

No. 23-125084-S

**IN THE SUPREME COURT OF
THE STATE OF KANSAS**

**LEAGUE OF WOMEN VOTERS OF KANSAS; LOUD LIGHT; KANSAS
APPLESEED CENTER FOR LAW AND JUSTICE; TOPEKA INDEPENDENT
LIVING RESOURCE CENTER; CHARLEY CRABTREE; FAYE HUELSMANN;
and PATRICIA LEWTER,**

Plaintiffs-Appellants

vs.

SCOTT SCHWAB, in his official capacity as Kansas Secretary of State; and **KRIS
KOBACH**, in his official capacity as Kansas Attorney General

Defendants-Appellees

**BRIEF OF *AMICUS CURIAE*
AMERICAN CIVIL LIBERTIES UNION (ACLU) OF KANSAS**

Appeal from the Kansas Court of Appeals
Date March 17, 2023

Appeal from the District Court of Shawnee County, Kansas
Honorable Teresa Watson, District Judge
District Court Case No. 2021-CV-000299

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INTEREST OF AMICI

The American Civil Liberties Union of Kansas (“ACLU of Kansas”) is a non-profit and non-partisan organization dedicated to preserving and advancing the civil rights and legal freedoms guaranteed by the United States Constitution and the Bill of Rights, and the Kansas Constitution and Kansas Bill of Rights. The ACLU of Kansas has approximately 9,000 members in Kansas. Through its Represent! Campaign, the ACLU of Kansas works to support and expand voting opportunities, safeguard the franchise, and ensure access to the polls for all Kansans.

BRIEF STATEMENT OF FACTS

In 2021, despite a lack of evidence of voting fraud or election tampering, the Kansas Legislature adopted voting restrictions that impede advanced ballot casting and arbitrarily limit ballot collection and delivery. Two such laws are K.S.A. 25-1124(h) and K.S.A. 25-2437(c). The first imposes a signature match requirement; the second limits a person from collecting and delivering more than ten advance voting ballots on behalf of others.

Shortly before their effective date, Respondents in this case—advocacy organizations, individuals, and an independent living center—sued to block the newly enacted laws’ enforcement. Respondents lost at the district court but sought review from the Kansas Court of Appeals. That court reversed, holding that laws that restrict the right to vote must pass strict scrutiny under the Kansas Constitution. The Secretary of State and Attorney General of Kansas appealed to this Court.

The ACLU of Kansas filed its Application for Leave to file this Amicus Brief, to urge this Court to affirm the well-reasoned Court of Appeals opinion and adopt a standard of strict scrutiny for reviewing restrictions on the fundamental right to vote.

ARGUMENTS AND AUTHORITIES

“The right to vote in any election is a personal and individual right, to be exercised in a free and unimpaired manner, in accordance with our Constitution and laws. The right is pervasive of other basic civil and political rights, and is the bed-rock of our free political system.”

Moore v. Shanahan, 207 Kan. 645, 649, 486 P.2d 506 (1971).

To vote is to participate in democracy. It is how “we decide our collective values and hold one another accountable to those values.” ACLU of Kansas, *All Democracy is (Still) Local 3* (May 2023), <https://www.aclukansas.org/en/publications/all-democracy-still-local>. As the U.S. Supreme Court has observed, “[o]ther rights, even the most basic, are illusory if the right to vote is undermined.” *Wasberry v. Sanders*, 376 U.S. 1, 17 (1964). Voting is the most fundamental right in our democracy. It is the source from which other rights flow.

Because the Court of Appeals correctly found the right to vote to be fundamental under the Kansas Constitution, and because such fundamental rights are deserving of the utmost protection from government infringement, the Court of Appeals’ decision should be affirmed.¹

¹ The challenged statutes were enacted as a solution in search of a problem. The Legislature passed K.S.A. 25-1124(h) and K.S.A. 25-2437(c) out of an unsubstantiated fear of widespread fraudulent voting in the wake of the 2020 presidential election. If this Court upholds the Court of Appeals’ decision, this case would presumably be remanded to determine whether this justification meets strict scrutiny. The ACLU of Kansas notes that

