No. _____

In the
Supreme Court of the United States

ADAM HOLLEY,
Petitioner,

v.

BRIAN BINGMAN, in his Official Capacity,
JOSH COCKROFT, in his Official Capacity,
OKLAHOMA SECRETARY OF STATE,
PAUL ZIRIAX, in his Official Capacity,
OKLAHOMA STATE ELECTION BOARD,
Respondents.

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Tenth Circuit

PETITION FOR A WRIT OF CERTIORARI

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Petitioner, *Pro Se*

QUESTIONS PRESENTED

1. Whether, under the Elections Clause, U.S. Constitution Article I § 4 Clause 1, and this Court's decision in *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995), a State may enact or administer election laws that make success in a State-run party primary a mandatory prerequisite to appearing on the November general-election ballot for United States Senate or the House of Representatives, thereby converting the primary into an additional "qualifying race" and, through pervasive entwinement with non-government organizations ("NGOs") commonly known as political parties, directly or indirectly stripping candidates and voters of their constitutional right to participate fully in and make choices at the only constitutional federal election in November.

2. Whether state officials who administer and certify a primary-based election scheme, whose conduct is challenged as constitutionally invalid on its face, may invoke Eleventh Amendment sovereign immunity and the Rule 12(b)(6) "plausibility" standard of *Bell Atlantic Corp. v. Twombly* and *Ashcroft v. Iqbal* to obtain dismissal at the pleading stage of a federal-question action under 42 U.S.C. § 1983 and *Ex parte Young* seeking prospective declaratory and injunctive relief from ongoing violations of the Elections Clause and the First, Ninth, and Fourteenth Amendments; or whether, in light of the Eleventh Amendment's limited role as a shield against suits by citizens of other States and

foreign subjects, States must divest from automatically applying that Amendment to bar suits by their own citizens and courts must give constitutional validity precedence over plausibility-based dismissal.

3. Whether, consistent with *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803)—which holds that any statute or governmental act repugnant to the Constitution is void from its inception—courts adjudicating constitutional challenges to a State's election scheme must interpret operative constitutional terms such as "manner," "election," "people," "form," and "method" according to their original public meaning as reflected in contemporaneous sources like Samuel Johnson's 1773 *Dictionary of the English Language* and in light of Samuel Adams's warning that "the tools of a tyrant pervert the plain meaning of words," and, if the scheme or the precedents sustaining it are found repugnant to the Constitution, whether all subsequent judicial decisions and state actions that depend on that invalid foundation must themselves be treated as void, overruled, and reverted as if it never happened.

PARTIES TO THE PROCEEDING

Petitioner is Adam Holley, a United States citizen and 2022 candidate for United States Senator from Oklahoma. He was plaintiff in the United States District Court for the Western District of

Oklahoma and appellant in the United States Court of Appeals for the Tenth Circuit.

Respondents are the Oklahoma Secretary of State Office, Brian Bingman, Josh Cockroft, Oklahoma State Elections Board, and Paul Ziriax sued in their official capacities for administering and certifying Oklahoma's primary-election system and general-election ballot for federal offices represented by Tracy E. Neel, Assistant Attorney General.

CORPORATE DISCLOSURE STATEMENT (Rule 29.6)

Not applicable. Petitioner is a natural person, and no party is a corporation.

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RELATED PROCEEDINGS

Holley v. Brian Bingman, et al., No. 5:24-cv-00656-R, United States District Court for the Western District of Oklahoma. Order dismissing Third Amended Complaint entered October 9, 2024; judgment entered October 9, 2024.

Holley v. Brian Bingman, et al., No. 24-6237, United States Court of Appeals for the Tenth Circuit. Judgment entered September 23, 2025.

OPINIONS BELOW

The unpublished judgment of the United States Court of Appeals for the Tenth Circuit is reproduced at Appendix B. (Holley v. Bingman, et al., No. 24-6237 (10th Cir. 2025)

The order of the United States District Court for the Western District of Oklahoma dismissing Petitioner's Third Amended Complaint is reproduced at Appendix A. (Holley v. Bingman et al., 5:2024cv00656 (U.S. District Court for the Western District of Oklahoma)

JURISDICTION

The court of appeals entered judgment on September 23, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1). The petition is timely under Supreme Court Rule 13.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Relevant provisions include Article I § 4 Clause 1 of the United States Constitution; the First, Ninth, Eleventh, and Fourteenth Amendments; and 42

U.S.C. § 1983. Pertinent text is reproduced in the appendix.

STATEMENT OF THE CASE

1. Oklahoma's primary-election system makes state-run party primaries the mandatory gateway to the general-election ballot for federal offices. Certification of a party nominee results in automatic placement on the general-election ballot, while candidates who are not party nominees are effectively denied access to that ballot.

2. Petitioner Adam Holley, a United States citizen, sought to run for United States Senate from Oklahoma in the November 8, 2022, general election. He alleges that Oklahoma's statutory scheme and its administration deprived him of the privilege of being considered by the full electorate, and deprived voters of their right to consider all constitutionally eligible candidates on the only ballot that elects Representatives and Senators, in violation of Article I § 4 Clause 1 and the First Amendment, Ninth Amendment, and Fourteenth Amendments.

3. Proceeding pro se, Petitioner filed a 42 U.S.C. § 1983 civil-rights action in the United States District Court for the Western District of Oklahoma, challenging Oklahoma's primary-election system and its delegation of effective control over general-election ballot access to private political parties. He alleged that state officials, acting under color of state law, enforced statutes derived from Oklahoma Session Laws 1909, S.B. 5, and Oklahoma Statue Title 26 § 1-102, Statue Title 26 § 1-103, in a manner that abridged constitutional rights and added qualifications beyond those fixed by the Constitution.

4. The district court dismissed Petitioner's Third Amended Complaint, holding that the Eleventh Amendment barred his claims against state officials in their official capacities and that, in any event, the complaint failed to state a cognizable claim for relief. The court did not reach the merits of Petitioner's Elections Clause and constitutional challenges to the primary-election scheme nor considered constitutional invalidity over plausibility.

