
In the Supreme Court of the United States

STATE OF TEXAS,

Plaintiff,

v.

COMMONWEALTH OF PENNSYLVANIA, STATE OF GEORGIA, STATE OF MICHIGAN, AND
STATE OF WISCONSIN,

Defendants.

**MOTION FOR LEAVE TO FILE
AN AMICUS BRIEF FOR THE STATE OF ARIZONA AND MARK
BRNOVICH, ARIZONA ATTORNEY GENERAL**

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MOTION FOR LEAVE TO FILE

The State of Arizona and Mark Brnovich, Arizona Attorney General (collectively, the “State of Arizona”) respectfully move for leave to file a brief as amici curiae respecting the motions for leave to file a bill of complaint and for a preliminary injunction in this case. *See* Sup. Ct. R. 37.2(a). If granted leave, the State of Arizona’s brief will make two primary points.¹

The State of Arizona will first argue that election integrity is of paramount importance. “Every voter” in a federal election “has a right under the Constitution to have his [or her] vote fairly counted, without its being distorted by fraudulently cast votes.” *Anderson v. United States*, 417 U.S. 211, 227 (1974). Given this paramount importance, the State of Arizona, through its Attorney General, vigilantly fights to ensure election integrity, including for the 2020 election. The Attorney General participated in eight different suits to defend from attack Arizona election laws that were enacted by its Legislature. Indeed, in just a few months, the State of Arizona and its Attorney General will appear before this Court in the critical case of *Brnovich et al. v. Democratic National Committee et al.*, No. 19-1257, and urge the Court to adopt a construction of Section 2 of the Voting Rights Act that not only follows the text of that statute but also recognizes that to ensure “fair and honest” elections marked by “order, rather than chaos,” “there must be a substantial regulation of elections.” *Storer v. Brown*, 415 U.S. 724, 730 (1974) (emphasis added);

¹ Arizona has been named in another original action pending in this Court, which is captioned *Donofrio v. Pennsylvania et al.* That original action names many of the same States as this case. Given that pending case, the State of Arizona’s brief would be limited to the points discussed below.

see also Smiley v. Holm, 285 U.S. 355, 366 (1932) (“[E]xperience shows” those “necessary” regulations include not just voting “procedure[s]” but also “safeguards” for the “prevention of fraud and corrupt practices.”).

The State will also argue that if this Court exercises jurisdiction over Texas’s complaint, it is equally important that the Court act quickly to give the Nation certainty. As a preliminary matter, it is the State of Arizona’s consistent position that this Court’s jurisdiction over actions between states is exclusive and non-discretionary. *See Arizona v. California*, 140 S. Ct. 684, 684-85 (2020) (Thomas, J., dissenting). The State recognizes, however, that the Court’s current jurisprudence is that its jurisdiction over such matters is discretionary. If the Court either revisits its prior holdings or exercises discretion to accept jurisdiction here, then it is critical the Court resolve this challenge quickly to give the Nation certainty.

CONCLUSION

The State respectfully request that the Court grant leave to file an amicus brief respecting Texas’s motions.

December 9, 2020

Respectfully submitted.

/s/ Brunn W. Roysden III

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