I. The right to vote is fundamental under Article 5.

Over fifty years ago, this Court stated: “Since the right of suffrage is a fundamental matter, any alleged restriction or infringement of that right strikes at the heart of orderly constitutional government, and must be carefully and meticulously scrutinized.” *Moore*, 207 Kan. at 649. As this Court and many others have long recognized, the right to vote is fundamental. *See, e.g., id.; Hodes & Nauser, MDs, P.A. v. Schmidt*, 309 Kan. 610, 657, 440 P.3d 461 (2019) (“The Kansas Constitution initially denied women the right to vote in most elections, to serve on juries, and to exercise other rights that we now consider fundamental to all citizens of our state.”); *Reynolds v. Sims*, 377 U.S. 533, 561–62 (1964) (“Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society.”); *Petrella v. Brownback*, 787 F.3d 1242, 1264 (10th Cir. 2015) (“The right to vote is fundamental.”). This conclusion is logical; the franchise undergirds every other right and forms the bedrock of our democratic society and is “preservative of all rights.” *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

Our Constitution’s plain language confers the right to vote. *See* Kan. Const. Art. 5, § 1. It emphatically recognizes that every U.S. citizen over the age of 18 who resides in the state “*shall be deemed a qualified elector.*” *Id.* (emphasis added).

The Framers of the Kansas Constitution were deliberate in their intent in this regard. The Kansas Territory was created in 1854, after the passing of the Kansas-Nebraska Act. In the years that followed, violence ensued, and territorial elections were held to determine

absent any evidence that meaningful voter fraud exists in Kansas, such a justification should not survive rationale basis review, much less strict scrutiny.

whether Kansas would be a free or slave state. Stephen Douglas Bonney, *Democracy's Rainbow: The Long Ascent and Rapid Descent of Voting Rights in Kansas*, 25 Kan. J. L. Pub. Pol'y 347, 350 (2016). On July 5, 1859, delegates met for the Wyandotte Constitutional Convention, the fourth and final constitutional convention. At the time, election fraud ran rampant—elections were “held under difficulty and each side accused the other of procuring votes from persons not entitled.” *Lemons v. Noller*, 144 Kan. 813, 819, 63 P.2d 177 (1936). The delegates ardently contested the debate over universal suffrage. Although the convention ultimately rejected it, the framers expressly enshrined fundamental voting rights in response to the violence and fraud that preceded Kansas’s birth as a free state. *League of Women Voters v. Schwab*, 63 Kan. App. 2d 187, 224, 525 P.3d 803 (2023) (“History records the struggle Kansans experienced when joining the Union of States. It was by free elections that we gained statehood. Thus, voting rights are preserved in the Kansas Constitution. Great care must be taken when trying to limit or infringe on those rights.”). “Voting was important then. Voting is important now.” *Id.*

Petitioners do not dispute that the right to vote is fundamental. Pet. Br. at 6. For good reason: the text and history of our state Constitution is unequivocal on the subject.

II. The right to vote is fundamental under Sections 1 and 2 of the Kansas Bill of Rights.

The explicit right to vote is contained in Article 5, and is buttressed by equally important protection for Kansans found in Sections 1 and 2 of the Kansas Bill of Rights. Section 1 guarantees “inalienable natural rights” including “life, liberty, and the pursuit of happiness.” Section 2 declares that “[a]ll political power is inherent in the people, and all

free governments are founded on their authority, and are instituted for their equal protection and benefit.” Together, these sections should be read to reinforce the right of suffrage.

For the people to wield power and effectuate government, they must have the right to vote. That right—specifically, the right “to vote freely for the candidate of one’s choice”—“is the essence of a democratic society, and any restrictions on [it] strike at the heart of the representative government.” *Reynolds*, 377 U.S. at 555.² In 1866, only a few years after the adoption of the Wyandotte Convention, the California Supreme Court concluded that a similar combination of provisions in the California Constitution conferred a right to vote. “The Constitution of this State,” it explained:

was created and adopted by a free people [] to secure to themselves and their posterity the blessings of liberty. In the declaration of rights the great fundamental truths that “all men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property; and pursuing and obtaining safety and happiness,” are distinctly announced; and it is declared that all political power is inherent in the people; that government is instituted for the protection, security and benefit of the people, and that no person shall be deprived of life, liberty or property without due process of law.