5. Petitioner appealed to the Tenth Circuit, arguing that Oklahoma's scheme violates Article I § 4 Clause 1 by delegating to non-governmental political parties the core governmental function of determining who may appear on the federal general-election ballot, and that Ex parte Young permits prospective declaratory and injunctive relief against state officials enforcing an unconstitutional election system.

6. The court of appeals affirmed. Treating party primaries as permissible regulation of the "Times, Places, and Manner" of elections and state officials as immune from suit, the court left unresolved whether the Elections Clause permits States to make party nomination a mandatory gateway to the general-election ballot and to entwine private party rules as a state action with state election machinery over the rights secured in the constitution to every candidate and voter.

REASONS FOR GRANTING THE WRIT

I. Elections Clause Limits States to Time, Place, and Manner—Not Delegation of Ballot Access to NGOs.

The Elections Clause assigns to "the Legislature" of each State the authority to prescribe, subject to congressional oversight, the "Times, Places and Manner of holding Elections for Senators and Representatives." U.S. Constitution Article I § 4 Clause 1. This Court has repeatedly explained that the Clause permits States to regulate procedural mechanics—such as when, where, and how (*such as mail-in, ballot box, early voting, etc...*) federal elections are conducted—while preserving the structural allocation of federal power and the fixed constitutional qualifications for office. Furthermore, only the Federal Congress according to Article I has the ability and authority to make such laws per U.S. Constitution Article I § 4 Clause 1. "but the Congress may at any time by Law make or alter such Regulations".

In U.S. Term Limits, Inc. v. Thornton, 514 U.S. 779 (1995), the Court held that States may not add qualifications for federal office beyond those enumerated in the Constitution. Oklahoma's scheme has precisely that effect: by making successful party nomination in a state-run primary a prerequisite to appearing on the general-election ballot for United States Senate or the House of Representatives, the State has converted compliance with party-controlled processes into an additional qualification for office

whereas it violates every candidates right to appear upon the day of election they associate with and all voters right to select from any and all eligible to serve in the office.

Moreover, nothing in the Elections Clause authorizes a State or its legislature to delegate this core governmental function to private partisan organizations. When a State makes party certification the determinative legal gateway to ballot access for federal offices, it unconstitutionally transfers sovereign regulatory authority to private entities (NGOs) that lack any constitutional accountability to the electorate or obligation to vindicate voters' and candidates' federal rights, in tension with the principle that the power to regulate federal elections must remain subject to constitutional constraints and federal supremacy.

According to the ruling in NAACP v. Alabama ex rel. Flowers, 377 U.S. 307 (1964);

> "'It is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the ***'liberty'*** assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech."

the constitutional right and freedom to engage in association a particular party of the individual citizens choosing outweighs an institution and its presumed power and influences. Furthermore, NAACP v. Alabama ex rel. Flowers, 377 U.S. 309-310 (1964);

> "This case, in truth, involves not the privilege of a corporation to do business in a State, but rather the freedom of individuals to associate for the collective advocacy of ideas.
>
> "Freedoms such as . . . [this] are protected not only against heavy-handed frontal attack, but also from being stifled by more subtle governmental interference."

it has been ruled that individuals must be able to associate with groups that share their views and beliefs, this concept should not be limited to the voter but also those seeking to serve their government. Non-Government Organizations such as political parties act as governmental interference by state action through pervasive entwinement and acting as a judicial agency revoke constitutional rights without due process of law or citizens Seventh Amendment right of a jury trial amongst their peers whereas the financial burden upon the candidate is greater than the $20.00 listed in the Seventh Amendment.

II. Pervasive Entwinement of Party Primaries Constitutes State Action.

This Court has long recognized that when States integrate party primaries into the official election machinery, constitutional limits apply. In Smith v. Allwright, 321 U.S. 649 (1944), and Terry v. Adams, 345 U.S. 461 (1953), the Court held that ostensibly private party processes can constitute state action where they form an integral part of the electoral system. Likewise, in Morse v. Republican Party of Virginia, 517 U.S. 186 (1996), the Court

treated party conventions that effectively determined ballot access as state action for purposes of federal law.

Oklahoma's scheme resembles and extends those precedents. By statute and practice, the State conducts and certifies party primaries, uses those results to determine who will appear on the general-election ballot, and structures its election code around the two major parties. Party rules and decisions thus operate with the force of state law, and voters' and candidates' constitutional rights are directly affected by those rules. Under this Court's entwinement doctrine, such pervasive intertwining of public power with nominally private actors yields state action.

The decision below effectively treats these determinative party processes as purely private, insulated from constitutional scrutiny. That approach cannot be reconciled with Smith, Terry, Morse, and Brentwood Academy, 531 U.S. 288 (2001), and invites further erosion of federal constitutional protections in the administration of elections.

III. States Misuse Eleventh Amendment to Restrict Their Own Citizens

Petitioner seeks prospective declaratory and injunctive relief against state officials alleged to be enforcing an unconstitutional election scheme. Under Ex parte Young, 209 U.S. 123 (1908), such suits fall squarely within the well-established exception to

Eleventh Amendment immunity for ongoing violations of federal law.

By dismissing Petitioner's case at the pleading stage on Eleventh Amendment grounds, the district court and, by affirmation, the court of appeals expended sovereign immunity in a manner that conflicts with *Ex parte Young* and this Court's subsequent decisions. That expansion is especially faulty here, where the text of the Eleventh Amendment by its terms restricts only suits "commenced or prosecuted against one of the United States by Citizens of **another** State, or by Citizens or Subjects of any Foreign State," and does not bar a federal-question action brought by a citizen of the same State against state officers for ongoing violations of federal law and or the Constitution itself.

