MI FAMILIA VOTA; ARIZONA COALITION FOR CHANGE; ULISES VENTURA,
 	
               Plaintiffs-Appellees,
 	
     v.
 	
 KATIE HOBBS,
 	
               Defendant-Appellee,
 	
 REPUBLICAN NATIONAL COMMITTEE; NATIONAL REPUBLICAN SENATORIAL COMMITTEE,
 	
               Intervenor-Defendants-Appellants.
	No. 20-16932
	
	 On Appeal from
	 United States District Court for Arizona, Phoenix
	 Honorable Steven P. Logan
	 Case No. 20 Civ. 1903 (SPL)
	
	 PLAINTIFFS-APPELLEES' OPPOSITION TO ATTORNEY GENERAL'S PROPOSED JOINDER IN MOTION FOR AN ADMINISTRATIVE STAY

PRELIMINARY STATEMENT

Non-party, the Arizona Attorney General's motion to intervene in this

appeal on behalf of the State of Arizona should be ruled upon (and denied) before

this Court should consider (and reject) the Attorney General's attempt to join in the

Republican National Committee's and National Republican Senatorial

Committee's (Intervenor-Defendants-Appellants, hereafter "Republican

Committees") pending Emergency Motion for an Administrative Stay pending the

decision on a yet to be filed motion for a stay pending appeal. In any event, however, the Attorney General's procedurally premature attempt to join the Republican Committee's motion is meritless. Allowing the District Court's order to remain in effect causes no irreparable harm; rather it is a stay that would cause irreparable harm by disrupting the ongoing registration of voters.

I. **THE ATTORNEY GENERAL IS NOT A PARTY TO THIS APPEAL AND HIS PROPOSED JOINDER SHOULD NOT BE CONSIDERED**

The Attorney General moved last night to intervene in this case for the first time and, should the Court allow intervention, join in the Republican Committees' motion for an administrative stay. Dkt. 5-1, 5-2. Plaintiffs-Appellees will oppose intervention on the schedule proposed by the Attorney General (*i.e.* Friday at 4:00 p.m.). Prior to a decision on intervention, the Attorney General's proposed joinder in the motion for an administrative stay should not be considered.

II. **THERE IS NO BASIS FOR AN ADMINISTRATIVE STAY**

Even if the Attorney General's proposed joinder was considered, it fails— just like the Republican Committees' motion failed—to make the showing required for an administrative stay.

This Court recently declined to grant an administrative stay in an analogous case, where the government sought a stay of the district court's injunction extending the deadline for census field operations. *Nat'l Urban League v. Ross*, No. 20-16868, 2020 WL 5815054, at *1 (9th Cir. Sept. 30, 2020). The Court

refused to enter an administrative stay because "the status quo would be seriously

disrupted by an immediate stay of the district court's order." *Id.* at *2. The Court

found the district court's order extending the census deadline "preserve[d] the

status quo because they maintain the Bureau's data-collection apparatus pending

resolution of the appeal." *Id.* An administrative stay would mean "the Bureau's

ability to resume field operations would be left in serious doubt. Thousands of

census workers currently performing field work will be terminated, and restarting

these field operations and data collection efforts, which took years of planning and

hiring efforts to put in place, would be difficult if not impossible to accomplish in a

timely and effective manner. Granting the administrative stay thus risks rendering

the plaintiff's challenge to the Replan effectively moot." *Id.*

The same is true here. Judge Logan's order directed only an extension of the

deadline for voter registrations. It required the Secretary of State and the local

elections officials who serve under her to continue doing what they had already

been doing all year long: accept and process voter registrations, for a little longer,

until October 23, in order to allow for the registration of approximately 65,000

additional voters. To date, there has been no interruption in the processing of voter

registrations in Arizona. An administrative stay would disrupt the orderly

processing of new voter registration by local election officials and the ability to

restart those operations in enough time to process thousands of voters ahead of the

election "would be difficult if not impossible . . . . Granting the administrative stay thus risks rendering [the relief obtained by Plaintiffs] effectively moot." *Id.*

That is exactly why the Secretary of State, who is the named Defendant in this case and Arizona's chief elections officers, declined to appeal because, as she explained: "With the General Election less than a month away, Arizonans deserve a quick resolution to this matter. Providing clarity is more important than pursuing this litigation."[1]

An administrative stay would result in far more voter confusion than simply maintaining the status quo of local elections officials continuing to process voter registrations, as they have been doing all year long. As Judge Logan already found, an extension of the registration deadline does not cause confusion because: "Voters who are already registered will not need to bother with the new deadline, and those voters that were unable to register before October 5, 2020 now have extra time." Order at 8. Stopping and re-starting registration, on the other hand, would be highly confusing to both voters and local elections officials.

Nor is this a case where the *Purcell* doctrine applies. "[T]he factors that animated the Supreme Court's concern in *Purcell* are not present" here because "the injunction at issue here does not involve any change at all to the actual

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[1]   @SecretaryHobbs, Twitter (Oct. 6, 2020; 1:37 AM), https://mobile.twitter.com/secretaryhobbs/status/1313352717407006725.

election process." *Feldman v. Ariz. Sec'y of State's Office*, 843 F.3d 366, 368 (9th Cir. 2016). An extension of the voter registration period simply allows more people to register and vote using the processes already in place. "[I]n our case, in contrast to *Purcell*, an injunction will not confuse election officials or deter people from going to the polls for fear that they lack the requisite documentation. The election process is unaffected." *Id.* As Judge Logan reasoned: "This Court has previously held that the *Purcell* doctrine does not apply to the extension of election deadlines because the requested remedy is asking election officials to continue applying the same procedures they have in place now, but for a little longer. The Court finds the current case no different." Order at 4-5 (quotation omitted).

CONCLUSION

Non-party the Attorney General has not articulated any irreparable harm that will flow from the continued processing of voter registrations, much less any imminent harm that would accrue in the next few days and justify an immediate administrative stay.

On the contrary, an administrative stay would cause irreparable harm. As Judge Logan held: "a core tenet of democracy is to be ruled by a government that represents the population. Due to COVID-19, a portion of the population is prevented from registering to vote, and thus the integrity of the election is undermined in a different way; that portion is going unrepresented. Extending the

deadline would give more time for those voters to register and let their voices be

heard through the democratic process." Order at 9; *see also Elrod v. Burns*, 427

U.S. 347, 373 (1976) ("The loss of First Amendment freedoms, for even minimal

periods of time, unquestionably constitutes irreparable injury.").

The motion for an administrative stay should be denied.

DATED this 7th day of October, 2020.

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CERTIFICATE OF SERVICE

I hereby certify that on October 7, 2020, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF System.

I certify that all parties in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ Avanika Sharda