CASE NO. 21-20577

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

JILLIAN OSTREWICH,
Plaintiff -Appellant/Cross-Appellee,
v.

ISABEL LONGORIA, IN HER OFFICIAL CAPACITY AS HARRIS COUNTY ELECTIONS ADMINISTRATOR; JOHN SCOTT, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE OF TEXAS; KEN PAXTON, IN HIS OFFICIAL CAPACITY AS THE ATTORNEY GENERAL OF TEXAS
Defendants-Appellees/Cross-Appellants,

KIM OGG, IN HER OFFICIAL CAPACITY AS HARRIS COUNTY DISTRICT ATTORNEY
Defendants-Appellee.

On Appeal from the United States District Court
for the Southern District of Texas, No. 4-19-CV-00715
(Hon. Judge George C. Hanks, Jr.)

MOTION FOR LEAVE TO FILE BRIEF OF THE CATO INSTITUTE AS *AMICUS CURIAE* IN SUPPORT OF PLAINTIFF-APPELLANT/CROSS-APPELLEE

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February 15, 2022

RULE 26.1 CORPORATE DISCLOSURE STATEMENT

The Cato Institute is a nonprofit entity operating under § 501(c)(3) of the Internal Revenue Code. *Amicus* is not a subsidiary or affiliate of any publicly owned corporation and does not issue shares of stock. No publicly held corporation has a direct financial interest in the outcome of this litigation due to *amicus*'s participation.

RULE 29 DISCLOSURE STATEMENT

No counsel for either party authored this brief in whole or in part. No person or entity other than *amicus* made a monetary contribution to its preparation or submission.

MOTION FOR LEAVE TO PARTICIPATE AS *AMICUS*

Pursuant to this Court's discretion, the Cato Institute respectfully moves for leave to file an *amicus* brief supporting plaintiff-appellant/cross-appellee Jillian Ostrewich, to assist the Court in its consideration of her claims. All parties were provided with notice of amicus's intent to file as required under Rule 29(2). Counsels for Plaintiff-Appellant/Cross-Appellee Jillian Ostrewich and Defendants-Appellees/Cross-Appellants Isabel Longoria, John Scott, and Ken Paxton have consented to the filing of this brief. Counsel for Defendant-Appellee Kim Ogg has not provided consent to this brief.

INTEREST OF *AMICUS CURIAE*

The Cato Institute is a nonpartisan public policy research foundation founded in 1977 and dedicated to advancing the principles of individual liberty, free markets, and limited government. Cato's Robert A. Levy Center for Constitutional Studies helps restore the principles of constitutional government that are the foundation of liberty. Toward those ends, Cato publishes books and studies, conducts conferences, and produces the annual *Cato Supreme Court Review*.

This case concerns *amicus* because the fundamental constitutional guarantee of free speech protects voters' rights to express themselves in the polling place through non-disruptive political speech. *Amicus* has extensive experience filing briefs in free speech cases in the Supreme Court and circuit courts across the country, including in *Minnesota Voters Alliance v. Mansky*, 138 S. Ct. 1876 (2018).

ISSUES TO BE ADDRESSED BY *AMICUS*

1. *Amicus* will discuss why Sections 61.003, 61.010, and 85.036 of the Texas Election Code should be subject to strict scrutiny. This will especially assist the Court in determining whether to reverse the district court's rejection of plaintiff-appellant's facial challenge to Section 61.010.
2. *Amicus* will discuss how permitting Section 61.010 to stand promotes arbitrary enforcement. This will assist the Court in determining whether Texas's statutes can satisfy any standard of review.

3. *Amicus* will discuss how Texas's "state interest" must be limited to preventing "*undue* influence" at the polling place and not simply "influence." This will assist the Court in determining whether Texas's statutes are narrowly tailored to a legitimate interest.
4. *Amicus* will discuss how Section 61.010 is worded so as to permit an extremely broad reading of the statute. Texas has essentially acquiesced to this broad reading, and the statute is being applied in that way. This will assist the Court in determining whether Texas's statutes are substantially overinclusive.

CONCLUSION

For the reasons stated above, the Cato Institute respectfully requests that the Court grant this motion to participate as *amicus* in the above-captioned case.