If state officials may invoke Eleventh Amendment immunity to avoid even prospective review of election laws alleged to violate the Elections Clause or any fundamental constitutional rights, the structural role of the federal judiciary in safeguarding the constitutional order is substantially diminished. Unless this Court clarifies that the Eleventh Amendment does not confer blanket immunity against suits by a State's own citizens challenging unconstitutional state action, an erroneous and overbroad reading of that Amendment will continue to shield States and their officers from accountability and impede justice for the very citizens the Constitution was designed to protect.

IV. Issues of National Security Warranting Review Under Rule 10(c).

Across the Nation, many States condition general-election ballot access for federal offices on success in party-controlled nomination processes and confer automatic ballot placement on the nominees of established parties. As those primary and caucus contests become the decisive stage of electoral competition, States effectively outsource core sovereign regulatory authority to private organizations, while state officials seek to shield that arrangement behind sovereign immunity.

This case is a clean vehicle to clarify the interaction of the Elections Clause, the state-action entwinement doctrine, and Ex parte Young in the context of modern primary-election schemes. Without guidance from this Court, States will continue to evade constitutional limits by embedding private partisan gatekeeping at the heart of federal election administration.

Functionally, primary and caucus systems eliminate every citizen's right to vote in November for, and every constitutionally eligible citizen's right to be considered in November as an option for any taxpayer-funded federal office on the only date recognized by Article I § 4 Clause 1. By narrowing the field to candidates pre-selected by a small number of powerful NGOs, these schemes subvert the very freedoms the Constitution secures for "We the People" and create a structural vulnerability: control over who may wield federal power can be

captured by private interests—foreign or domestic—that never have to persuade the general electorate. That recurring constitutional distortion is, by its nature, a national-security concern warranting this Court's review. The initial damage committed to our Constitutional Republic happened in 1913 when two constitutional amendments were added, the Sixteenth Amendment ratified in February 1913;

> *"The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."*

which subverted the Supreme Court ruling Pollock v. Farmers Loan & Trust Co. (1895) declaring taxation without apportionment as unconstitutional and the Seventeenth Amendment;

> *"The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures."*

which took the peoples power to recall federal officials through their local representatives away while increasing ability to influence and control federal offices more likely and virtually created a mechanism that would ensure once in authority the impeachment of federal officials nearly impossible making it possible for lifetime congressional leaders

removing the States power to recall and send another quickly by the State Legislatures actions from its citizens call for action.

Rule 10(c) provides that certiorari is appropriate where a federal court of appeals "has decided an important question of federal law that has not been, but should be, settled by this Court." This case squarely presents such a question: whether, consistent with the Elections Clause and the First Amendment and Fourteenth Amendment, a State may make party-controlled primaries the exclusive gateway to the November general-election ballot for federal offices and thereby delegate to partisan, nongovernmental organizations the practical power to bar otherwise constitutionally eligible candidates from appearing before the full electorate on the only ballot that elects Representatives and Senators.

In affirming dismissal of petitioner's complaint, the Tenth Circuit held that Oklahoma's scheme is, as a matter of law, merely a "ballot-access" regulation rather than an additional qualification for office and thus constitutionally permissible. In reaching that conclusion, the court relied on this Court's ballot-access precedents such as *American Party of Texas v. White*, 415 U.S. 767 (1974), *Bullock v. Carter*, 405 U.S. 134 (1972), and *Jenness v. Fortson*, 403 U.S. 431 (1971), and invoked *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995), to place Oklahoma's system on the "procedural" side of the line. But none of those

decisions addressed the precise arrangement alleged here: an election structure in which state-run party primaries, entwined with state machinery, have become the exclusive gatekeepers to the November ballot and give party actors effective veto power over which candidates the November electorate may consider.

By treating that structure as categorically indistinguishable from the ballot-access rules previously upheld, the decision below effectively resolves the Elections Clause question in the State's favor without confronting whether such an exclusive party-primary gateway can, in substance, operate as an unconstitutional additional qualification for federal office or an impermissible delegation of federal electoral power to nongovernmental entities. That approach is at least in serious tension with *Thornton*, which holds that States may not do indirectly, through ballot mechanisms, what they are forbidden to do directly by adding qualifications for Congress. If it is permissible for a State to condition access to the only constitutionally operative ballot on prevailing in a partisan primary process controlled by private organizations, then the qualifications/ballot-access distinction that *Thornton* carefully drew is effectively nullified in practice.

The stakes are national. Most States now rely on party primaries as the de facto selection mechanism for federal offices. If lower courts may dismiss structural Elections Clause challenges at the pleading stage simply by labeling such schemes

"ballot-access" regulations, no federal forum will remain in which citizens can test whether state laws have, in practice, transferred the real election for federal office from the November ballot to party-controlled selection processes. Only this Court can clarify the limits of state power under the Elections Clause to channel and delegate ballot-access authority for federal offices. Review is therefore warranted under Rule 10(c).

V. Restoring the Elections Clause to Its Original Meaning

This case presents a fundamental question of constitutional meaning: what did the Framers—and the ratifying public—understand the "Times, Places and Manner of holding Elections for Senators and Representatives" to be, and can a State use later-created party primaries and entwinement with non-government organizations (NGOs) to strip candidates and voters of their rights at the only constitutionally operative federal election in November?

At the Founding, terms like manner, election, form, method, and people had shared, ordinary meanings that can be recovered from contemporaneous sources such as Samuel Johnson's Dictionary of the English Language (4th folio ed. 1773). Johnson defined "election" as the act of choosing— the act of selecting one or more from a greater number for some use or office, a choice; the ceremony of a publick choice. He defined "people" as 1) a nation, those who compose a community 3) the commonalty; not the princes or nobles. Also defined

"Manner" as 1) form; method, 7) way; mode: of things. And Johnson uses terms like "order" as 2) an established process and "method" taken in the largest sense, implies the placing of several things, or performing several operations in such an order as is most convenient to attain some end.

