

No. 26A305

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

UNITED STATES POSTAL SERVICE, ET AL.,

Appellants,

v.

STATE OF CALIFORNIA, ET AL.,

Respondents,

DONALD J. TRUMP, ET AL.,

Applicants,

v.

LEAGUE OF WOMEN VOTERS OF MASSACHUSETTS, ET. AL.,

Respondents.

On Application for a Stay of the Injunction Issued by the
United States District Court for the District of Massachusetts
and Request for an Immediate Administrative Stay
Supreme Court of the United States

**BRIEF OF LAWYERS FOR RULE OF LAW AS *AMICI*
CURIAE IN SUPPORT OF RESPONDENTS**

DANIEL ARSHACK
*Counsel to Lawyers for the
Rule of Law*
5 Columbus Circle, Suite 1501
New York, New York 10019
(212) 582-6500
dan@lawahl.com

JON MAY
*Co-Counsel to Lawyers for the
Rule of Law*
P.O. Box 970006
Boca Raton, Florida 33497
(954) 439-6500
jonmay@jonmaycriminaldefense.com

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STATEMENT OF *AMICI CURIAE*¹

Lawyers for the Rule of Law (www.LFRL.org) is a not-for-profit comprised of over 300 pro-bono lawyers, including former state and federal judges, academics, ethicists and practicing attorneys, spread across the nation, whose non-partisan mission is to support United States institutions according to the Constitution and its democratic and ethical principles, to support the civil and Constitutional rights of individuals in the United States and to offer public education and guidance that helps individuals understand and exercise those rights.

¹ Pursuant to Supreme Court Rule 37.6, *Amici* states that no counsel for a party authored this brief in whole or in part, and no person other than *Amici* or their counsel made a monetary contribution to fund its preparation or submission.

INTRODUCTION

Lawyers for the Rule of Law address, in this amicus brief, the critical question that the parties and amici have not adequately addressed. The parties and amici have ably described, from their various viewpoints, the mechanical interaction between the law and the facts. Beyond those considerations, this Court understands and demonstrates, in virtually every opinion and dissent it issues which address social mores and fundamental constitutional issues, the essential interplay between the historical precedent either grounded in "Originalist" orientation or a "Living Constitution" framework. This brief does not advocate for either approach because regardless of one's orientation the outcome is the same. The very basic underpinning of our democracy is the fundamental right of every citizen to vote in elections. Without that fundamental right protected and held sacrosanct, our democracy is lost. Although there were early efforts during Reconstruction in the United States to limit the voting rights of black men and poor white men (and until the passage of the 19th Amendment, all women), during the more modern era, the Supreme Court has always understood and supported this foundation of our democracy. Our current administration is repeating the early efforts in this country (described below), and more recent efforts in other countries, which should never be permitted to result in the abandonment of the essential promise of our democracy. Our proud history of protecting the sanctity of the vote must be maintained.

Among the questions raised by this case is : Why, given the uncontroverted evidence that only a tiny fraction of non-citizens have ever voted in elections involving

hundreds of millions of Americans, is this administration seeking to institute procedures that will disenfranchise hundreds of thousands or more United States citizens who have used, and expect to be able to use, mail-in ballots to vote in the coming midterm elections?^{2, 3, 4, 5} The answer was given by President Trump himself in a speech on February 19, 2026. He said: “I’ll tell you what: Republicans have to win this one. We’ll never lose a race—for 50 years, we won’t lose a race.”⁶ This Administration’s effort to reduce mail-in voting is one of the tools he seeks to use to “win this one,” regardless of the voters’ views. A reduction of mail-in voting will not ensure the reliability of elections. It is part of a bald-faced program to grab power. Understanding the sordid history of these tactics is essential to the Court’s consideration of the legitimacy of this administration’s ongoing efforts to disenfranchise enough voters to co-opt the mid-term elections. We rely on the Court to protect our hard-fought freedom to exercise the right to vote.

² *Unpacking Myths About Noncitizen Voting: How Heritage Foundation’s Own Data Still Proves It’s Not the Problem It’s Made Out to Be*, American Immigration Council (Aug. 13, 2026), <https://www.americanimmigrationcouncil.org/blog/myths-about-noncitizen-voting-heritage-foundation-data/>

³ Elaine Kamarck, *Why Do So Few Noncitizens Try to Vote?*, Brookings (July 23, 2026), <https://www.brookings.edu/articles/why-do-so-few-noncitizens-try-to-vote/>.

