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James C. Condos, Secretary of State
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Hon. Scott S. Harris
Clerk of the Court
Supreme Court of the United States
One First Street NE
Washington, DC 20543

October 28, 2020

Re: *Democratic National Committee, et al. v. Wisconsin State Legislature, et al.*, No. 20A66

Dear Mr. Harris:

I am the Vermont Secretary of State, and I write in the hope of correcting the record with respect to an Oct. 26 opinion issued in 20A66, *Democratic National Committee, et al. v. Wisconsin State Legislature, et al.*

On page 5 of his opinion, Justice Kavanaugh stated, "Vermont, by contrast, ha[s] decided not to make changes to their ordinary election rules, including to the election-day deadline for receipt of absentee ballots."

Though it is true that our office has made every effort to "depart[] as little as possible from our voting traditions and our safe and secure voting processes while proactively ensuring no Vermonter has to choose between their health and their right to vote" (July 20, 2020, Directive¹), we did make two significant changes to our ordinary election rules in response to the pandemic – both authorized under Vermont law per Acts 92² and 135³ of the 2020 General Assembly and neither requiring legislative approval.

First, beginning on Sept. 18, Vermont mailed every active registered voter a ballot and a prepaid return envelope. Second, given that more Vermonters are voting early and by mail than in a typical election year, I authorized Local Election Officials to begin processing such ballots confidentially and with strict security protocols during the 30 days preceding the election in order to facilitate timely results (see Directive). These two actions factored significantly in our decision to hold to existing law requiring the election day receipt of mailed ballots rather than extending returns beyond election day based on postmark.

Since the state of Wisconsin neither changed its ordinary election rules this year to mail each of its active registered voters a ballot nor authorized its Local Election Officials to process ballots early, Vermont is not an accurate comparison for the assertion Justice Kavanaugh has made.

I respectfully ask that the record is corrected to reflect that.

Sincerely,


Jim Condos

¹ Available at <https://sos.vermont.gov/media/hxgjjdkb/secretary-of-state-s-first-2020-statewide-election-procedures-directive.pdf>.

² <https://legislature.vermont.gov/bill/status/2020/H.681>

³ <https://legislature.vermont.gov/bill/status/2020/S.348>