Respectfully submitted,

DATED: February 15, 2022

/s/ Thomas Berry

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CERTIFICATE OF COMPLIANCE

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2. This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface, Times New Roman, 14-point font.

/s/ *Thomas Berry*
February 15, 2022

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of Court, who will enter it into the CM/ECF system, which will send a notification of such filing to the appropriate counsel.

/s/ *Thomas Berry*
February 15, 2022

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February 15, 2022

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Case No. 21-20577

Jillian Ostrewich v. John Scott, et al.

The undersigned counsel of record certifies that the following listed persons and entities as described in Local Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Person or Entity	Connection to Case
Thomas Berry	Counsel to *Amicus*
Gregory Mill	Counsel to *Amicus*
Cato Institute	*Amicus curiae*

Amicus Cato Institute is a Kansas nonprofit corporation that has no parent companies, subsidiaries, or affiliates, and does not issue shares to the public.

/s/ Thomas Berry

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INTEREST OF *AMICUS CURIAE*[1]

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This case concerns *amicus* because the fundamental constitutional guarantee of free speech protects voters' rights to express themselves in the polling place through non-disruptive political speech.

[1] Fed. R. App. P. 29 Statement: No counsel for either party authored this brief in any part. No person or entity other than *amicus* made a monetary contribution to its preparation or submission. All parties have been notified of this brief. Counsels for Plaintiff-Appellant/Cross-Appellee Jillian Ostrewich and Defendants-Appellees/Cross-Appellants Isabel Longoria, John Scott, and Ken Paxton have consented to the filing of this brief. Counsel for Defendant-Appellee Kim Ogg has not provided consent to this brief.

QUESTION PRESENTED

Sections 61.003, 61.010, and 85.036 of the Texas Election Code place broad bans on political expression within 100 feet of the entrance of any building serving as a polling place. The question presented is whether those statutes violate the Free Speech Clause of the First Amendment.

SUMMARY OF THE ARGUMENT

Political speech, especially speech critical of the government, individual politicians, and political ideas, is essential to the continued viability of the democratic process. That is why the Supreme Court has recognized that First Amendment protections are at their zenith for core political speech. Yet Texas has specifically targeted such speech for suppression. In Texas, anyone within 100 feet of any building where voting is occurring is flatly banned from "electioneering" (a term that can be interpreted quite broadly) and from wearing anything similar to a "badge, insignia, [or] emblem" that could be viewed as related to a candidate, measure, or political party appearing on the ballot. Such a broad ban on political expression over such a large area warrants strict judicial scrutiny.

But in any event, the level of scrutiny imposed by this Court should not be determinative, because Texas's ban fails under any standard of review. Texas's ban has led to an enforcement regime so arbitrary as to fail under review for reasonableness. The vague wording of Texas's statutes forces election judges and clerks to keep a "mental index" of every issue on the ballot in order to faithfully apply the law. And Texas has largely refused to provide meaningful guidance to limit that burden. As the record shows, the result has been a haphazard and inconsistent application of the ban by election officials.

Moreover, Texas's sweeping ban is not narrowly tailored to advance the state's interest in protecting election integrity or insulating voters from "undue influence" while voting. Texas's law is grounded in the unreasonable assumption that voters must be shielded from any speech conceivably related to a candidate or issue being voted upon. The notion that political speech is an "improper influence" is foreign to the First Amendment, yet Texas's ban on political expression treats political speech as exactly that.

This Court should not let Texas so broadly and arbitrarily limit political speech. Texas cannot save the law merely by reiterating a general interest in stopping "undue influence" at the polling place. Texas is capable of protecting that interest with greater precision, and it should be required to do so here.

ARGUMENT

I. TEXAS'S BROAD BAN ON POLITICAL EXPRESSION WARRANTS STRICT SCRUTINY

In addressing Ostrewich's facial challenge to Sections 61.003, 61.010, and 85.036 of the Texas Election Code, the district court apparently reviewed the statutes only for reasonableness. *See Ostrewich v. Hudspeth*, No. 4:19-cv-00715, 2021 U.S. Dist. LEXIS 174044, at *10–*12 (S.D. Tex. Sept. 14, 2021), *adopted in full*, 4:19-cv-00715, 2021 U.S. Dist. LEXIS 188074, at *2–*3 (S.D. Tex. Sept. 30, 2021). That was error. The extensive physical scope of the ban and its specific targeting of political speech both compel strict scrutiny review.