Taken together, these definitions show that, in eighteenth-century usage, the Elections Clause's reference to the "Manner of holding Elections" speaks to the form and method by which the people—the whole political community—carry out the singular act of choosing their federal officers and to do so in a way that is most convenient to attain some end of the choice. What these words do not intend is that an end would encroach upon any other part of the Constitution or reduce the Constitutions authority in any measure.

That original understanding is reinforced not only by Congress's later implementation of a uniform federal Election Day for members of Congress on "the Tuesday next after the 1st Monday in November" in even-numbered years but also with Foster v. Love, 522 U.S. 67 (1997);

> "(c) This Court's judgment is buttressed by the fact that Louisiana's open primary has tended to foster both evils identified by Congress as reasons for passing the federal statute: the distortion of the voting process when the results of an early federal election in one State can influence later voting in other States, and the burden on citizens forced to turn out on

> two different election days to make final selections of federal officers in Presidential election years. Pp.73-74."

Federal law presupposes a single, regular election in which the people of each State choose their Representatives and Senators. Primary elections—created long after the Founding and not mentioned in the Constitution—do not themselves constitute that election. They are, at most, preliminary devices which add additional qualifications to certain sets or classes of people. A State may regulate the "form" or "method" of that election, but it may not, consistent with the original meaning of the Elections Clause, use earlier, party-controlled contests to predetermine who the people will be allowed to choose between on the only constitutionally operative date when federal power actually changes hands.

Oklahoma's primary-based scheme, as challenged in Petitioner's appellate filings, does exactly that. By conditioning access to the November general-election ballot on success in a State-run party primary, and by enforcing the rules and outcomes of Republican and Democrat Party processes as binding law, the State allows non-government organizations to pre-exclude otherwise eligible candidates and to narrow voters' options before the constitutional election occurs. Candidates who meet all constitutional qualifications for United States Senate or the House of Representatives are barred from presenting themselves to the people on Election Day unless they first prevail in a separate

"qualifying race" controlled by NGOs. Voters, in turn, are denied the opportunity to choose from the full slate of constitutionally eligible candidates when Congress has fixed the time for that choice. This is not a mere allocation of administrative "manner"; it is a substantive redistribution of who may be chosen and what choices the voters may exercise.

That structure violates due process in at least two independent ways. First, it deprives candidates of any meaningful opportunity to be considered by the electorate at the very moment the Constitution and Federal law designate for the transfer or renewal of federal power, substituting party gatekeeping for the people's judgment. Second, it deprives every voter of the right to cast a ballot in November among all constitutionally eligible candidates, forcing them instead to ratify a truncated list determined months earlier by non-governmental organizations ("NGOs") operating under partisan rules. The mere appearance of public participation in primary contests does not cure this defect: channeling voters into NGO-run selection processes does not convert private gatekeeping into a neutral, constitutional mechanism, but instead allows those NGOs—armed with superior influence and resources—to pre-set the menu of choices ultimately presented to "We the People." No neutral adjudicatory process, no individualized finding of ineligibility, and no constitutionally recognized qualification explains this deprivation; it is the product solely of a State–NGO entwinement that

conditions access to the only constitutionally operative ballot on private nomination procedures. The Fourteenth Amendment confirms the constitutional defect. It provides that:

> "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

U.S. Constitution Fourteenth Amendment § 1. By "making" and "enforcing" primary-election laws that empower NGOs to pre-screen and exclude candidates from the November ballot, the State abridges (1) every voter's privilege to choose who may represent them on the only federal election date authorized by the Constitution, and (2) every qualified candidate's liberty interest in appearing before the electorate on that date. Those abridgments arise not from any constitutional qualification in Article I, nor from any individualized due-process determination, but from NGO and state interests layered on top of the hard-set constitutional requirements this Court reaffirmed in U.S. Term Limits, Inc. v. Thornton, 514 U.S. 779 (1995). The Fourteenth Amendment forbids precisely this kind of State-engineered diversion of constitutional privileges into privately controlled channels.

Non-government organizations—whether styled as the Republican Party, the Democratic

Party, or any other association—have no constitutional charter to exercise public power superior to the rights of society at large or of any individual citizen. Their "representation" of factions or interests does not carry the force of law unless and until the State, by entwinement, gives it that force. When a State conducts, funds, and certifies NGO primaries, then treats their outcomes as dispositive of who may appear on the November ballot, those NGOs effectively wield state power to define the "form" and "manner" of the people's choice and to delete candidates and options that the Constitution itself does not exclude. Under Brentwood's entwinement doctrine, such decisions are state action; but state action cannot, by relabeling, override the Constitution's allocation of rights and powers to the people themselves.

Political parties, like other voluntary associations, may assert First Amendment interests in expression and association. But the Constitution was ordained by "We the People" to secure the rights and privileges of individual citizens, not to elevate parties, corporations, or other entities above them. Whatever associational rights parties enjoy are derivative of, and subordinate to, the rights of persons. They cannot be invoked to block, revoke, or diminish any citizen's independent constitutional rights and privileges, nor to justify state-created mechanisms that give party organizations veto power over who may appear before the electorate on the constitutionally prescribed Election Day. Petitioner

respectfully submits that *Citizens United v. FEC*, 558 U.S. 310 (2010), dangerously distorts individual sovereignty and political voice. By extending full First Amendment protection to corporate independent political expenditures, that decision has enabled entities with concentrated economic power to deploy resources on a scale that no ordinary citizen can match, effectively allowing corporate speakers to overwhelm thousands of opposing individual voices in the electoral arena.

The Constitution was ordained by "We the People" to secure the rights of individual citizens of a constitutional republic, not to endow artificial entities with superior political leverage over those citizens. Yet, under *Citizens United*, the owner of a corporation effectively enjoys two channels of political influence: one as an individual, equal in theory to every other citizen, and a second—shielded by the corporate veil—with virtually unlimited financial weight. That dual capacity allows corporate-backed speech to negate or drown out the contributions of countless dissenting citizens, undermining the foundational principle that each person's voice should matter in the collective act of self-government.

