

No. 19-70

**In the Supreme Court of the United States**

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LARRY HOUSEHOLDER, SPEAKER OF THE OHIO  
HOUSE OF REPRESENTATIVES, LARRY OBHOF,  
PRESIDENT OF THE OHIO SENATE, AND FRANK  
LAROSE, OHIO SECRETARY OF STATE, IN THEIR  
OFFICIAL CAPACITIES,

*Appellants,*

v.

OHIO A. PHILIP RANDOLPH INSTITUTE, *ET AL.*,

*Appellees.*

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ON APPEAL FROM THE UNITED STATES  
DISTRICT COURT FOR THE SOUTHERN  
DISTRICT OF OHIO

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**BRIEF OPPOSING MOTION TO DISMISS**

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The appellees concede that, after *Rucho v. Common Cause*, 139 S. Ct. 2484 (2019), the federal courts lack jurisdiction to hear this case. Thus, they agree with the appellants (the “State”) that this Court should vacate and remand with “instructions to dismiss for lack of jurisdiction.” Mot.4–5 (quoting *Rucho*, 139 S. Ct. at 2508). As long as the Court enters that relief, there is no need to reach the standing and merits issues the State raised in its jurisdictional statement—the State raised those issues, which independently justify reversal, for preservation purposes only. See Jur.St.13–14.

Before concluding, it is worth noting one factual error in the appellees’ motion. The appellees claim that they “asked the State to stipulate to a ‘remand[] with instructions to dismiss for lack of jurisdiction’ pursuant to Rule 46,” and “the State declined.” Mot.5 n.1. That is not true—at least, that is not how the State understood the terms of the appellees’ offer. After the State filed its jurisdictional statement, the appellees asked the State to dismiss its own appeal and to let the *District Court* dismiss for lack of jurisdiction. The State explained that it could not agree to dismiss an appeal from an adverse ruling without a Supreme Court order vacating the adverse decision and requiring dismissal for lack of jurisdiction. The appellees expressed no interest in pursuing a stipulation or other resolution under which this Court would have awarded such relief.

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The Court should summarily vacate the District Court’s judgment and remand with instructions to dismiss the case for lack of jurisdiction.

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