



U.S. Department of Justice

Office of the Solicitor General

Washington, D.C. 20530

February 16, 2021

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: Brnovich, et al. v. Democratic Nat'l Committee, et al., No. 19-1257 & Arizona Republican Party, et al. v. Democratic Nat'l Committee, et al., No. 19-1258

Dear Mr. Harris:

These cases concern whether two Arizona measures governing voting violate the “results” test under Section 2 of the Voting Rights Act of 1965, 52 U.S.C. 10301, and whether one of those measures is intentionally discriminatory in violation of Section 2 and the Fifteenth Amendment. Oral argument in the cases is scheduled for March 2, 2021.

The United States previously filed a brief as amicus curiae supporting petitioners in these cases, taking the position that neither Arizona measure violates the results test under Section 2 of the Voting Rights Act and that the court of appeals erred in overturning the district court’s finding of no intentional discrimination. Following the change in Administration, the Department of Justice has undertaken a reexamination of the issues in these cases and a reconsideration of the framework for reviewing vote-denial claims under the results test of Section 2 of the Voting Rights Act as articulated by the United States in its previously filed brief.

The Department has now concluded that, although it does not disagree with the conclusion in that brief that neither Arizona measure violates Section 2’s results test, the Department does not adhere to the framework for application of Section 2 in vote-denial cases set forth in the brief. In light of the approaching oral argument, however, the United States does not seek to make a further substantive submission in these cases. Instead, we have concluded that the most appropriate course under the circumstances is to notify the Court that the previously filed brief does not represent the current views of the United States.

I would appreciate it if you would circulate this letter to the Members of the Court.

Sincerely,

Edwin S. Kneedler
Deputy Solicitor General*

cc: See Attached Service List.

* The Acting Solicitor General is recused in these cases.