No. 21-1271

In The Supreme Court of the United States

TIMOTHY K. MOORE, in his official capacity as Speaker of the North Carolina House of Representatives, *et al.*,

Petitioners,

v.

REBECCA HARPER, *et al.*,

Respondents.

TIMOTHY K. MOORE, in his official capacity as Speaker of the North Carolina House of Representatives, *et al.*,

Petitioners,

v.

NORTH CAROLINA LEAGUE OF CONSERVATION VOTERS, INC., *et al.*,

Respondents.

On Writ Of Certiorari To The North Carolina Supreme Court

BRIEF OF ARIZONA INDEPENDENT REDISTRICTING COMMISSION AS *AMICUS CURIAE* IN SUPPORT OF NEITHER PARTY

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INTEREST OF *AMICUS CURIAE*[1]

In November 2000, Arizona voters, in an exercise of the State's legislative power of initiative, amended the Arizona Constitution to create the Arizona Independent Redistricting Commission. *See* Ariz. Const. art. IV, pt. 2, § 1. The Commission is entrusted to draw the State's legislative and congressional districts after each decennial census according to carefully prescribed redistricting criteria, chief among them compliance with the U.S. Constitution and the Voting Rights Act. *Id.* § 1(14)(A).

Just seven years ago, this Court ruled in favor of the Commission in a challenge brought by the Arizona Legislature, holding that the Elections Clause, U.S. Const. art. I, § 4, cl. 1, permits Arizona to vest its congressional redistricting authority in the Commission. *See Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787 (2015).

In reliance on that decision, millions of Arizona voters have voted in congressional districts drawn by the 2011 Commission, and millions more will vote in those recently adopted by the 2021 Commission. For the greater part of a year, the 2021 Commission studied the State's communities of interest, heard input from stakeholders, and carried out its redistricting

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[1] All parties have given either blanket consent or have specifically consented to the participation of *Amicus Curiae*. No counsel for a party authored this brief in whole or in part, and no person other than *Amicus Curiae* made a monetary contribution to the preparation or submission of this brief.

duties as prescribed in the Arizona Constitution. This arduous process included soliciting and considering thousands of public comments from Arizonans, holding dozens of public hearings, receiving guidance from experts, and adopting maps that adhere to the redistricting criteria set forth in the Arizona Constitution.

In view of the Commission's hard work to ensure fair redistricting, its interest in this case is to see that the will of Arizona's voters, expressed through their legislative power of initiative, be upheld and that the Court's holding in *Arizona State Legislature* be preserved.

SUMMARY OF ARGUMENT

The case before the Court concerns whether the North Carolina judiciary may adopt a congressional map other than the one created by the North Carolina Legislature. That question turns on whether North Carolina's "prescription[] for lawmaking," *Ariz. State Legislature*, 576 U.S. at 808, contemplates state judicial review of legislation concerning a State's congressional districts, and whether the Elections Clause allows for such review. Answering this question does *not* require the Court to revisit the meaning of "Legislature" as that term is used in the Elections Clause, nor the related question whether a State may, consistent with its "prescriptions for lawmaking," *id.*, legislate congressional redistricting through the initiative power.

In *Arizona State Legislature*, this Court upheld the will of Arizona voters who, "in accordance with the method which the state has prescribed for legislative enactments," *Smiley v. Holm*, 285 U.S. 355, 367 (1932), created the Commission through initiative and entrusted it decennially to redraw the State's congressional and legislative districts. 576 U.S. 787. The Court need not and should not—just seven years later—revisit or disturb that decision to resolve the narrow question in the case before it.

The Commission is still validly charged with congressional redistricting under the terms of the Elections Clause. To hold otherwise would disregard the plain meaning of "Legislature," disregard a century of this Court's precedent, and undermine the importance of federalism and direct democracy in the States.

Finally, Arizona's experience highlights how the State's redistricting power is exercised by the Commission and not the State's courts, which treat the Commission as a constitutional body whose maps warrant legislative deference.

ARGUMENT

I. The Commission is the Arizona Body Constitutionally Charged with Drawing the State's Congressional Districts.

To begin, this case does not require revisiting *Arizona State Legislature*. As even Petitioners

acknowledge, the questions decided in that case "are not relevant here." Pet. Br. at 40. The Court is not called to address whether an institution other than a State's representative body may act as a "Legislature" for purposes of the Elections Clause. Petitioners' footnote suggestion that the Court overrule *Arizona State Legislature* to the extent necessary to accommodate their position, Pet. Br. at 40 n.9, is undeveloped and fails to address any of the Court's *stare decisis* factors.