Knowles v. Yeates, 31 Cal. 82, 87 (1866). California’s Constitution, the court concluded, “secures to the citizen the right of suffrage, without which he could not exert his political power, and without which he would be impotent to secure to himself the full enjoyment of life, liberty and property.” *Id.*

² Susan H. Bitensky, *Advancing America’s Emblematic Right: Doctrinal Bases for the Fundamental Constitutional Right to Vote Per Se*, 77 U. Miami L. Rev. 613, 615–16 (2023) (“[T]he act of voting in government-sanctioned elections is that rare volitional expression of autonomy which *must* be taken into account by government. Government does not have the legal option of disregarding or minimizing a vote once it is properly cast.”).

The same holds true in Kansas. The right of suffrage is implied in Sections 1 and 2 of the Kansas Constitution because suffrage is necessary for Kansans to wield their inherent power, and because suffrage underlies the inalienable rights Section 1 guarantees. *Knowles* may not be binding, but it is powerful contemporary evidence that the framers of the Kansas Constitution intended that our State’s Bill of Rights confer a fundamental right to vote.

III. This Court should strictly scrutinize incursions on fundamental rights.

If the right to vote is fundamental, the question then becomes whether infringements on that right, such as the signature match and ballot return requirements challenged in this case, are constitutionally permissible. To decide this, the Court must first determine the appropriate level of scrutiny for evaluating such claims. The Court of Appeals rightly decided that the answer to this threshold question is strict scrutiny.

Strict scrutiny, “[t]he most searching of these standards,” applies where a fundamental right is impacted. *Hodes*, 309 Kan. at 663. While ordinarily a statute is presumed to be constitutional, “in cases involving ‘suspect classifications’ or ‘fundamental interests’ . . . the courts peel away the protective presumption of constitutionality and adopt an attitude of active and critical analysis, subjecting the classification to strict scrutiny.” *State ex rel. Schneider v. Liggett*, 223 Kan. 610, 617, 576 P.2d 221 (1978).

This judicial safeguarding of fundamental rights aligns Kansas with many other states. *See, e.g., Labraverre v. Bohr Farms, LLC*, 458 S.W.3d 319, 331–32 (Mo. 2015) (“The fundamental rights requiring strict scrutiny are the rights to interstate travel, to vote, free speech, and other rights explicitly or implicitly guaranteed by the constitution.”); *Baehr v. Lewin*, 852 P.2d 44, 63 (Haw. 1993) (“This court has applied strict scrutiny analysis to laws

. . . impinging upon fundamental rights expressly or impliedly granted by the constitution” (quotations and citation omitted)); *Wells by Wells v. Panola Cnty. Bd. of Educ.*, 645 So. 2d 883, 893 (Miss. 1994) (“A statute . . . interfering with the exercise of a fundamental right, such as voting, is subject to strict scrutiny.”); *Wrigley v. Romanick*, 988 N.W.2d 231, 242 (N.D. 2023) (“A statute which restricts a fundamental right is subject to strict scrutiny standard of review which will only be justified if it furthers a compelling government interest and is narrowly tailored to serve that interest.”).

Petitioners acknowledge that the right to vote is fundamental, but try to evade strict scrutiny by self-servingly framing the implicated right as one “to vote by mail or have a third-party collect and return a completed ballot.” Pet. Br. at 6. This is reductive. The challenged restrictions strike at the heart of the ability to cast a ballot and have that ballot counted. For some Kansans, voting by mail may be the only way to vote—they may be unable to take off work to vote in person, or may lack transportation or childcare and thus are unable to travel to a poll site. The challenged restrictions unquestionably undercut the fundamental right to vote by making it harder to both cast and count a ballot—categorically infringing on the right to vote and demanding a strict scrutiny analysis.

Petitioners also incorrectly argue that “virtually every other state appellate court that has specifically ruled on time/place/manner restrictions under their own state constitutions” has applied the “deferential balancing standard” employed by the federal judiciary. Pet. at 5; *see also* Pet. Br. at 4–5. This ignores the Court of Appeals’ determination that the statutes at issue are not mere time/place/manner regulations, *League of Women Voters*, 63 Kan.

App. 2d at 208–09, as well as the more-nuanced landscape of state constitutional voting rights law that applies to this question.

