

No. 24-430

In the Supreme Court of the United States

In re Gregory Stenstrom et al., Petitioners

Brief of Judicial Watch, Inc. as Amicus Curiae in Support of Petitioners

**On Petition for an Extraordinary Writ of Mandamus to the United States
Court of Appeals for the Third Circuit**

INTEREST OF AMICUS CURIAE

Judicial Watch, Inc. is a non-partisan, non-profit organization dedicated to promoting transparency, accountability, and integrity in government and fidelity to the rule of law. Through strategic litigation and education efforts, Judicial Watch advocates for a society governed by clear, consistent laws in which all citizens are treated equally. The organization has been actively involved in election integrity matters across the United States, with a long record of compelling government entities to maintain accurate voter rolls and enforce compliance with federal election statutes.

Judicial Watch's mission aligns with the Petitioners' urgent call for judicial intervention to prevent potential electoral misconduct and ensure adherence to constitutional principles. In recent years, Judicial Watch's successful litigation has led to the removal of hundreds of thousands of ineligible voters from rolls in multiple states, including Pennsylvania, through strict enforcement of the National Voter Registration Act (NVRA). These efforts underscore Judicial Watch's commitment to transparent, lawful elections, and the need to uphold public confidence in the electoral process by maintaining a trustworthy voting system.

Judicial Watch supports Petitioners in this case because the Department of Justice's (DOJ) policy of deferring investigations into election irregularities until after certification undermines the DOJ's constitutional duty under Article II, Section 3 (the Take Care Clause) to ensure that laws are faithfully executed. Additionally, allegations that Supreme Court Clerk Scott S. Harris has withheld Petitioners' Emergency Writ and Motion to Expedite raise serious questions about due process and the right to timely judicial review. Judicial Watch urges this Court

to address these matters with the urgency they demand to preserve election integrity and public trust.

SUMMARY OF ARGUMENT

The DOJ's deferral policy on election-related investigations violates the Take Care Clause by effectively suspending federal enforcement powers when they are most urgently needed. This Court has long recognized the need for timely judicial intervention in election matters where immediate and irreparable harm is likely. Given the imminent risk of irreparable harm to the 2024 election and the potential to undermine the public's faith in the judiciary, Judicial Watch respectfully requests that the Court grant the Writ of Mandamus, thereby compelling the DOJ to uphold its statutory and constitutional obligations.

Furthermore, allegations of administrative obstruction within the Supreme Court itself—specifically, the alleged withholding of a Writ and Motion to Expedite by Chief Clerk Scott S. Harris—require the Court's immediate attention. Judicial Watch urges the Court to take decisive action to protect procedural integrity and prevent any administrative interference that might obstruct fair access to justice.

ARGUMENT

I. The DOJ's Deferred Investigation Policy Violates the Take Care Clause of Article II, Section 3, by Abdicating its Duty to Enforce Federal Law

The Constitution vests the executive branch with the duty to “take care that the laws be faithfully executed,” a non-delegable obligation designed to ensure that the rule of law is upheld. The DOJ's policy of delaying investigations until after certification fails to meet this constitutional duty, leaving credible allegations of election-related misconduct unexamined when prompt enforcement is critical. The DOJ's inaction poses a risk to the credibility of the electoral process and violates the legislative intent behind federal election laws, such as those protecting against voter fraud, voter intimidation, and improper handling of ballots.

Judicial Watch's experience in Pennsylvania underscores the importance of proactive enforcement of election laws. Through legal action in Pennsylvania, Judicial Watch compelled the removal of over 178,000 ineligible registrations from voter rolls, fulfilling the NVRA's requirements for voter roll maintenance. If such actions were deferred until after elections were certified, the effects would be

greatly diminished, allowing potential electoral abuses to go unchecked. The DOJ's deferral policy contradicts this Court's stance on timely judicial intervention, as evidenced in landmark cases like *Bush v. Gore*, where this Court acted to secure the integrity of a national election.

Judicial Watch emphasizes that the constitutional duty to enforce election laws is essential not only for public trust in individual elections but also for preserving the foundational principles of democracy. This Court must intervene to clarify that the DOJ cannot abdicate its duty under the Take Care Clause, especially where its inaction could allow irreversible harm to the electoral process.