Finally, as Samuel Adams warned, "the tools of a tyrant pervert the plain meaning of words." When courts treat "manner" as an open-ended license for States to create multi-stage, NGO-controlled qualification races that erase candidates and restrict voters' choices before the true election,

they abandon the plain, original meaning reflected in Johnson's dictionary and the constitutional structure the Elections Clause was written to preserve. This Court's review is necessary to restore that original intent: to reaffirm that the November general election is the singular constitutional act of choice by the people, and that States may not, directly or through entwinement with NGOs, enact or administer laws that deny candidates and voters due process by preventing all constitutionally eligible options from reaching that ballot.

VI. Invalidating Election Laws Repugnant to the Constitution

Petitioner does not raise the structural consequences of Oklahoma's unconstitutional primary-based scheme lightly.

If, as argued, the Oklahoma Session Laws 1909, S.B. 5 as well as similar in other states during the same era of time creating a framework and its progeny that are repugnant to the Elections Clause and therefore void from their inception, then every federal election for United States Senator and House of Representative conducted under that mechanism since its first implementation in 1910 has been conducted under an unconstitutional act and all resulting actions of those selected and elected from those events are void.

Under *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803), acts and mechanisms that conflict with the Constitution are void ab initio; they confer no lawful authority. Petitioner therefore respectfully demands

that this Court acknowledge the necessary implication those elected under an unconstitutional selection mechanism have never lawfully nor constitutionally been elected or held their respective offices, that statutes, regulations, and even purported constitutional amendments that depend upon the authority of such improperly constituted bodies are constitutionally void requiring overturning.

Any constitutional amendment, law, or act is invalid if it is based on elections the Constitution does not allow, or on elections won by violating other citizens' constitutional rights.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully prays that this Court grant the writ of certiorari and provide such further relief as may be just and proper, including:

- A declaration that any mechanism or scheme which prevents constitutionally eligible candidates from appearing before all eligible voters on the singular day of election in November as prescribed by the Constitution is repugnant to the Constitution and therefore void.
- A declaration that any current Member of the United States House of Representatives or the United States Senate chosen under an unconstitutional election scheme was not lawfully elected, and that each such seat must be filled

through an emergency, constitutionally compliant special election.

- Injunction that political parties, as non-governmental organizations, have rights to assemble, organize, and participate in the political process, but may not exercise or be delegated authority to revoke, restrict, or prevent any otherwise qualified candidate from appearing on the constitutionally operative November ballot under the party designation of that eligible candidate's choice.
- A declaration that political parties possess First Amendment rights of expression, association, and speech only insofar as those rights are not used to block, revoke, or diminish any citizen's constitutional rights and privileges.
- A declaratory judgment that the rights and privileges at issue in federal elections belong only to natural persons who are United States citizens, and that corporations and other artificial entities have no independent right to make political contributions above individual limits or to exert electoral influence beyond that of a single voter—thereby declaring Citizens United v. FEC, 558 U.S. 310 (2010), unconstitutional and overruling it.

CONCLUSION

Restoring the Constitution's structure in this case would not strip political parties (non-

government organizations) from their important role in American self-government.

It would simply return them to their proper place as private associations that organize citizens, articulate platforms, and signal which candidates align with policy beliefs. Parties would remain free to hold primaries, caucuses, and other internal processes such as forums for persuasion and identification for who each party will endorse aside from others that associate the same beliefs.

The State may not give political parties a veto over who appears on the November general-election ballot or what choices voters may make on that constitutionally operative federal election day.

Eliminating this state-granted gatekeeping preserves parties' associational rights while restoring to candidates and voters their full constitutional right to compete in, and vote in, the federal election with all eligible candidates on the ballot.

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

_____

ADAM HOLLEY (*Petitioner, Pro Se)*

[redacted]

info@AdamForOklahoma.com

CERTIFICATE OF COMPLIANCE

No. _____

ADAM HOLLEY,
Petitioner,
v.
BRIAN BINGMAN, in his Official Capacity,
JOSH COCKROFT, in his Official Capacity,
OKLAHOMA SECRETARY OF STATE,
PAUL ZIRIAX, in his Official Capacity,
OKLAHOMA STATE ELECTION BOARD,
Respondents.

This petition complies with the word-count limitation of Supreme Court Rule 33.1(g)(i) because it contains fewer than 9,000 words, excluding the parts of the petition that are exempt from the word-count limitation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December _____, 2025.

_____
Adam Holley, Petitioner *Pro Se*

CERTIFICATE OF SERVICE

I hereby certify that on December _____, 2025, I caused this petition for a writ of certiorari to be served on Respondents by E-mail at **Tracy.Neel@oag.ok.gov** , addressed to their counsel of record Assistant Attorney General Tracy E. Neel, OBA#33574 with the Oklahoma Attorney Generals Office, and that an original and the required number of copies were mailed to be filed with the Clerk of this Court in accordance with the Rules of the Supreme Court of the United States and 28 U.S.C. §1746(2).

_____

ADAM HOLLEY
Petitioner, *Pro Se*
[redacted]
info@AdamForOklahoma.com

APPENDIX

Appendix A - Western District Ruling .....App. 2

Appendix B - Tenth Circuit Ruling.....App. 18

Appendix A - Western District Ruling
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

ADAM HOLLEY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-24-656-R
	)	
BRIAN BINGAM, in his official capacity, et al.,	)	
	)	
	)	
Defendants.	)	

ORDER

Plaintiff, proceeding pro se, filed this action pursuant to 42 U.S.C. § 1983 against Brian Bingam (in his official capacity as Oklahoma Secretary of State), Josh Cockroft (in his official capacity as Oklahoma Secretary of State),[1] Paul Ziriax (in his official capacity as Secretary for the State Election Board), the Oklahoma Secretary of State, and the Oklahoma State Election Board. Now before the Court are Defendants' respective

Motions to Dismiss [Doc. Nos. 17, 18] seeking dismissal of Plaintiff's Third Amended Complaint [Doc. No. 16] pursuant to Fed. R. Civ. P. 12(b)(6). The matter is fully briefed and at issue [Doc. Nos. 19, 20, 21].