To the extent the Court finds it necessary to revisit the meaning of "Legislature" under the Elections Clause, it should affirm its prior interpretations and hold that that "Legislature" means a State's legislative power, as respectively defined by the States, not a specific representative body.

A.

The plain meaning of the Elections Clause, as reaffirmed by the purpose and intent of the Tenth Amendment, and as recognized in *Arizona State Legislature*, continues to support a reading that Legislature means the duly authorized exercise of state legislative power, however imagined by the citizens of that individual State. 576 U.S. at 813–14. In other words, "Legislature" is not necessarily constrained to an elected, representative body.

The Elections Clause states: "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time

by Law make or alter such Regulations." U.S. Const. art. I, § 4, cl. 1.

"[T]he meaning of the word 'Legislature,' used several times in the Federal Constitution, differs according to the connection in which it is employed, depending upon the character of the function which that body in each instance is called upon to exercise." *Atl. Cleaners & Dyers, Inc. v. United States*, 286 U.S. 427, 434 (1932); *see also Robinson v. Shell Oil Co.*, 519 U.S. 337, 337 (1997) (explaining that a "term may have a plain meaning in the context of a particular section," and this does not mean "that it has the same meaning in all other sections and in other contexts"). It is true that in some contexts, "Legislature" can mean a "representative body which made the laws of the people," *Smiley*, 285 U.S. at 365. But founding era dictionaries also define Legislature more broadly as "the power to make laws." *Ariz. State Legislature*, 576 U.S. at 813–14 (citations collected).

The use of the word "Legislature" in the Elections Clause is markedly different from the use of the same term in the original version of Article I, Section 3 (which was later amended by the Seventeenth Amendment). In the Elections Clause, the word "Legislature" is used in contrast with "Congress" and represents an intentional balancing of the power to make laws between the state and federal governments. *See Arizona v. Inter Tribal Council of Ariz. Inc.*, 570 U.S. 1, 8 (2013) ("The Elections Clause has two functions. Upon the States it imposes the duty . . . to prescribe the time, place, and manner of electing Representatives and

Senators; upon Congress it confers the power to alter those regulations or supplant them altogether.").

Article I, Section 3, in contrast, stated that the Senate "shall be composed of two Senators from each State, chosen by the Legislature thereof. . . ." U.S. Const. art. I, § 3. Importantly, Article I, Section 2 differed in that the House of Representatives would be "chosen every second Year ***by the People*** of the several states." U.S. Const. art. I, § 2 (emphasis added). Accordingly, the use of Legislature in the context of Section 3 referred to the Legislature as a body and specifically excluded the people. *Cf. Russello v. United States*, 464 U.S. 16, 23 (1983) ("[W]here Congress includes particular language in one section of a statute but omits it in another . . . it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion" (quoting *United States v. Wong Kim Bo*, 472 F.2d 720, 722 (5th Cir. 1972)).

The context of the Elections Clause contained no such exclusion of the people. Simply, "[t]he question . . . is not with respect to the 'body' as thus described but as to the function to be performed" by the States. *Smiley*, 285 U.S. at 365.

The Founders never intended to require people to structure state governments in a specific way. To the contrary, they shared a fundamental understanding that the legislative lawmaking power resides with the people. *Ariz. State Legislature*, 576 U.S. at 793–94. Accordingly, the plain, historical meaning of the Elections Clause supports a reading that Congress's use of the

word "Legislature" means a State's power to make laws.

B.

Congress and this Court have affirmed this constitutionally sound reading of the Elections Clause time and time again—most notably in *Arizona State Legislature*. This line of precedent should not be cast aside.

In 1911, Congress exercised its power under the Elections Clause by passing a federal statute, now codified at 2 U.S.C. § 2a(c), directing that redistricting be done "in the manner provided by the laws" of each State. Act of Aug. 8, 1911, ch. 5, § 4, 37 Stat. 14. This law was enacted with "the express purpose, insofar as Congress had power to do it, of excluding the possibility" of any argument that direct democracy falls outside the state legislative power, as uniquely defined by the several States. *Ohio ex rel. Davis v. Hildebrant*, 241 U.S. 565, 568–69 (1916); *see also Smiley*, 285 U.S. at 372 (noting that Congress's 1911 enactment reaffirms "the nature of the authority deemed to have been conferred by the constitutional provision").