Texas's ban on political expression applies "within 100 feet" of any door to any building in which a polling place is located. TEX. ELEC. CODE §§ 61.003(a), 61.010(a), 85.036(a). When the Supreme Court addressed a Tennessee ban on political expression during election periods with an identical physical scope, a majority of the Court observed that the ban applied to "quintessential public forums"—"places which by long tradition or by government fiat have been devoted to assembly and debate, such as parks, streets, and sidewalks"—and therefore applied strict scrutiny. *Burson v. Freeman*, 504 U.S. 191, 196 (1992) (plurality opinion) (cleaned up); *id.* at 217 (Stevens, J., dissenting). Because

Texas's ban likewise extends outward to cover parks, streets, and sidewalks, the ban should also be reviewed under strict scrutiny.

In applying a lower level of scrutiny, the district court relied on *Minnesota Voters Alliance v. Mansky*, 138 S. Ct. 1876 (2018). In *MVA*, the Supreme Court reviewed a Minnesota polling place regulation for reasonableness because it found that the law applied to only a *non*public forum. *Id.* at 1888. But in *MVA*, Minnesota's ban on expression applied "only *within* the polling place." *Id.* at 1883 (emphasis original). By contrast, Texas's law extends 100 feet outward from every door of every building where a polling place is located. *Burson*, not *MVA*, thus provides the appropriate standard of review.

Further, even if this Court were to find that the laws at issue regulate only nonpublic forums, strict scrutiny should still apply. A formulaic application of the forum analysis framework can sometimes fail to adequately protect important First Amendment interests. As the Supreme Court has acknowledged, looking only at the location covered by a speech ban may fail to consider the full extent of the speech interests at stake.

In *Members of City Council v. Taxpayers for Vincent*, 466 U.S. 789, 815 n.32 (1984), the Supreme Court warned of the "limited utility" of focusing only "on whether the tangible property [where speech is restricted] should be deemed a

public forum." Although the traditional forum analysis generally provides a workable analytical tool, "the analytical line between a regulation of the 'time, place, and manner' in which First Amendment rights may be exercised in a traditional public forum, and the question of whether a particular piece of personal or real property owned or controlled by the government is in fact a 'public forum' may blur at the edges." *Id.* (quoting *U.S. Postal Service v. Greenburgh Civic Ass'ns*, 453 U.S. 114, 132 (1981)). In other words, focusing on the *location* of a speech ban and not on the *operation* of that ban can fail to put the ban in its full context. Such context can help this Court determine what standard of review best serves First Amendment interests if the line between the two forum categories is unclear. Here, looking beyond just the location of Texas's speech ban, there are at least two reasons that militate in favor of this Court subjecting Texas's statutes to strict scrutiny.

First, Texas's election laws cover a startlingly wide breadth of expression. In *City of Ladue v. Gilleo*, 512 U.S. 43 (1994), the Supreme Court declared unconstitutional a city ordinance that prohibited property owners from displaying any signs except "residence identification," "for sale," and warnings of safety hazards. *Id.* at 45. In affirming the lower court, the Court noted that there is a "particular concern" with laws that invalidate an entire medium of expression. *Id.* at 55. The Court recognized that "the danger [prohibitions foreclosing entire

media] pose to the freedom of speech is readily apparent—by eliminating a common means of speaking, such measures can suppress too much speech." *Id.* As *City of Ladue* shows, sweeping restrictions on speech raise special First Amendment concerns.

As the district court recognized, Sections 61.003(a) and 85.036(a) prohibit any apparel that could be characterized as "political." *Ostrewich*, 2021 U.S. Dist. LEXIS 174044, at *49–*50. But Section 61.010, which the district court upheld, is just as broad. It prohibits anything "similar" to a "badge, insignia, [or] emblem . . . *relating to* a candidate, measure, or political party appearing on the ballot, or to the conduct of the election." TEX. ELEC. CODE § 61.010(a) (emphasis added). "Relating to" is a nebulous phrase, and Texas provides little guidance to election judges and clerks. Appellant's Br. at 12. This Court should not review such sweeping restrictions under a mere reasonableness standard.