First, Petitioners are wrong: many states apply strict scrutiny to review voting restrictions. *See, e.g., Tully v. Edgar*, 664 N.E.2d 43, 48 (Ill. 1996); *Madison v. State*, 163 P.3d 757, 767 (Wash. 2007) (“[B]ecause the right to vote has been recognized as fundamental for all citizens, restrictions on that right generally are subject to strict scrutiny, meaning they must be narrowly tailored to further a compelling state interest.”); *Shumway v. Worthey*, 37 P.3d 361, 366 (Wyo. 2001) (“The right to vote is fundamental, and we construe statutes that confer or extend the elective franchise liberally (as opposed to those limiting the right to vote in some way, which then invoke strict scrutiny).”).

Second, the cases that Petitioners rely on are distinguishable because *none* of them address express right-to-vote constitutional guarantees like Article 5, Section 1 of the Kansas Constitution. For example, some of Petitioners’ cases involve challenges pursuant to their respective state constitution’s free speech, free association, and equal protection clauses. *See, e.g., Edelstein v. City and Cnty. of San Francisco*, 29 Cal. 4th 164, 56 P.3d 1029 (Cal. 2002) (free speech); *Libertarian Party v. State*, 707 S.E.2d 199 (N.C. 2011) (free speech, free association, and equal protection); *Lorenz v. State*, 928 P.2d 1274 (Colo. 1996) (free speech, free association, political participation and equal protection); *Libertarian Party of Fla. v. Smith*, 687 So. 2d 1292 (Fla. 1996) (equal protection, free association); *Pick v. Nelson*, 528 N.W.2d 309, 316–19 (Neb. 1995) (free speech and equal protection); *Hustace v. Doi*, 588 P.2d 915 (Haw. 1978) (equal protection). While these cases analyze the voting restrictions in accordance with both the federal and state constitutions,

they are wanting for any analysis under a distinct right to vote provision. These cases fail to address the central inquiry now before the Court: whether the enacted voting restrictions infringe on Kansans' fundamental right to vote as guaranteed by the Kansas Constitution.

Other cases Petitioners misguidedly cite involve claims where no independent state constitutional claim was decided. *See, e.g., Rhoden v. Athens-Clarke Cnty. Bd. of Elections*, 850 S.E.2d 141, 152 (Ga. 2020) (“The appellants have made no argument for a different application of the Georgia constitutional provision under the circumstances of this case.”); *Alliance for Retired Americans v. Sec’y of State*, 240 A.3d 45, 54 (Me. 2020). These cases all share a common theme in that the state courts did not address the context the Court faces here: unconstitutional restrictions on the right to vote altogether.

Third, even where state courts have adopted some sort of balancing test for voting restrictions, many require *more* exacting standards than the framework Petitioners advance. *See, e.g., Kohlhaas v. Off. of Lt. Gov’r, Div. of Elections*, 518 P.3d 1095, 1105 (Alaska 2022) (“Alaska’s constitution is more protective of rights and liberties than is the United States Constitution, so a law that passes muster under the U.S. Constitution may not pass muster under Alaska’s.” (quotations and citation omitted)); *League of Women Voters of Del., Inc. v. Dep’t of Elections*, 250 A.3d 922, 936 (Del. Ch. 2020) (adopting the *Burdick* test but recognizing that voting rights guaranteed by the Delaware Constitution are “more robust than those in the U.S. Constitution”); *Chelsea Collaborative, Inc. v. Sec’y of the Commonwealth*, 100 N.E.3d 326, 333 (Mass. 2018) (“[I]n this case and others, there may be circumstances where the Massachusetts Declaration of Rights and art. 3 require application of this analysis in a manner that guard[s] more jealously against the exercise of

the State’s police power than the application of the framework under the Federal Constitution.” (quotations and citation omitted)); *Weinschenk v. State*, 203 S.W.3d 201, 212 (Mo. 2006) (“Due to the more expansive and concrete protections of the right to vote under the Missouri Constitution, voting rights are an area where our state constitution provides greater protection than its federal counterpart.”). While the approach that other states take is not dispositive, this Court can and should require exacting standards where the government seeks to interfere with citizens’ right to vote.