In 1916, this Court affirmed that, within the context of the Elections Clause, the referendum power was "part of the state Constitution and laws, and was contained within the legislative power" of Ohio. *Hildebrant*, 241 U.S. at 568. A necessary premise of this conclusion is that the Elections Clause does not give the power of reapportionment to the Legislature as a

specific body, but to the body or bodies that exercise the State's legislative power.

Again in 1932, this Court rejected the idea that the Elections Clause vests a state legislature as a body with "particular authority" that would "render[] inapplicable the conditions which attach to the making of state laws." *Smiley*, 285 U.S. at 365. Although the Elections Clause does not give States the "power to enact laws in any manner other than which the Constitution of the state has provided that laws shall be enacted," the Elections Clause also does not place limits on what kind of legislative mechanisms States can adopt. *Id.* at 368. Rather, a State's lawmaking authority simply "must be in accordance with the method which the state has prescribed for legislative enactments," and may include lawmaking by direct democracy. *Id.* at 367. In other words, a State's decision to prescribe a legislative function related to elections is a "matter of state polity" that the Elections Clause "neither requires nor excludes." *Id.* at 368.

Finally, in *Arizona State Legislature*, this Court expressly considered whether a State could, consistent with the Elections Clause, vest congressional redistricting authority in an independent constitutional body by exercise of the State's lawmaking authority through initiative. This Court held "that the Elections Clause permits the people of Arizona to provide for redistricting by independent commission." *Id.* at 813. The Court reasoned that "[r]edistricting is a legislative function, to be performed in accordance with the State's prescriptions for lawmaking, which may

include the referendum and the Governor's veto" and "we see no constitutional barrier to a State's empowerment of its people by embracing that form of lawmaking." *Id.* at 808–09.

The Court should not disturb these longstanding and recently reaffirmed precedents. "*Stare decisis* is the preferred course because it promotes the even-handed, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived integrity of the judicial process." *Payne v. Tennessee*, 501 U.S. 808, 827 (1991). "It also reduces incentives for challenging settled precedents, saving parties and courts the expense of endless relitigation." *Kimble v. Marvel Ent., LLC*, 576 U.S. 446, 455 (2015).

Based on the textually and historically sound reasoning in *Arizona State Legislature*, this Court approved Arizona's vesting of legislative redistricting duties in the Commission. Arizona, among other States that have adopted independent redistricting commissions, relied on this decision in its decennial line-drawing. So too have courts relied on the core holdings of *Arizona State Legislature* and its predecessors. *See*, *e.g.*, *Brown v. Sec'y of State of Fla.*, 668 F.3d 1271, 1276–77 (11th Cir. 2012) (reasoning that "the term 'Legislature' . . . refers not just to a state's legislative body but more broadly to the entire lawmaking process of the state"); *Smith v. Clark*, 189 F. Supp. 2d 548, 558 (S.D. Miss. 2002), *aff'd sub nom. Branch v. Smith*, 538 U.S. 254 (2003) ("[C]ongressional redistricting must be done within the perimeters of the legislative processes,

whether the redistricting is done by the legislature itself or pursuant to the valid delegation of legislative power."); *Agre v. Wolf*, 284 F. Supp. 3d 591, 603–04 (E.D. Pa. 2018) (noting that there is no "role for the courts" to restrict "the way States enact legislation" (quoting *Ariz. State Legislature*, 576 U.S. at 814–15)).

Reversal of *Arizona State Legislature* would undermine the purposes of *stare decisis*, without serving any factor that might justify overruling this precedent. *See Ramos v. Louisiana*, 140 S. Ct. 1390, 1414–15 (2020) (Kavanaugh, J., concurring) (considering "three broad considerations" that may warrant overruling a prior constitutional decision: (1) that the prior decision is "grievously or egregiously wrong"; (2) that the prior decision has "caused significant negative jurisprudential or real-world consequences"; and (3) that overruling the prior decision would "unduly upset reliance interests"). This Court should decline Petitioners' invitation, made only in passing in a footnote, to revisit its well-reasoned analysis in *Arizona State Legislature*. Pet. Br. at 40 n.9.