PROCEDURAL BACKGROUND

Plaintiff initiated this action by filing a Complaint [Doc. No. 1] alleging that Mr. Bingam, Mr. Cockroft, and the Oklahoma Secretary of State violated his constitutional rights during the 2022 election. Defendants moved to dismiss [Doc. No. 7], pursuant to

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[1] Defendants' motion clarifies that Mr. Bingam is the former Oklahoma Secretary of State and Mr. Cockroft is the current Secretary of State. *See* Defs.' Br. at 2.

Fed. R. Civ. P. 12(b)(6) and raised arguments that are essentially identical to the arguments raised in their current motions. In response, Plaintiff filed a Second Amended Complaint [Doc. No. 9] that added Mr. Ziriax and the Oklahoma State Election Board as defendants but included allegations that were substantially similar to his initial Complaint. Because the filing of the Second Amended Complaint superseded the original pleading and rendered it of no legal effect, *see Davis v. TXO Prod. Corp.*, 929 F.2d 1515, 1517 (10th Cir. 1991), the Court denied Defendants' motion to dismiss without prejudice to refiling. *See* Order dated August 16, 2024 [Doc. No. 13]. However, pursuant to its inherent power to manage its docket, the Court reviewed the Second Amended Complaint and concluded

that it failed to state a claim against any of the named defendants. *Id.* The Court therefore dismissed the Second Amended Complaint without prejudice and granted Plaintiff leave to amend. *Id.*

Plaintiff then filed his Third Amended Complaint which is now the operative pleading. Liberally construed, the Third Amended Complaint alleges that Oklahoma unconstitutionally limits eligible candidates for election via its primary system and that Plaintiff was prevented from listing his name as a candidate for United States Senate during the 2022 general election. He asserts that Oklahoma's election process, and specifically Okla. Stat. tit. 26, §§ 1-102 and 103, violate the First, Ninth, Tenth, and Fourteenth

Amendments and seeks declaratory and monetary relief.

STANDARD

Rule 8(a)(2) requires a pleading to contain "a short and plain statement of the claim showing that the pleader is entitled to relief." The purpose of this requirement is "to give the opposing parties fair notice of the basis for the claims against them so that they may respond and to allow the Court to conclude that the allegations, if proven, show that the plaintiff is entitled to relief." *Mwangi v. Norman*, No. 16-CV-0002-GPG, 2016 WL 153220, at *1 (D. Colo. Jan. 13, 2016) (citing *Monument Builders of Greater Kansas City, Inc. v. American Cemetery Ass'n of Kansas*, 891 F.2d 1473, 1480 (10thCir. 1989)).

Although "the pleading standard Rule 8 announces does not require 'detailed factual allegations,' [] it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007)). Thus, a complaint must contain "factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* In evaluating a complaint, all well-pleaded factual allegations are accepted as true and viewed in the light most favorable to the plaintiff. *Lane v. Simon*, 495 F.3d 1182, 1186 (10th Cir. 2007). Additionally, where, as here, a litigant is proceeding pro se, the "pleadings are to be construed liberally." *Hall v. Bellmon*, 935 F.2d

1106, 1110 (10th Cir. 1991). However, "[t]he broad reading of the plaintiff's complaint does not relieve the plaintiff of the burden of alleging sufficient facts on which a recognized legal claim could be based." *Id.*

DISCUSSION

Defendants contend that there are a number of deficiencies with Plaintiff's Third Amended Complaint, and the Court agrees. To begin, Plaintiff has attempted to assert a claim for monetary relief pursuant to § 1983 against two state agencies and three state officials in their official capacity. However, neither a state nor its officials acting in their official capacity are persons that are subject to a suit for damages under § 1983. *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 71 (1989). Moreover, the Eleventh Amendment bars suits

in federal court for money damages against a state and state officers sued in their official capacity. *Peterson v. Martinez*, 707 F.3d 1197, 1205 (10th Cir. 2013). And, contrary to Plaintiff's argument, Eleventh Amendment "immunity extends to suits brought by citizens against their own state." *Hendrickson v. AFSCME Council 18*, 992 F.3d 950, 965 (10th Cir. 2021).

In addition to seeking damages, Plaintiff's Third Amended Complaint also seeks a declaration that Oklahoma's primary election system is unconstitutional. In *Ex parte Young*, 209 U.S. 123, 159 (1908), the Supreme Court recognized an exception to Eleventh Amendment immunity "under which individuals can sue state officers in their official capacities if the lawsuit seeks

prospective relief for an ongoing violation of federal law." *Free Speech Coal., Inc. v. Anderson*, ___ F.4th ___, 2024 WL 4352434, at *2 (10th Cir. Oct. 1, 2024). "To come within this exception," the state official named as a defendant "must 'have a particular duty to enforce the statute in question and a demonstrated willingness to exercise that duty.'" *Id.* (quoting *Prairie Band Potawatomi Nation v. Wagnon*, 476 F.3d 818, 828 (10th Cir. 2007)). The duty to enforce may be shown by reference to "state law, an administrative delegation, or a demonstrated practice of enforcing a provision." *Peterson v. Martinez*, 707 F.3d 1197, 1207 (10th Cir. 2013). "But when a state law explicitly empowers one set of officials to enforce its terms, a plaintiff cannot sue a different official absent some

evidence that the defendant is connected to the enforcement of the challenged law." *Id.*

Here, Plaintiff has named the Oklahoma Secretary of State (and its current and former officers) as defendants. However, Oklahoma law provides that the State Election Board, not the Secretary of State, is responsible for administering various aspects of the primary and general elections. *See* Okla. Stat. tit. 26, § 5-102 (providing that candidates for United States Senator "shall file Declarations of Candidacy with the Secretary of the State Election Board"); § 6-103 (State Election Board is responsible for printing ballots); § 8-101 (State Election Board certifies list of nominees); § 8-103 (State Election Board certifies list of successful candidates for office). In support of his claim that the Secretary of