⁴ Lauren Miller Karalunas & Sean Morales-Doyle, *Project 2025’s Anti-Voter Agenda*, Brennan Ctr. for Just. (updated Sept. 23, 2024), <https://www.brennancenter.org/our-work/research-reports/project-2025s-anti-voter-agenda>.

⁵ Common Cause, *Project 2025 Aims to Strip Away Our Freedom to Vote* (September 3, 2024) <https://www.commoncause.org/articles/project-2025-aims-to-strip-away-our-freedom-to-vote>

⁶ Donald J. Trump, *Remarks at a Campaign Rally in Rome, Georgia*, The American Presidency Project (February 19 2026), *The American Presidency Project transcript* <https://www.presidency.ucsb.edu/documents/remarks-the-national-economy-rome-georgia>

And lest there is any doubt of the philosophical genesis of this power grab, we footnote a quote from Adolf Hitler's speech in which he discussed a similar plan, albeit he had grander expectations when he stated that the new German administration would last 1000 years.⁷

ARGUMENT

This is not the first time that an American government has sought to disenfranchise hundreds of thousands of registered voters that it fears will vote against its candidates in upcoming elections. Indeed, colonial restrictions on the right to vote on, among other things, property ownership preceded the adoption of the Constitution. This time, the vehicle for the scheme is the United States Postal Service (USPS). President Trump seeks to require the USPS to block the delivery of ballots to persons the administration claims but cannot establish, are not United States citizens, based on an unquestionably flawed system of verification that will exclude the poor and minorities. This naked effort to usurp the constitutional power of the states to control elections and thereby disenfranchise voters' rights should lead

⁷ *Hitler Forecasts No Reich Overturn in Next 1,000 Years; Proclamation to Nazi Congress Says Movement Won't Yield No Matter What Happens*, N.Y. Times, Sept. 6, 1934, at 1, 13, <https://www.nytimes.com/1934/09/06/archives/hitler-forecasts-no-reich-overturn-in-next-1000-years-proclamation.html>, reporting Hitler's speech as follows:

"Obedient sons of the National Socialist [Nazi] party were entering into all positions of control to guarantee the domination in Germany of one will. Through laws and newly created institutions, he said, the press has been placed at the service of this mighty upheaval of our people and it is helping now to create increasingly uniform opinion and purpose. The crowning event of recent political developments was presented symbolically in the adoption by the army of the insignia of the Nazi movement. 'The nervous nineteenth century has reached its end,' he said. 'There will not be another revolution in Germany in the next thousand years.' "

this Court to deny both the application for a stay of the Massachusetts District Court's preliminary injunction and for an administrative stay.

This administration's current effort is simply the latest chapter in historical efforts of powerful interests to prevent challenges to their power by disenfranchising those it believes threaten to overturn its lock on our government. In the United States, one such effort had its origins after the end of Reconstruction, when wealthy whites orchestrated the disenfranchisement of blacks and poor whites throughout the South.

In addition to wanting to affirm white supremacy, the wealthy establishment was concerned about voting by lower-class and uneducated whites. "They disenfranchised these whites as willingly as they deprived blacks of the vote."⁸ Competition between white elites and white lower classes, for example, and a desire to prevent alliances between less privileged white and black Americans, as had been seen in Populist-Republican alliances, led white Democratic legislators to restrict voter rolls.⁹

In the 1870 Census (during Reconstruction) the white population in the South was numbered at approximately 5.7 million, and the black population was

⁸ J. Morgan Kousser (1974). *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South*. Cited in Wikipedia, https://en.wikipedia.org/wiki/Disfranchisement_after_the_Reconstruction_era

⁹ Michael Perman, *Struggle for Mastery: Disfranchisement in the South, 1888–1908* (Univ. of N.C. Press 2001), cited in Wikipedia, https://en.wikipedia.org/wiki/Disfranchisement_after_the_Reconstruction_era

approximately 4.4 million. The Initial Registration (1867–1868) included 735,000 black voters and 635,000 white voters. During the presidential elections of 1868 and 1872, black voter turnout routinely exceeded 85% to 90%. But by 1876, paramilitary suppression drove down black voter participation dramatically, while white turnout remained high.¹⁰ Black participation had significant consequences. Between 1868 and 1877, more than 1,500 black men still served in public office across the Southern states.

The wealthy Southern power structure could not allow this to stand. In public speeches, newspaper editorials, and political platforms, those in power openly framed the end of Reconstruction as a racial struggle to re-establish white supremacy and end "Negro Rule," and they continued to do so through the Jim Crow period. Among their actions:

- In 1890, Mississippi convened a convention to write a new state constitution.