Petitioners would have the Court settle for federal precedent, but the Kansas Constitution demands more. Pet. Br. at 3–10. Of course, “[i]t is elementary that States are free to provide greater protections . . . than the federal Constitution requires.” *California v. Ramos*, 463 U.S. 992, 1013–14 (1983). That is the case here. The balancing tests the federal judiciary adopted in *Anderson v. Celebrezze* and *Burdick v. Takushi* are based on the free association and equal protection provisions secured by the First and Fourteenth Amendments of the U.S. Constitution. 460 U.S. 780 (1982); 504 U.S. 428 (1992). But this Court has previously held that the Kansas Bill of Rights provides *at least* as much protection as the First and Fourteenth Amendments.³ *Rivera v. Schwab*, 315 Kan. 877, 894, 512 P.3d 168 (2022) (equal protection guarantees found in Section 2 of the Kansas Bill of Rights are coextensive with those found in the Fourteenth Amendment of the U.S. Constitution); *State v. Russell*, 227 Kan. 897, 899, 610 P.2d 1122 (1980) (free speech

³ Although this Court has not said so expressly, Section 3 of the Kansas Bill of Rights, which guarantees the right to peaceably assemble, almost certainly provides at least as much protection as the free assembly prong of the First Amendment of the U.S. Constitution.

protections in Section 11 of the Kansas Bill of Rights are coextensive with those found in the First Amendment of the U.S. Constitution). The federal standards Respondents urge this Court to follow are thus a *floor*, not a ceiling. The Kansas Constitution guarantees at least as much voter protection as is afforded under the *Anderson-Burdick* balancing test.

Moreover, even if the Court does not accept Respondents’ argument that Section 1 and 2 of the Kansas Bill of Rights protects the right to vote, the Kansas Constitution expressly enshrines the right to vote in Article 5—a guarantee nowhere found in the U.S. Constitution. *Compare* Kan. Const. Art. 5, § 1, with *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 665 (1966) (noting “the right to vote in state elections is nowhere expressly mentioned” in U.S. Constitution). Applying only the *Anderson-Burdick* test to evaluate whether the government has improperly infringed the right to vote would render Article 5, Section 1 superfluous—a result that contravenes a core statutory construction canon. *See State v. Mishmash*, 295 Kan. 1140, 1143, 290 P.3d 243 (2012) (“[C]ourts generally . . . presume that the legislature does not intend to enact useless, superfluous, or meaningless legislation”). That canon is supercharged in the constitutional context. *See State v. Albano*, 313 Kan. 638, 645, 487 P.3d 750 (2021) (“[T]o construe the jury trial rights in section 5 to be duplicative of those in section 10 appears inconsistent with the presumption that the framers of the Kansas Constitution carefully weighed every word and neither inserted nor omitted any without a design for so doing.” (internal quotation omitted)). By explicitly affording a right to vote, the framers of the Kansas Constitution intentionally went much further than the framers of the U.S. Constitution. Accordingly, that right must be robustly protected. Where, as here, the Kansas Constitution confers voting rights that “are broader

than and distinct from” those found in the U.S. Constitution, this Court should zealously safeguard those rights. *See Hodes*, 309 Kan. at 622. Accepting Petitioners’ anemic position to the contrary would otherwise strip Kansas Constitutional guarantees of meaning.

Fourth, Petitioners further argue that applying strict scrutiny to incursions on voting rights would “grind our election framework to a halt.” Pet. at 9. They stoke baseless fears that applying strict scrutiny to all voting laws would cause “chaos” putting “all Kansas election regulations in jeopardy.” Pet. Supp. at 3. This argument is unfounded. It is also easily disproven by the myriad states that already closely scrutinize voting rights infringements. Strict scrutiny would not strip the government of its ability to regulate elections; it would only require it to scrupulously justify incursions on the most sacred democratic right. Moreover, the slippery slope runs in the opposite direction: seemingly small restrictions on the franchise accumulate and undermine the entire basis of democracy. *See Reynolds*, 377 U.S. at 555 (“[T]he right of suffrage can be denied by a debasement or dilution of the weight of a citizen’s vote just as effectively as by wholly prohibiting the free exercise of the franchise.”).