C.

Reaffirming this Court's reading of the Elections Clause also harmonizes this specific constitutional provision with the broader federalism principles underpinning our Nation's Constitution.

A core tenet of our system of government is that a State can self-define its own system of government. *Id.*; *see also* Federalist No. 45 (Madison) (noting that the

powers reserved by the "State governments are numerous and indefinite . . . [and] extend to all the objects which, in the ordinary course of affairs, concern . . . the internal order, improvement, and prosperity of the state"); *Gregory v. Ashcroft*, 501 U.S. 452, 457–59 (1991) (reasoning that federalism "increases opportunity for citizen involvement in democratic processes [and] allows for more innovation and experimentation in government"). This fundamental constitutional principle was so important to the people that it was memorialized in the Tenth Amendment: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." U.S. Const. amend. X.

Within this dual structure of government, this Court has recognized that "reapportionment is primarily the duty and responsibility of the State through its legislature *or other body*, rather than of a federal court." *Growe v. Emison*, 507 U.S. 25, 34 (1993) (emphasis added) (quoting *Chapman v. Meier*, 420 U.S. 1, 27 (1975)); *id.* ("[W]e renew our adherence to the principles" of deferring to state authority over redistricting "which derive from the recognition that the Constitution leaves with the States the primary responsibility for apportionment of their federal congressional and state legislative districts."). Accordingly, our Constitution and its foundational underpinnings should empower States to govern their reapportionment mechanisms, as they are uniquely positioned "as laboratories for devising solutions to difficult legal problems." *Oregon v. Ice*, 555 U.S. 160, 171 (2009).

If this Court were to now read "Legislature" to mean exclusively the State's representative body, irrespective of the choices of the State's citizens through their own lawmaking power, it would necessarily undermine the delicate balance between state and federal power imagined by the Founders, memorialized in the Constitution, and flowed to those States' constitutions enacted after ratification.

Recognizing the danger that could come with such a reading, the Court "resist[ed] reading the Elections Clause to single out federal elections as the one area in which States may not use citizen initiatives as an alternative legislative process." *Ariz. State Legislature*, 576 U.S. at 818; *cf. Rucho v. Common Cause*, 139 S. Ct. 2484, 2507 (2019).

Indeed, direct democracy has a longstanding and important role in Arizona's constitutional foundation. It was a "dominant issue" in selecting Arizona's delegates to the State's constitutional convention. John Leshy, *The Making of the Arizona Constitution*, 20 Ariz. St. L.J. 1, 32 (1988). As a result, at its founding in 1912, the people of Arizona "reserve[d] the power to propose laws and amendments to the constitution . . . independently of the legislature." Ariz. Const. art. IV, pt. 1, § 1(1); *id.* (also reserving the referendum power); Ariz. Const. art. XXI, § 1; Ariz. Const. art. XXII, § 14. This allowed the people of Arizona to "bypass the legislature and the governor, and take lawmaking authority directly into their own hands." Leshy, *supra*, at 63.

The people of Arizona did exactly that in 2000, when they passed Proposition 106 as a constitutional initiative. Proposition 106 amended Article IV of the Arizona Constitution, titled "Legislative Department," to vest a discrete and limited legislative function in a new constitutional body: the Commission. Ariz. Const. art. IV, pt. 2, § 1.

Rightfully concerned with disparate partisan interests driving the Legislature's reapportionment decisions, the people of Arizona determined that vesting the redistricting function in the Commission served important state interests, such as "ending the practice of Gerrymandering and improving voter and candidate participation in elections." *Ariz. State Legislature*, 576 U.S. at 792.

This deliberate decision by Arizona voters should not now be negated.

II. Judicial Review in Arizona Respects the Legislative Process of Redistricting.

Arizona's experience also highlights how the legislative power of redistricting is not one the State's courts are likely to usurp. Arizona has a restrained system of judicial review. The Commission, as an independent constitutional body, and the State's courts coexist as equal branches of government under the Arizona Constitution.