The purpose, stated by delegates to the convention:

"Let's tell the truth if it bursts the bottom of the Universe. . . . We came here to exclude the Negro. Nothing short of this. . . . Negro suffrage is an evil. . . . The Negro race seems unfit to rule."

Delegate Solomon Saladin "S. S." Calhoon

¹⁰ Foner, Eric. *Reconstruction: America's Unfinished Revolution, 1863–1877* (Harper & Row 1988). (*The definitive academic authority on Reconstruction statistics, officeholders, and political developments*).

“It is the manifest intention of this Convention to secure to the State of Mississippi, ‘white supremacy.’”

Delegate George P. Melchior of Bolivar County

“What are you here for, if not to maintain white supremacy?”

Delegate Will T. Martin of Adams County¹¹

The result was the Mississippi Constitution of 1890: It established poll taxes, 2-year residency requirements, and "understanding clauses" (where white registrars decided if a voter could "satisfactorily interpret" any section of the state constitution).¹²

- Rhetoric of Economic and Social Control: Newspapers, such as the *Atlanta Constitution* and *Charleston News and Courier*, argued expressly that black citizens were "incapable of self-governance" and that state budgets could be restored to solvency only by stripping freedmen of their ballots.¹³
- Florida Constitution of 1885: In 1885 Florida approved a new constitution that included provisions for poll taxes as a prerequisite for voter registration and voting. From 1890 to 1908, ten of the eleven Southern states rewrote their constitutions. All included provisions that

¹¹ Facing History & Ourselves, *Quotes from the Mississippi Constitutional Convention 1890* (updated March 31, 2023) <https://www.facinghistory.org/resource-library/quotes-mississippi-constitutional-convention-1890>

¹² Miss. Const. art. XII, §§ 241–244 (1890). *See also*, *Williams v. Mississippi*, 170 U.S. 213 (1898) (The landmark ruling in which the U.S. Supreme Court unanimously upheld the voter restriction provisions of the 1890 Mississippi Constitution).

¹³ Equal Justice Initiative, *“Reconstruction in America: Racial Violence after the Civil War, 1865-1876”* (2020) <https://eji.org/report/reconstruction-in-america/> (Detailed documentation on political massacres, turnout suppression, and anti-Black rhetoric). Cited in Wikipedia, Reconstruction era.

effectively restricted voter registration and suffrage, including requirements for poll taxes, increased residency, and subjective literacy tests.¹⁴

Senator and former South Carolina Governor Benjamin Tillman defended such steps on the floor of the Senate:

In my State there were 135,000 negro voters, or negroes of voting age, and some 90,000 or 95,000 white voters Now, I want to ask you, with a free vote and a fair count, how are you going to beat 135,000 by 95,000? How are you going to do it? You had set us an impossible task. We did not disfranchise the negroes until 1895. Then we had a constitutional convention convened which took the matter up calmly, deliberately, and avowedly with the purpose of disfranchising as many of them as we could under the Fourteenth and Fifteenth Amendments. We adopted the educational qualification as the only means left to us, and the negro is as contented and as prosperous and as well protected in South Carolina to-day as in any State of the Union south of the Potomac. He is not meddling with politics, for he found that the more he meddled with them the worse off he got. As to his "rights"—I will not discuss them now. We of the South have never recognized the right of the negro to govern white men, and we never will I would to God the last one of them was in Africa and that none of them had ever been brought to our shores.¹⁵

Disenfranchisement indeed had far-reaching effects in the United States Congress, where the Democratic solid South enjoyed "about 25 extra seats in Congress for each decade between 1903 and 1953." Also, the Democratic dominance

¹⁴ Michael Perman, *Struggle for Mastery: Disfranchisement in the South, 1888–1908* (Univ. of N.C. Press 2001), cited in Wikipedia, https://en.wikipedia.org/wiki/Disfranchisement_after_the_Reconstruction_era

¹⁵ Benjamin R. Tillman, *Speech of Senator Benjamin R. Tillman, 33 Cong. Rec. 3223, 3223–24* (March 23, 1900), reprinted in *Document Sets for the South in U.S. History 147* (Richard Purday ed., 1991), cited in Wikipedia, https://en.wikipedia.org/wiki/Disfranchisement_after_the_Reconstruction_era

in the South meant that southern senators and representatives became entrenched in Congress. Seniority privileges became the standard in Congress by 1920, and Southerners controlled chairmanships of important committees, as well as the leadership of the national Democratic party.¹⁶

