

## Insights

# BCLP FILES AMICUS BRIEF FOR NSL4A IN WATSON V. RNC

Jan 27, 2026

A team of BCLP appellate litigators recently filed an amicus brief on behalf of pro bono client National Security Leaders for America ("NSL4A") in support of the petitioners at the merits stage of *Watson v. Republican National Committee*, a case pending before the Supreme Court of the United States.

The case involves a preemption challenge to a Mississippi law that allows absentee ballots to be counted if they are postmarked before Election Day but received by the State within five days after. The Republican National Committee sued the Mississippi Secretary of State, arguing that this law was preempted by the federal statutes setting the day of the federal election. The U.S. Court of Appeals for the Fifth Circuit agreed, holding that those statutes require all "voting" to be completed on Election Day and that the act of "voting" is not complete until election officials receive the voter's ballot. Mississippi appealed, arguing that "voting" requires only that the ballot leave the voter's possession after having been duly filled out and postmarked.

NSL4A is an organization of former top-level U.S. national security leaders, including generals, admirals, diplomats, and other military and diplomatic officials. As such, it represents the interests of the thousands of military and diplomatic personnel who are stationed away from home on orders from the U.S. government. These citizens depend on absentee voting measures, including those like Mississippi's, to exercise their right to vote. Accordingly, NSL4A, through its BCLP team, filed an amicus brief supporting Mississippi.

Based on its unique experience representing the interests of national security personnel, NSL4A argued that the Fifth Circuit's interpretation of the Election Day statutes was at odds with over two centuries of state and federal practice to provide special protections for military and diplomatic personnel who attempted to cast their ballots while away from home. First, NSL4A provided the court with a detailed history of the protections that the state and federal governments have provided to military voters starting as early as the War of 1812 and continuing through every major U.S. conflict. Next, it demonstrated that, in two statutes from the mid-20th century, Congress had explicitly set a deadline for receipt of absentee ballots—and had repealed that deadline both times, returning control of that decision to the states. Finally, putting this together, NSL4A argued that the silence of the current federal statutory scheme on any ballot receipt deadline, combined with the

two-century-long practice of allowing states to protect the voting rights of absent national security personnel, including by accepting ballots received after Election Day, shows that Congress did not preempt laws like Mississippi's through the Election Day statutes.

Partner Dan Schwartz, a member of NSL4A, led the BCLP team along with J.C. Andre, Ben Hogan, Justin Benson, and Rich Finneran, assisted by Emily Heppermann, Ed Houser, and Leif Olson.

## **RELATED CAPABILITIES**

- Appellate

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