Second, this Court should subject Texas's statutes to strict scrutiny because the law explicitly targets political speech. "Core political speech occupies the highest, most protected position" in the hierarchy of constitutionally protected speech. *R.A.V. v. City of St. Paul*, 505 U.S. 377, 422 (1992) (Stevens, J., concurring). The Court has defined political speech broadly to include all

"interactive communication concerning political change." *Meyer v. Grant*, 486 U.S. 414, 422 (1988).

The Supreme Court has frequently applied strict scrutiny to bans on political speech, regardless of the forum affected. For example, when confronted with a law that would have restricted all anonymous leafleting in opposition to a proposed tax, the Court noted the importance of specifically protecting such political speech:

> Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution. The First Amendment affords the broadest protection to such political expression in order to assure the unfettered interchange of ideas for the bringing about of political and social changes desired by the people.

McIntyre v. Ohio Elections Comm'n, 514 U.S. 334, 346–47 (1995) (quoting *Buckley v. Valeo*, 424 U.S. 1, 14–15 (1976)) (cleaned up).

More recently, the Supreme Court reaffirmed that laws burdening political speech are subject to strict scrutiny. In *Citizens United v. FEC*, 558 U.S. 310 (2010), the Court invalidated a federal statute that barred certain independent expenditures for electioneering communications. Highlighting the primacy of political speech, the Court noted that "political speech must prevail against laws that would suppress it, whether by design or inadvertence. Laws that burden political speech are 'subject to strict scrutiny,' which requires the Government to prove that the restriction 'furthers a compelling interest and is narrowly tailored to

achieve that interest.'" *Id.* at 340 (quoting *FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449, 464 (2007)).

The fact that Texas has specifically banned political speech decisively tips the scales toward applying strict scrutiny, even if forum analysis alone left that question in any doubt. Texas's polling-place restrictions are hostile to the protection that this Court traditionally affords core political speech.

By eliminating large amounts of political expression not only *within* the polling place, but on the streets and sidewalks surrounding the polling place as well, the statute cuts off the "unfettered interchange of ideas" in an important place for individual political expression. *McIntyre*, 514 U.S. at 346–47. Just as the Supreme Court did in *Burson*, this Court should apply strict scrutiny here.

II. TEXAS'S BAN ON POLITICAL EXPRESSION CANNOT SURVIVE UNDER ANY STANDARD OF REVIEW

In *Burson v. Freeman*, the Supreme Court upheld a restriction on political campaign speech in the sidewalks and streets surrounding a polling place. 504 U.S. at 211. Although the Court found that the particular statute at issue was narrowly drawn to serve a compelling state interest, it also cautioned that its holding was narrow, representing the rare case where a facially content-based law survived strict scrutiny. *Id.* at 211.

Proving that *Burson*'s holding was indeed narrow and factbound, the Court later struck down much of Minnesota's speech restrictions within the "interior of a polling place." *MVA*, 138 S. Ct. at 1885, 1892. It did so despite applying only a reasonableness standard to Minnesota's law. *Id.* at 1888.

Texas's restrictions do not fall into the narrow exception of permissible content-based laws. Like Minnesota's law in *MVA*, Texas's bans promote arbitrary enforcement and are far from narrowly tailored. Just like Minnesota's law, Texas's restrictions fail even reasonableness review. The laws are thus all the more incapable of surviving strict scrutiny review.

A. Texas's Ban Encourages Arbitrary Enforcement and Fails Reasonableness Review

"[S]tandards of permissible statutory vagueness are strict in the area of free expression." *NAACP v. Button*, 371 U.S. 415, 432 (1963). A "rule whose fair enforcement requires an election judge to maintain a mental index of the platforms and positions of every candidate and party on the ballot is not reasonable"—and cannot even survive a review for reasonableness—let alone strict scrutiny. *MVA*, 138 S. Ct. at 1889. Such laws not only lend themselves to being substantially overinclusive (as discussed below) but also promote arbitrary enforcement. Texas's ban does just that.

