 21 by wholly prohibiting the free exercise of the franchise.” *Purcell, supra*. Indeed, “the right
 22 to have one’s vote counted is as open to protection . . . as the right to put a ballot in a box.”
 23 *Mosley*, 238 U.S. at 386. *See also Baker*, 369 U.S. at 208 (explaining that voters have a

1 “plain, direct and adequate interest in maintaining the effectiveness of their votes.”)
 2 (*internal quotation marks omitted*); *Reynolds, supra* at 567 (explaining that vote dilution
 3 occurs when “[a]n individual’s right to vote . . . is unconstitutionally impaired [because]
 4 its weight is in a substantial fashion diluted [] compared with the votes of citizens in other
 5 parts of the State.”).

7 “One strong and entirely legitimate state interest is the prevention of fraud. Fraud
 8 can affect the outcome of a close election, and fraudulent votes dilute the right of citizens
 9 to cast ballots that carry appropriate weight. Fraud can also undermine public confidence
 10 in the fairness of elections and the perceived legitimacy of the announced outcome.”
 11 *Brnovich v. Democratic Nat’l Comm.*, 210 L. Ed. 2d 753, 141 S. Ct. 2321, 2340 (2021);
 12 *Gonzalez v. Arizona*, 677 F.3d 383, 403 (9th Cir. 2012), *aff’d sub nom. Arizona v. Inter*
 13 *Tribal Council of Arizona, Inc.*, 570 U.S. 1, 133 S. Ct. 2247, 186 L. Ed. 2d 239 (2013)
 14 (“ We recognize Arizona’s concern about fraudulent voter registration.”).

17 A democratic country permits only its citizens of that country with the right to vote.
 18 “Representative democracy in any populous unit of governance is unimaginable without
 19 the ability of *citizens* to band together in promoting among the electorate candidates who
 20 espouse their political views.” *California Democratic Party v. Jones*, 530 U.S. 567, 574,
 21 120 S. Ct. 2402, 2408, 147 L. Ed. 2d 502 (2000) (*emphasis added*). Allowing non-citizen
 22 participation in Arizona’s electoral process significantly undermines voters’ confidence in
 23 the integrity of our elections and discourages voters from participating because of
 24 legitimate fears of vote dilution. Both of these problems raise compelling state interests
 25 that the State of Arizona has the absolute and unrestrained right to protect.
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1 Indeed, the problem of non-citizen participation in the democratic electoral and
2 legal processes reserved for citizens is not an abstract one: A 2005 Report from the
3 Government Accountability Office found that up to three (3%) percent of the 30,000
4 individuals chosen for jury duty from voter registration rolls in just one U.S. district court
5 over a two-year period were not U.S. citizens. Government Accountability Office,
6 Elections: Additional Data Could Help State and Local Election Officials Maintain
7 Accurate Voter Registration Lists 42 (2005), available at
8 www.gao.gov/assets/250/246628.pdf. According to a separate study released in 2014 by
9 several professors at Old Dominion University and George Mason University,
10 approximately 6.4% of noncitizens voted in 2008 and 2.2% of noncitizens voted in 2010.
11 Jesse T. Richman, Gulshan A. Chattha, and David C. Earnest, Do noncitizens vote in U.S.
12 elections? Electoral Studies 36 (2014) 149-157. The Arizona Legislature therefore acted
13 well within its constitutional role and consistent with its affirmative to duty to ‘secure the
14 purity of elections and guard against abuses of the elective franchise’ in enacting HB 2243
15 and HB 2492 which will further strengthen the longstanding prohibition of non-citizen
16 participation in Arizona’s electoral process.

21 CONCLUSION

22 Article I, Section 4, of the U.S. Constitution is clear that election law is delegated
23 to the States. Both the U.S. Constitution and the Constitution of Arizona clearly state that
24 only U.S. citizens are permitted to vote in elections. Further, the State of Arizona’s
25 Legislature properly enacted HB 2243 and HB 2492 that requires proof of U.S. citizenship
26 in order to register to vote, regardless of whether a prospective voter used the federal form
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1 or Arizona's voter registration form. By requiring proof of citizenship, HB 2243 and HB
2 2492 do not violate Section 6 of the National Voter Registration Act of 1993, section 7
3 ("NVRA" or the "Act"), 52 U.S.C. § 20505. As the late Justice Scalia noted in *Inter Tribal*
4 *Council, supra* at 17, that while the Elections Clause of the Constitution, Art. I, § 4, cl. 1,
5 empowers Congress to regulate *how* federal elections are held, it does not regulate *who*
6 may vote in them - the latter is left to the sole province of the States. Justice Thomas, in
7 his dissent, agreed, noting that, "The Framers did not intend to leave voter qualifications
8 to Congress [...]. Congressional legislation of voter qualifications was not part of the
9 Framers' design." *Id.* at 26. Justice Alito, in his dissent, concluded that, "Indeed, even if
10 neither the presumption against pre-emption nor the canon of constitutional avoidance
11 applied, the better reading of the Act would be that Arizona is free to require those who
12 use the federal form to supplement their applications with proof of citizenship." *Id.* at 44.

16 The NVRA is nothing more than an optional form narrowly tailored so that it does
17 not violate the United States Constitution for each State's legislature to determine their
18 own election laws. See U.S. Const. Art. I, §4. ("each State by the Legislature thereof...")
19 Therefore, the States have full authority to enact election laws to protect voter integrity.
20 Nowhere does the NVRA expressly prohibit the States from requiring voter proof of
21 citizenship, and in fact it could not do. See *Inter Tribal Council, supra*.

25 For the forgoing reasons, and those stated in Defendants' Consolidated Motion to
26 Dismiss, the Motion to Dismiss should be granted.

1 Respectfully submitted, this 23rd day of September, 2022.

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3
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CERTIFICATE OF COMPLIANCE

1. This brief has been prepared using 14-point, proportionately spaced, serif typeface, in Microsoft Word.

2. This brief complies with FED. R. APP. P. 29(a)(5) and 32(a)(7)(B) because it contains a total of 4619 words, excluding material not counted under Rule 32(f).

Respectfully submitted, this 23rd day of September, 2022.

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of September, 2022, I electronically filed the foregoing motion—together with the accompanying Corporate Disclosure Statement, Proposed Order, and Memorandum of Law—with the Clerk using the CM/ECF system, which I understand to have served the parties’ counsel who are registered in as CM/ECF users.

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