Finally, the Legislature’s right to “provide by law for proper proofs of the right of suffrage” cannot justify abridging the right to vote. Kan. Const. Art. 5, §. 4. None of the challenged statutory schemes—signature matching requirements and ballot collection restrictions—are requirements for “proper proofs.” *Cf. State v. Butts*, 31 Kan. 537, 554, 2 P. 618 (1884) (describing “proper proofs” as “the ascertaining beforehand . . . of the persons who should, on the day of election, be entitled to vote”). The *Butts* court made clear that the legislature had no right to “overthrow constitutional provisions” by “legislating

concerning rules of evidence” *Id.* at 554–55; *see also Harrington v. Crichton*, 164 P. 537, 539 (Mont. 1917) (cautioning that election rules “intended to prevent fraud and injustice” should not become “an instrument of injustice”). Thus, if the Legislature wishes to enact laws that burden the right to vote, the burden should be on the government to establish that such laws are narrowly tailored to further a compelling state interest. *See Hodes*, 309 Kan. at 663.

IV. Restrictions on access to voting decrease voter participation.

In addition to voicing support for affirmance of the constitutional analysis set forth in the Court of Appeals’ decision, the ACLU of Kansas also writes to highlight the practical import of the decision on everyday Kansans. Restrictions on voting must be heavily scrutinized because of the dramatic impact they have on participatory democracy.

Without question, the provisions challenged in this case will decrease Kansans’ ability to cast their ballot *and* have their ballot counted. But, importantly, the curtailment of voting the challenged provisions cause is likely greater than the restrictions contained in the provisions themselves. The harder it is to cast a ballot in this state, the more likely it will be that Kansans will be discouraged from showing up, voting, and participating in the democratic process. Recent analysis confirms the logical proposition that election accessibility strongly correlates with voter participation. In 2023, the ACLU of Kansas conducted a survey assessing statewide practices that impacted Kansans’ access to the polls. ACLU of Kansas, *supra* at 4. The survey identified numerous obstacles that Kansans continue to face when attempting to access the polls, including: underutilization of early voting periods; lack of access to early polling stations outside of regular business hours;

too few early voting locations; too few polling stations on Election Day; lack of access to curbside voting; limited dissemination of information about the ability to apply for permanent advance voting status; limited language accessibility of voting materials; and limited access for eligible incarcerated voters to exercise their right to vote. *Id.* at 4–5.

Notably, on the issue of access to polling stations, the survey showed that 80% of counties did not offer early voting outside of regular businesses hours and that only 22 counties offered more than a single polling station for early voting. *Id.* Counties that expanded their early voting hours and counties that offered five or more early voting locations both saw turnout rates above the state average. *Id.* Increasing the number of polling stations on Election Day also resulted in higher voter participation. *Id.* “The counties with the least number of voters assigned to each poll, 1 to 499 voters, had an average turnout rate of a whopping 62.47%, compared to turnout in the counties with over 4,000 voters per poll: 36.27%.” *Id.*

The restrictions challenged in this case represent yet *another* barrier to casting a ballot (in the case of the advanced ballot delivery and collection limitations) and having one’s vote count (in the case of the signature match requirement). The data clearly demonstrate that barriers to early voting already exist across the State and are actively impeding individuals’ willingness to participate in the democratic process. It is thus easy to see how additional restrictions on the procurement and delivery of early voting ballots—such as those contained in the challenged laws—proliferate the numerous barriers to casting a ballot that already decrease democracy in Kansas. The signature match requirement likewise discourages participation in democracy, because it virtually

guarantees that otherwise lawfully casted ballots may be thrown out due to circumstances beyond the voter’s control. *See, e.g.,* David A. Graham, *Signed, Sealed, Delivered—Then Discarded*, *The Atlantic* (Oct. 21, 2020), <https://www.theatlantic.com/ideas/archive/2020/10/signature-matching-is-the-phrenology-of-elections/616790/> (“Even in normal election cycles, signature-matching requirements result in many ballots being rejected. Hundreds of thousands of such ballots were disqualified this way in 2016—almost all, presumably, cast by voters who had done everything right.”).

For these reasons, the restrictions at issue in this case clearly demonstrate an infringement on the fundamental right to vote, deserving of strict scrutiny.

CONCLUSION

No doubt, the government has the right to appropriately regulate administration of elections. But the Legislature must cautiously exercise that right, and this Court should closely scrutinize restrictions on voting rights to ensure that the franchise is protected. After all, our democracy and *all* rights that Kansans enjoy ultimately depend on the ability of Kansans to wield their power to vote. For that reason, the ACLU of Kansas respectfully urges the Court to affirm the Court of Appeals decision.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed on September 21, 2023, via the court's electronic filing system, which will serve an electronic copy on all registered participants.

/s/ Sharon Brett
Sharon Brett