As already noted, Sections 61.003, 61.010, and 85.036 are vaguely worded. Coupled with Texas's disinclination to provide meaningful guidance, the vague statutory language requires election clerks and judges to guess at what is prohibited. Unsurprisingly, this has resulted in vastly different applications by different election officials. *See* Appellant's Br. at 16–17. Some election judges say "that nothing political" can "be in the polling place." *Id.* at 18. Others "tend to not care" when it "comes to the gray area." *Id.* at 19.

This problem is aggravated by the fact that the statute can apply to anything tangentially tied to an issue or candidate on the ballot. All election judges and clerks would have to "maintain a mental index" of everything related to the ballot to apply the law consistently. Of course, election officials do not maintain such a mental index. In fact, they often do not "even know what's on the ballot" because they are understandably busy; or they simply might not be "a big news person." Appellant's Br. at 14. The vagueness in Texas's ban inherently lends itself to arbitrary enforcement, and the real-world data bears that out. For that reason, Texas's bans cannot survive reasonableness review or any higher level of scrutiny.

B. Texas's Ban Is Not Narrowly Tailored and Fails Strict Scrutiny Review

Even if this Court were to find that Texas had put forward a sufficiently valid government interest, the statutes still are not narrowly tailored to meet that

interest while minimally affecting the speech interest. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 45 (1983). To be narrowly tailored, Texas's ban "must be the 'least restrictive means among available, effective alternatives.'" *United States v. Alvarez*, 567 U.S. 709, 729 (2012) (quoting *Ashcroft v. ACLU*, 542 U.S. 656, 666 (2004)). Put another way, Texas's law must be "necessary to serve the asserted interest," *Burson*, 504 U.S. at 199, and be neither "overinclusive" nor "underinclusive." *Simon & Schuster, Inc. v. Members of N.Y. State Crime Victims Bd.*, 502 U.S. 105, 108, 121, 122 n.2 (1991); *Nat'l Inst. of Family & Life Advocates v. Becerra*, 138 S. Ct. 2361, 2375 (2018). Laws that do not "articulate some sensible basis for distinguishing what may come in from what must stay out" will inevitably be both underinclusive and overinclusive, and thus will fall far short of the required narrow tailoring. *See MVA*, 138 S. Ct. at 1888 (holding that unclear restrictions on political expression cannot satisfy even a minimal test of reasonableness).

Texas's election laws are too broad, and they provide little guidance to officials or the public. Sections 61.003 and 85.036 ban "electioneering." The term "electioneering" is broadly defined so as to "*include*[] the posting, use, or distribution of *political* signs or literature." § 85.036(f)(2) (emphasis added). And as the district court noted, just like the Minnesota statute's use of the word "political" in *MVA*, the term "political" here is "unmoored from any objective,

workable standard that an election judge could use to reasonably apply the statute." *Ostrewich*, 2021 U.S. Dist. LEXIS 174044, at *50; *see also MVA*, 138 S. Ct. at 1888. These laws thus sweep in far more speech than necessary to serve any state interest.

But *contra* the district court, Section 61.010 suffers from the same defects. It prohibits any "badge, insignia, emblem" or similar device "relating to a candidate, measure, or political party appearing on the ballot, or to the conduct of the election." § 61.010(a). Texas alleges that Section 61.010 is limited because the communicative device must relate to something or someone appearing on the ballot. But "relating to" is not a self-defining phrase. And the Secretary of State Elections Division seems content to let it stay undefined. Appellant's Br. at 11.

The broad application of Section 61.010 as enforced by local election judges and clerks is powerful evidence that the statutory language provides minimal limitations. Many election clerks and judges understand that the logo of an "organization that endorses a candidate, political party or a measure" could be characterized as "relating to" a candidate or issue that voters are called upon to decide, and thus might be prohibited. *Id.* at 15. Slogans and parodies of candidates and measures similarly could be characterized as "relating to" a ballot choice. *Id.* Presumably, a "'Support Our Troops' shirt [could] be banned, if one of the

candidates or parties had expressed a view on military funding or aid for veterans." *See MVA*, 138 S. Ct. at 1890.