Three features of Arizona redistricting case law render state judicial review of a congressional map

appropriate. First, the Commission is entitled to the first opportunity to remedy any alleged deficiencies in its maps. Second, state court precedent affords appropriate deference to the Commission as a legislative body. Third, the Arizona Constitution sets forth specific redistricting criteria that must be considered in a state court's review of the maps, ensuring that the maps will not be judged by any vague or unmanageable standard.

A.

Arizona statute does not prescribe a process for state court review of the Commission's maps.[2] But precedent makes clear that the Commission, as the body imbued with the power to draw maps in the first instance, has the right to remedy maps that a court finds deficient based upon any claim in state or federal court.

For example, when an Arizona trial court found that the 2001 Commission's legislative map failed to comply with constitutional standards, it asked the Commission to provide alternative maps, and resolved to rely upon a special master only if necessary. *See Ariz. Minority Coal. for Fair Redistricting v. Ariz. Indep. Redistricting Comm'n*, Nos. CV2002-004882,

[2] While Arizona law does not explicitly set forth the mechanism for judicial review of maps in the same way North Carolina law does, Proposition 106 did contemplate that judicial review would be appropriate. *See* Ariz. Cons. art. IV, pt. 2, § 1(20), (23). Importantly, the initiative included reference to judicial review generally, and did not limit that to review by a federal court.

CV2002-004380, 2004 WL 5330049 (Maricopa Cnty. Super. Ct., Jan. 16, 2004). While the trial court's decision to strike the Commission's map in the first place was rightly overturned on appeal, the court's hesitation to rely upon a special master is indicative of Arizona courts' deference to the primacy of decisions of the Commission. Indeed, before the trial court was overturned on the merits, it accepted the first alternative map provided by the Commission.

Arizona's precedent follows federal case law, where the relevant map-drawing body is allowed to supply new maps in keeping with the court's findings in the first instance. *See Reynolds v. Sims*, 377 U.S. 533, 586 (1964) ("[T]he District Court in this case . . . properly refrained from acting further until the Alabama Legislature had been given an opportunity to remedy the admitted discrepancies in the State's legislative apportionment scheme"); *Bone Shirt v. Hazeltine*, 461 F.3d 1011, 1022 (8th Cir. 2006) (noting the requirement that "defendants [are] afforded the first opportunity to submit a remedial plan" in the face of a Voting Rights Act violation). While courts may provide guidance for the adjusted maps to meet certain legal requirements, they do so with the understanding that redistricting "is primarily a matter for legislative consideration and determination, and that judicial relief becomes appropriate only when a legislature fails to reapportion according to [ ] constitutional requisites in a timely fashion after having had an adequate opportunity to do so." *Reynolds*, 377 U.S. at 586.

Arizona courts—much like their federal counterparts—have selected the proper remedy in challenges to the Commission's legislative maps. The Commission anticipates that a state court would do the same in review of congressional maps.

B.

Arizona courts routinely recognize that the Arizona Constitution and common law require substantial deference to the Commission as the body exercising the State's legislative power of redistricting. This approach upholds the separation of powers between the branches of Arizona's government and upholds the will of the voters in enacting Proposition 106.

Again, while courts may provide guidance for adjusted maps, they do so understanding that redistricting "judicial relief becomes appropriate only when a legislature fails to reapportion according to [] constitutional requisites in a timely fashion after having had an adequate opportunity to do so." *Reynolds*, 377 U.S. at 586. In other words, a court's role in redistricting litigation is similar to that in judicial review of other kinds of legislation, namely, to determine whether or not the maps are constitutional—not to opine as to whether the maps could have been better. *See Ariz. Minority Coal. for Fair Redistricting v. Ariz. Indep. Redistricting Comm'n*, 208 P.3d 676, 685 (Ariz. 2009). Indeed, the only time a state court has reviewed the Commission's congressional map, it upheld the map and acknowledged that a "redistricting plan receives

the same deference as this Court would afford other legislation." *Leach v. Ariz. Indep. Redistricting Comm'n*, No. CV2012-007344 (Maricopa Cnty. Super. Ct., March 13, 2017).

As Arizona courts have consistently recognized, acts of the Legislature are entitled to a presumption of constitutionality. *Ariz. Downs v. Ariz. Horsemen's Found.*, 637 P.2d 1053, 1057 (Ariz. 1981) ("All statutes are presumed to be constitutional and any doubts will be resolved in favor of constitutionality."). In light of this presumption, so long as there is "a reasonable, even though debatable, basis for the enactment of a statute," Arizona courts "will uphold the act unless it is clearly unconstitutional." *Ariz. Minority Coal. for Fair Redistricting*, 208 P.3d at 684 (quoting *State v. Murphy*, 570 P.2d 1070, 1074 (Ariz. 1977)).