II. Immediate Judicial Intervention is Required to Prevent Irreparable Harm and Preserve Public Confidence in the 2024 Election

The urgency of Petitioners' Motion to Expedite is evident. Allowing the 2024 election to proceed under current conditions risks severe and irreparable harm, as once votes are cast and results certified, any subsequent investigation becomes largely symbolic. This Court has recognized the necessity of acting before the irretrievable casting and counting of votes, as illustrated in cases like *Reynolds v. Sims* and *Bush v. Gore*. Post-certification remedies do not adequately address the harm done by uninvestigated irregularities, nor do they restore public confidence.

Judicial Watch contends that only a pre-election intervention can address these harms effectively. Without immediate judicial oversight, the DOJ's deferred investigation policy leaves voters, candidates, and the public without recourse. Failure to intervene risks undermining faith not only in the 2024 election but in the integrity of future elections. Judicial Watch urges this Court to take a decisive stance that reaffirms the judiciary's commitment to upholding lawful and transparent elections.

III. Allegations of Procedural Obstruction by Administrative Staff Require Judicial Oversight to Uphold Due Process and Access to Justice

The allegations of administrative obstruction by Clerk Scott S. Harris in withholding the Petitioners' Writ and Motion to Expedite are troubling. If substantiated, these actions constitute a denial of Petitioners' constitutional right to petition the Court for redress and to receive a fair and timely hearing on urgent matters. This Court has a duty to ensure that its administrative functions support, rather than impede, judicial access and due process. Judicial Watch argues that the alleged interference with an urgent election-related matter, where rights and due process are at stake, undermines the judicial process and requires thorough investigation.

Under 18 U.S.C. § 1505, obstructing proceedings before federal agencies is a serious offense. Given the gravity of Petitioners' claims, Judicial Watch respectfully requests that this Court appoint a Special Master to oversee the administrative handling of the Petitioners' case. The appointment of a Special Master would provide transparency, safeguard against future administrative overreach, and restore public confidence in the impartial administration of justice within the highest Court.

IV. This Court Must Compel the DOJ to Rescind Its Deferral Policy and Order Immediate Investigation of Credible Election-Related Allegations

The DOJ's deferral policy, if left unaddressed, will compromise not only the 2024 election but also the credibility of future elections. Judicial Watch contends that the policy undermines the Take Care Clause by creating a loophole through which credible allegations of election irregularities can be ignored at the most critical time. The Court must require the DOJ to rescind this policy and initiate investigations into credible allegations in advance of the election, as the preservation of public trust demands swift and transparent action.

In addition, Judicial Watch requests that the Court appoint a Special Master to oversee DOJ compliance. Such a move would provide an essential safeguard, ensuring that investigations are conducted impartially and in a timely manner, reinforcing public confidence in the DOJ's commitment to upholding the rule of law. The Special Master's oversight would also provide assurance to the public that credible allegations of election fraud will be addressed proactively and without administrative or procedural delay.

V. Protecting the Integrity of the Supreme Court and Restoring Public Trust in the Judiciary

The Court's intervention in this case is not merely a matter of election integrity but also of preserving the Supreme Court's own reputation as the ultimate guardian of constitutional rights and democratic principles. Allegations that administrative staff may have acted to obstruct access to justice threaten the public's trust in the judiciary. Judicial Watch urges the Court to take immediate action to prevent any administrative irregularities that could erode public confidence in its role as a fair and impartial institution. Judicial Watch believes that the integrity of this Court is vital to the stability of our democratic system, and decisive action to address any improprieties will reinforce the Court's standing as a beacon of justice.

CONCLUSION

The American people's faith in free and fair elections is the cornerstone of our democracy. Judicial Watch respectfully requests that this Court grant the Petitioners' Writ of Mandamus, compelling the DOJ to fulfill its constitutional and statutory obligations without delay. Further, Judicial Watch urges the Court to address any procedural obstructions within its administrative operations to ensure fair access to justice for all litigants. The Court's response to these urgent matters will determine not only the integrity of the 2024 election but also the public's enduring trust in our democratic institutions.

Respectfully submitted,

Judicial Watch, Inc.

[Attorney's Name]

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[Attorney's Contact Information]

APPENDICES

Appendix A: Petition for Extraordinary Writ of Mandamus, filed October 4, 2024.

Appendix B: Motion to Expedite, filed October 14, 2024.

Appendix C: Disclosure Letter of Gregory Stenstrom to Clerk Harris, November 1, 2024.

Appendix D: Additional Correspondence and Evidence in Support of Petitioners' Claims.