Analytically, there is no way to say that any of these interpretations is objectively wrong. Any host of things might plausibly be described as having a relationship, even if distant, to a "candidate, measure, or political party appearing on the ballot." Without greater clarity from the state, no one can definitively say that expression related to such issues is permitted by the statute. And Texas has purposefully declined to provide that needed guidance.

These prohibitions are thus substantially broader than what was approved of in *MVA* or *Burson*. In *MVA*, the Supreme Court gave examples of policies that are at least relatively more limited: "items displaying the *name* of a political party, items displaying the *name* of a candidate, and items *demonstrating support* of or opposition to a ballot question." *Id.* at 1889 (emphasis added) (internal quotation marks omitted). Such policies at least require the "item" being displayed to itself either name a candidate, party, or issue, or actively promote the same. *See id.* Section 61.010, by contrast, does not require an item to promote, advocate for, or even *name* a candidate, political party, or issue.

Similarly, the Tennessee law approved of in *Burson* restricted only "the *solicitation* of votes and the display or distribution of *campaign materials*."

Burson, 504 U.S. at 193–94 (emphasis added). The law at issue in *Burson* was thus limited to active engagement with voters and campaign materials that explicitly urged them to vote a certain way. The law at issue here, once again, has no such limitation.

And because Texas's restrictions can and have swept so broadly, they are not narrowly tailored to advance the state's interest. The Supreme Court has explained that a state has a compelling interest in "protecting voters from confusion and undue influence." *Burson*, 504 U.S. at 198–99; *Schirmer v. Edwards*, 2 F.3d 117, 121 (5th Cir. 1993). That interest might justify excluding some forms of *active* campaigning and *express* advocacy from the polling place in order to set it aside as "an island of calm in which voters can peacefully contemplate their choices." *MVA*, 138 S. Ct. at 1887.[2] But Texas's restrictions—which give election clerks and judges the authority to prohibit any *passive* apparel that merely *reminds* them of a candidate, political party, or issue on the ballot—are far more than what is needed to serve these ends.

[2] The record, however, is remarkably bereft of any empirical evidence that Texas voters would be unduly influenced by even explicit campaign materials near a polling place. In its briefing below, Texas relied not on any empirical data but on theoretical testimony and speculation from a psychologist. Defendants' Motion for Summary Judgment at 26–27. States must put forward more concrete evidence than this to establish the *specific* state interest that a law allegedly furthers.

Texas's ban targets political expression far beyond what can reasonably be characterized as "undue influence." The clothes and buttons that have been turned away under the law solely for "relating to" the ballot have not caused any chaos. They have not intimidated or coerced. They did not "concern aggressive, disruptive action or even group demonstrations." *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 508 (1969). Unlike the law at issue in *Burson*, which was primarily aimed at those actively campaigning and engaging with other voters, Texas's restrictions have been aimed squarely at passive speech.

By upholding Section 61.010, the district court endorsed the idea that anything that might cause an election clerk or judge to *associate* apparel with an issue being voted upon may "unduly" influence voters at a polling place. Concluding that Ostrewich's t-shirt could plausibly fall into the category of "undue influence" strips "undue" of any meaning.

Further, by sweeping so broadly, Texas's ban actually undermines the democratic process. It deprives "the public of the right and privilege to determine for itself what speech and speakers are worthy of consideration." *Citizens United*, 558 U.S. at 341. It ignores the importance of individual autonomy, self-expression, and tolerance inherent in the First Amendment. *See Procunier v. Martinez*, 416 U.S. 396, 427 (1974) (Marshall, J., concurring). And it causes more disruption in

the polling place than it prevents. Appellant's Br. at 54–55. Texas's speech ban is not narrowly tailored to serve any legitimate state interest.

CONCLUSION

For the reasons set forth above, and those in the brief of Plaintiff-Appellant-Cross-Appellee, *amicus* asks the Court to strike down in full Texas's unconstitutional ban on political speech within the polling place.

Respectfully submitted,

DATED: February 15, 2022

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February 15, 2022