State is a proper defendant, Plaintiff references Oklahoma Stat. tit. 26, § 11-106, but this law concerns elections for judicial offices – not the senate seat that forms the basis of Plaintiff's allegations – and, in any event, merely provides that the State Election Board shall certify the results of any election to the Secretary of State. Ultimately, the Third Amended Complaint does not cite to any provision of state law or include any non-conclusory allegations showing that the Secretary of State's office is responsible for enforcing the challenged laws. Accordingly, Plaintiff has failed to show that Defendants Bingam, Cockroft, or the Secretary of State are not entitled to Eleventh Amendment immunity. *See Peterson*, 707 F.3d at 1206 (explaining that a district court is not required

to accept conclusory allegations about an official's responsibility for implementing a state law, particularly when they contradict state law).

Apart from these statutory and jurisdictional defects, the Third Amended Complaint also fails to state a plausible claim. Despite having two opportunities to amend his pleading, Plaintiff's allegations are still somewhat disjointed. However, liberally construed, he appears to be asserting that Oklahoma's use of a primary election is unconstitutional because it limits who can appear as a candidate for office on the general election ballot. He alleges that he was excluded from appearing on the 2022 general election ballot for United States Senate and

specifically challenges the constitutionality of Okla. Stat. tit. 26,

§§ 1-102 and 1-103, which provide for primary and runoff elections for nominating candidates from recognized political parties. Plaintiff appears to take issue with the following limitations set out in § 1-102:

> No candidate's name shall be printed upon the General Election ballot unless such candidate shall have been nominated as herein provided, unless otherwise provided by law; provided further that this provision shall not exclude the right of a nonpartisan candidate to have his or her name printed upon the General Election ballots.

In his response brief, Plaintiff argues that utilizing a primary election to remove otherwise eligible candidates from the general

election ballot is unconstitutional. *See* Pl.'s Br. at 9.

Plaintiff's argument is foreclosed by long-standing Supreme Court precedent recognizing "that the State may limit each political party to one candidate for each office on the ballot and may insist that intraparty competition be settled before the general election by primary election or by party convention." *Am. Party of Texas v. White*, 415 U.S. 767, 781 (1974). *See also Bullock v. Carter,* 405 U.S. 134, 145 (1972) (recognizing that "a State has a legitimate interest in regulating the number of candidates on the ballot"); *California Democratic Party v. Jones*, 530 U.S. 567, 572, (2000) (reaffirming "that a State may require parties to use the primary format for selecting their nominees, in order to

assure that intraparty competition is resolved in a democratic fashion").

Additionally, to the extent he asserts other complaints about the election process, he has failed to include sufficient factual content to state a plausible claim. For example, Plaintiff asserts that his ability to run for office with the party that most aligns with his faith was somehow compromised but fails to provide any factual support for this assertion, other than his misplaced belief that a primary election system is unconstitutional. He also suggests that government agencies conspired with the media to limit media coverage but fails to include any factual content to support this allegation. Thus, much like his prior pleadings, Plaintiff's Third Amended Complaint is devoid of a coherent factual basis

that alleges any cognizable claim against any named defendant.

CONCLUSION

For the reasons detailed above, Defendants' respective Motions to Dismiss [Doc. Nos. 17 and 18] are GRANTED and this action is DISMISSED WITHOUT PREJUDICE. Plaintiff has not requested leave to amend his complaint or suggested that he could plead additional facts that would state a plausible claim and the Court therefore finds no reason to permit him another opportunity to amend.

IT IS SO ORDERED this 9th day of October, 2024.

DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE

Appendix B - Tenth Circuit Ruling

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

FILED
United States Court of Appeals
Tenth Circuit

September 23, 2025

Christopher M. Wolpert
Clerk of Court

ADAM HOLLEY
Plaintiff - Appellant,

v.

BRIAN BINGMAN, in his official capacity, Oklahoma Secretary of State; JOSH COCKROFT, in his official capacity, Oklahoma Secretary of State; OKLAHOMA SECRETARY OF STATE; PAUL ZIRIAX, in his official capacity, Secretary for the Oklahoma State Election Board; OKLAHOMA STATE ELECTION BOARD,
Defendants – Appellees.

No. 24-6237
(D.C. No.5:24-CV-00656-R)
(W.D. Okla.)

ORDER AND JUDGMENT[*1]

Before **TYMKOVICH**, **BACHARACH**, and **EID**, Circuit Judges.

Adam Holley appeals the district court's dismissal of his pro se complaint for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). We have jurisdiction under 28 U.S.C. § 1291 and affirm the district court's judgment for the reasons explained below.

I

Holley filed a third amended complaint under 42 U.S.C. § 1983, naming as defendants the Oklahoma

[1] * After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

Secretary of State, the Oklahoma State Election Board, and three state officials in their official capacities. He alleged that Oklahoma's electoral primary system established under Okla. Stat. tit. 26, §§ 1-102 and 1-103 unlawfully excludes candidates from the electoral process and that he was excluded from Oklahoma's 2022 senatorial election. Based on these allegations, he claimed violations of the First, Ninth, Tenth, and Fourteenth Amendments and sought monetary, declaratory, and injunctive relief.

Defendants moved to dismiss under Fed. R. Civ. P. 12(b)(6), and the district court granted the motions, ruling Holley failed to state a plausible claim for relief.

II

We review de novo the district court's ruling on a motion to dismiss. *Brown v. City of Tulsa*, 124 F.4th 1251, 1263 (10th Cir. 2025). "To survive a Rule 12(b)(6) motion, the complaint must

contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Id.* (internal quotation marks omitted). "Mere labels and conclusions or a formulaic recitation of the elements of a cause of action will not suffice." *Id.* (internal quotation marks omitted). We afford pro se materials a liberal construction but do not advocate on a party's behalf. *Childers v. Crow*, 1 F.4th 792, 798 n.3 (10th Cir. 2021).

