

No. 24-5071

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

REPUBLICAN NATIONAL COMMITTEE, *et al.*,

Plaintiffs-Appellants,

v.

CARI-ANN BURGESS, in her official capacity as the Washoe County Registrar
of Voters, *et al.*,

Defendants-Appellees,

VET VOICE FOUNDATION, *et al.*,

*Intervenor-Defendants-
Appellees.*

On Appeal from the United States District Court
for the District of Nevada
Case No. 3:24-cv-00198-MMD-CLB
Hon. Miranda M. Du

INTERVENOR-APPELLEES' SUPPLEMENTAL BRIEF

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February 27, 2026

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TABLE OF CONTENTS

1. What is the effect, if any, of <i>Bost</i> on the issues in this case?.....	1
2. Regardless of the answer to question (1), should the court continue to defer submission of this appeal pending a decision from the United States Supreme Court in <i>Watson</i> ?	2

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Bost v. Illinois State Board of Election</i> , 146 S. Ct. 513 (2026).....	1
<i>Wilderness Ass’n, Inc. v. U.S. Forest Serv.</i> , 376 F.3d 1181 (9th Cir. 2004) (mem.)	2
<i>Williams v. Boeing Co.</i> , 517 F.3d 1120 (9th Cir. 2008).....	1
Statutes	
U.S. Const. amend. XXII.....	1

Intervenor-Appellees Vet Voice Foundation and the Nevada Alliance for Retired Americans submit the following response to the Court’s order seeking supplemental briefing regarding the impact on this case of *Bost v. Illinois State Board of Elections*, 146 S. Ct. 513 (2026), and *Watson v. Republican National Committee*, No. 24-1260 (U.S.).

1. What is the effect, if any, of *Bost* on the issues in this case?

The Court should remand this case to the district court to consider the impact of *Bost* on Plaintiffs-Appellants’ standing in the first instance. In *Bost*, the Supreme Court held that “[c]andidates have a concrete and particularized interest in the rules that govern the counting of votes in their elections, regardless whether those rules harm their electoral prospect or increase the cost of their campaigns.” 146 S. Ct. at 522. No current candidate for office is a plaintiff in this case. While President Trump’s 2024 campaign committee was a plaintiff, Mr. Trump is no longer a candidate for office and cannot run again. *See* U.S. Const. amend. XXII. His campaign’s claims are therefore moot. *Williams v. Boeing Co.*, 517 F.3d 1120, 1128 (9th Cir. 2008) (“In addition to having standing at the outset, a plaintiff’s stake in the litigation must continue throughout the proceedings, including on appeal.”).

The remaining Plaintiffs-Appellants are the Republican National Committee, the Nevada Republican Party, and an individual voter, Donald Szymanski. *Bost* does

not address the standing of individual voters like Mr. Szymanski and, in any event, Plaintiffs-Appellees did not argue on appeal that Mr. Szymanski has standing.

That leaves the RNC and the Nevada Republican Party. *Bost* does not directly address the standing of political party committees, only of candidates. But *Bost* will certainly inform the appropriate standing analysis for the RNC and the Nevada Republican Party in this case, including to the extent that they claim *associational* standing on behalf of any candidates who may be their members. The district court had no opportunity to consider that issue, however, so the Court should remand for the district court to consider the impact of *Bost* in the first instance. *See, e.g., Mont. Wilderness Ass'n v. U.S. Forest Serv.*, 376 F.3d 1181 (9th Cir. 2004) (mem.) (remanding case to originating district court for consideration in light of intervening United States Supreme Court decision).

2. Regardless of the answer to question (1), should the court continue to defer submission of this appeal pending a decision from the United States Supreme Court in *Watson*?

Yes. The Court should continue to defer submission of this case pending *Watson v. Republican National Committee*, No. 24-1260 (U.S.). The Supreme Court's decision in *Watson* is, as a practical matter, likely to resolve the underlying legal dispute in this case. The Supreme Court granted certiorari in *Watson* to consider “whether the federal election-day statutes preempt a state law that allows ballots that

are cast by federal election day to be received by election officials after that day.” Pet. for Writ of Cert. at 1, *Watson*, No. 24-1260 (June 6, 2025). That is the same question that this case presents on the merits. *Watson* concerns Mississippi’s law allowing ballots mailed before election day and received after to be counted, whereas this case involves Nevada’s law on that subject. But the legal issues are close to identical, and unless the Supreme Court issues an extremely narrow decision, it is likely that the result in *Watson* will control here, as well, obviating the need for further litigation.

The Court should therefore continue to defer submission of this case pending a decision in *Watson*, and invite further briefing from the parties regarding what, if anything, remains to be litigated in this appeal after the Supreme Court issues a decision in *Watson*.

Date: February 27, 2026

Respectfully Submitted,

/s/ David R. Fox

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the attached document with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on February 27, 2026.

s/David R. Fox _____

David R. Fox