

19-1258 ARIZONA REPUBLICAN PARTY V. DEMOCRATIC NATIONAL COMMITTEE

DECISION BELOW: 948 F.3d 989

LOWER COURT CASE NUMBER: 18-15845

QUESTION PRESENTED:



Section 2 of the Voting Rights Act prohibits voting practices that "result[] in a denial or abridgement of the right of any citizen ... to vote on account of race or color." 52 U.S.C. § 10301(a). Such a discriminatory "result" occurs if an election is not "equally open to participation" by racial minorities, giving them "less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice." *Id.* § 10301(b).

Arizona gives all citizens an equal opportunity to vote in person or by mail, and authorizes ballots to be turned in by a family member, household member, or caregiver. In the decision below, however, the Ninth Circuit held that Arizona violated § 2 by (1) requiring in-person voters to cast ballots in their assigned precincts; and (2) prohibiting "ballot-harvesting," *i.e.*, third-party collection and return of ballots. The court held that because racial minorities disproportionately vote out-of-precinct and use ballot-harvesting, the Act compels the State to allow those practices.

The questions presented are:

1. Whether § 2 of the Voting Rights Act compels states to authorize any voting practice that would be used disproportionately by racial minorities, even if existing voting procedures are race-neutral and offer all voters an equal opportunity to vote.

2. Whether the Ninth Circuit correctly held that Arizona's ballot-harvesting prohibition was tainted by discriminatory intent even though the legislators were admittedly driven by partisan interests and by supposedly "unfounded" concerns about voter fraud.

CONSOLIDATED WITH 19-1257 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 10/2/2020