The district court first correctly determined that Holley could not recover money damages from defendants in their official capacities because neither the state nor its officials acting in their official capacities qualify as "persons" under § 1983. *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 71 (1989).

The district court also correctly determined that Holley's claim for monetary damages against the state and its officials was barred because they were protected

by Eleventh Amendment immunity. *See Peterson v. Martinez*, 707 F.3d 1197, 1205 (10th Cir. 2013). Although Holley contends Eleventh Amendment immunity only applies to suits brought against the state by citizens of another state, *see* Aplt. Opening Br. at 33, the district court correctly recognized that Eleventh Amendment immunity "extends to suits brought by citizens against their own state," *Hendrickson v. AFSCME Council 18*, 992 F.3d 950, 965 (10th Cir. 2021).

As for Holley's claims for prospective relief, the district court explained that *Ex parte Young*, 209 U.S. 123 (1908), provides a jurisdictional exception to Eleventh Amendment immunity for official-capacity claims alleging an ongoing violation of federal law and seeking prospective relief. *See Verizon Md., Inc. v. Pub. Serv.*

Comm'n of Md., 535 U.S. 635, 645 (2002). The district court determined, however, that *Ex parte Young* did not apply because Holley failed to name as a defendant the state agency or official charged with enforcing the laws he challenged. The district court reasoned that Holley named the Secretary of State and its current and former office holders as defendants, but he did not name the State Election Board, which administers the state's primaries and general elections. *See* R. at 156-57.

But Holley *did* name the State Election Board as a defendant. R. at 81. He also named the supervisor of the State Election Board, Paul Ziriax, *id.*, who allegedly "is responsible for the administration and management of the elections," R. at 85-86. According to Holley, the State Election Board and Ziriax's "primary functions" are to administer "the elections process," "they are the primary cause of [his] constitutional injury," and *Ex parte Young* applies to "stop

ongoing violations of federal law."Aplt. Br. at 32. We agree with Holley that *Ex parte Young* provides a jurisdictional path to the merits of his claims for prospective relief.

"In determining whether the doctrine of *Ex parte Young* avoids an Eleventh Amendment bar to suit, a court need only conduct a straightforward inquiry into whether the complaint alleges an ongoing violation of federal law and seeks relief properly characterized as prospective." *Verizon Md.*, 535 U.S. at 645 (brackets and internal quotation marks omitted). Holley alleged an ongoing violation of federal law by claiming the Oklahoma electoral system violated his rights. *See id.* at 646 ("An *allegation* of an ongoing violation of federal law is ordinarily sufficient[.]" (ellipsis and internal quotation marks omitted)). He also sought prospective relief in asking for a declaratory judgment on the constitutionality of Oklahoma's electoral system and requesting a mandatory injunction to abolish the current electoral system. *See* R. at 90-91. These claims fall under the jurisdictional exception to

Eleventh Amendment immunity provided by *Ex parte Young*. Nonetheless, the jurisdictional inquiry is not determinative of whether the complaint states a plausible claim for relief. *See Muscogee (Creek) Nation v. Pruitt*, 669 F.3d 1159, 1167-68 (10th Cir. 2012). Even if we determine the "district court had subject matter jurisdiction over the claims under the *Ex parte Young* exception," we may still conclude the district court "properly dismissed the complaint for failure to state a claim." *Id.* at 1168. And on that score, we agree with the district court that Holley failed to state a constitutional violation. The district court observed that Holley generally challenged Okla. Stat. tit. 26, §§ 1-102 and 1-103, which establish Oklahoma's primary and primary runoff system. Holley averred these statutes unconstitutionally exclude candidates from the ballot via the primary process. In particular, he challenged § 1-102, which states:

> No candidate's name shall be printed upon the General Election ballot unless such candidate shall have been nominated as herein provided, unless otherwise provided by law; provided further that this provision shall not exclude the right of a nonpartisan candidate to have his or her name printed upon the General Election ballots.

Holley suggests these statutory provisions abridge his constitutional rights, but the Supreme Court has held states "may limit each political party to one candidate for each office on the ballot and may insist that intraparty competition be settled before the general election by primary election or by party convention," *Am. Party of Texas v. White*, 415 U.S. 767, 781 (1974). Indeed, "a [s]tate has a legitimate interest in regulating the number of candidates on the ballot," *Bullock v. Carter*, 405 U.S. 134, 145 (1972), and "[t]here is surely an important state interest in requiring some preliminary showing of a significant modicum of support before printing the name of a political organization's candidate on the ballot," *Jenness v. Fortson*, 403 U.S. 431, 442 (1971). These authorities confirm that states may implement ballot-access

measures as a permissible exercise of their power to regulate elections. *See U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 828 (1995).

Holley faults the district court for failing to consider *Thornton*, but he does not explain how that case helps him. *Thornton* distinguished between constitutionally impermissible state-created *qualifications* on eligible candidates for congressional office, *see id.* at 827, and permissible state *ballot-access measures*, which regulate election procedures, *see id.* at 828-29, 835. Without addressing that distinction, Holley asserts in conclusory fashion that the laws in question here are impermissible qualifications on running for federal office. *See* Aplt. Opening Br. at 14. But merely labeling the laws as qualifications is insufficient to withstand the motions to dismiss. *See Brown*, 124 F.4th at 1263. Oklahoma's primary and runoff system do not operate to disqualify candidates

who win their nominations, so they do not establish qualifications for federal office.

Holley's allegations fail to suggest otherwise, so the district court correctly dismissed the action.[2]

III

Accordingly, the district court's judgment is affirmed.

Entered for the Court

Allison H. Eid
Circuit Judge

2 We need not consider Holley's remaining arguments, which do not address the district court's reasoning. *See Nixon v. City & Cnty. of Denver*, 784 F.3d 1364, 1366 (10th Cir. 2015) ("The first task of an appellant is to explain to us why the district court's decision was wrong.").