Accordingly, because the Commission's maps are acts of legislation, the State's courts "afford substantial deference" to the final maps, which are due the same respect as are the "carefully considered decision[s] of a coequal and representative branch of our Government." *Id.* (quoting *Walters v. Nat'l Ass'n of Radiation Survivors*, 473 U.S. 305, 319–20 (1985)). Under this deferential standard of review, a court may not overturn the Commission's maps "[i]n the absence of any finding of a constitutional or statutory violation." *Id.* (quoting *Upham v. Seamon*, 456 U.S. 37, 401–41 (1982)). When determining whether the Commission committed any such violation, Arizona courts consider "(1) whether the Commission followed the constitutionally mandated procedure and (2) whether the

Commission adopted a final plan that satisfies substantive constitutional requirements." *Id.* at 685.

Although the Arizona Constitution sets forth redistricting criteria for the Commission's consideration, it leaves to the Commission's judgment how best to balance the criteria's sometimes competing goals. Courts "cannot use the constitutional requirement that the Commission follow a specified procedure . . . as a basis for intruding into the discretionary aspects of the legislative process." *Id.* Rather, any judicial review of the Commission's procedure is limited to determining "whether the Commission followed the constitutionally required procedure." *Id.* at 686.[3] In other words, Arizona courts do not evaluate the merits of the Commission's deliberations at each step of the process, but instead assess only whether the Commission undertook each step as procedurally required. *Id.* at 686–87. If the Commission engages in any amount of deliberative process on a constitutionally stated goal, it satisfies its obligation.

C.

The Arizona Constitution also provides judicially manageable standards for judicial review of the

[3] Courts may also review the Commission's maps under substantive claims, but overturning a map in that instance requires that "no reasonable redistricting commission could have adopted the redistricting plan at issue." *Ariz. Minority Coal.*, 208 P.3d at 689.

Commission's final maps. Namely, as part of the amendments made by Proposition 106, the Arizona Constitution lists substantive criteria for redistricting. *See* Ariz. Const. art. IV, pt. 2, § 1(14). As discussed, when a court reviews a draft map, it merely determines whether the Commission appropriately considered those specific criteria. It is not the purview of Arizona courts to insert their subjective policy preferences into the redistricting framework chosen by the people. Consequently, Arizona courts would have no occasion to employ vague or judicially unmanageable standards in redistricting cases. They instead look only to a list provided by the Arizona Constitution to determine whether the Commission considered the constitutionally required factors.[4]

It follows even from Petitioners' argument that Arizona's framework for judicial review must be treated differently than that of North Carolina, given Arizona's specific constitutional criteria for redistricting. In arguing that North Carolina courts may not review maps under the state's Free Elections Clause, Petitioners noted:

> *It is one thing for a State to effectively delegate to the state courts the authority to enforce specific and judicially manageable standards,*

[4] The Commission takes no position as to whether a partisan gerrymandering claim is justiciable in state court. It is unlikely that such claim need ever be raised in Arizona, as the state constitution contains a competitiveness factor that courts have considered.

> *such as contiguousness and compactness requirements*. It is quite another for the court to seize the authority to find, hidden within the folds of an open-ended guarantee of "free" or "fair" elections, rules governing the degree of "permissible partisanship" in redistricting. . . .

Pet. Br. at 46 (emphasis added).

With concrete standards of review (including criteria accounting for competitiveness, contiguousness, and compactness), Arizona courts are unlikely to exercise judicial overreach. On the contrary, because Arizona courts review only whether the Commission considered the goals identified by Arizona voters in the Arizona Constitution, Arizona courts respect both the will of the people and the autonomy of the Commission as an independent body.

CONCLUSION

Faced with the case currently before it, this Court need not disturb the constitutional and voter-approved status quo of redistricting in Arizona. To the extent it reaches the question, this Court should affirm its prior interpretations of "Legislature" as that respectively defined by the States in their separate acknowledged

powers and as one that coexists with each State's judicial power.

Respectfully submitted,

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September 6, 2022