Happily, over the years, these racist efforts have been overcome with The Supreme Court taking the leading role. Jim Crow restrictions on voting ended after the enactment of the Civil Rights Acts of 1965, about 80 years after they were instituted. This required the hard-fought struggle of the Civil Rights movement of the 50's and early 60's, which made significant gains for minority groups throughout the country. Many died to achieve those successes. The progress was sustained in the decisions of the Supreme Court in *South Carolina v. Katzenbach*, 383 U.S. 301 (1966) and *Katzenbach v. Morgan*, 384 U.S. 641 (1966), which upheld the constitutionality of the Voting Right Act that outlawed literacy tests and other discriminatory "test or devices." Then in *Dunn v. Blumstein*, 405 U.S. 330 (1972), the Court struck down state laws requiring voters to have resided in a state for one year and a county for three months as a condition for voting. In *Harper v. Virginia State Board of Elections*, 383 U.S. 663 (1966), the Court struck down state poll taxes in state and local elections. And, in *Louisiana v. United States*, 380 U.S. 145 (1965), the Court struck down Louisiana's "interpretation test," which required voter applicants to give a

¹⁶ Richard M. Valelly, *The Two Reconstructions: The Struggle for Black Enfranchisement 146–47* (Univ. of Chi. Press 2009), cited in Wikipedia, https://en.wikipedia.org/wiki/Disfranchisement_after_the_Reconstruction_era

"reasonable interpretation" of any clause of the state or federal Constitution to the satisfaction of local registrars.

Unfortunately, that hard earned progress, which is reflected in the current composition of the Supreme Court, is now threatened by the Trump administration, and the attack on mail-in voting is front and center. In the imminent attack, election officials would play a key role. The President's executive order would direct state and local officials to compile and submit state-specific lists of eligible voters intended to receive mail-in ballots to the federal government 60 days before a federal election. Federal employees would then decide which potential voters are citizens and can receive mail-in ballots by checking "State Citizenship Lists," those being compiled by the Department of Homeland Security using federal databases such as Social Security Administration records and SAVE data. State officials would face potential federal investigation and prosecution by the Department of Justice if they issue ballots to individuals deemed ineligible under the unverified State Citizenship Lists.

The Post Office would play a major role in the administration's plan. The USPS would accept, deliver, or process mail-in ballots only for individuals enrolled on the state citizen lists. Moreover, local jurisdictions would be obliged to update and standardize mail-in ballot envelopes to incorporate distinct envelope markers and unique tracking identifiers provided by federal officials. The postal service would enforce updated mail piece preparation standards and ballot envelope designs with required tracking features by accepting or delivering only envelopes that pass muster.

Given all this, 70 years of progress in ensuring the right to vote for all United States citizens is gravely threatened. The federal lists of voters will include or exclude millions of people and be fashioned in the mere two months before the upcoming election. Even if the massive lists are created in good faith, the inevitable errors in them will lead to hundreds of thousands of registered voters being unable to cast their votes. This will have a significant impact on the rural poor and the retired, constituencies which have been most adversely affected by Trump administration policies. In the words of President Trump, this scheme is intended to insure Republican dominance in elections for the next 50 years.

But there is no reason to blithely assume good faith in the creation of the voter lists. There is no doubt that the President's efforts to complicate and obstruct mail-in voting, like the obstructions to minority voting in the Jim Crow era, are designed to suppress the vote. As noted, in remarks on the national economy in Rome, Georgia, on February 19, 2026, the President stated that the Republicans would not lose a race for 50 years if the SAVE act were passed and they did away with, *inter alia*, mail-in ballots:

I'll tell you what: Republicans have to win this one. We'll never lose a race—for 50 years, we won't lose a race. We want voter ID. We want proof of citizenship, and we don't want mail-in ballots, except for the military far away; except for people that are ill, disabled; or people that are away, even for a vacation. We'll be generous. Okay? Other than that, we don't want mail-in ballots, because mail-in ballots, they cheat.¹⁷

¹⁷ See, Footnote 6.

This type of “Big Lie” is not new. In “Mein Kampf,” Adolf Hitler discussed the use of the Big Lie to manipulate public opinion. He said:

Such a falsehood will never enter their heads, and they will not be able to believe in the possibility of such monstrous effrontery and infamous misrepresentation in others.... Therefore, something of even the most insolent lie will always remain and stick—a fact which all the great lie-virtuosi and lying-clubs in this world know only too well and also make the most treacherous use of.”¹⁸

On March 23, 1933, in the face of mass murders and storm trooper violence focused on Jews and their businesses (all reported in the German press), Hermann Göring, as president of the Reichstag, stood before that body’s delegates, the diplomatic corps, and the international press and reported an alternative reality that ¹⁹

Germany has never been more peaceful. You can go anywhere in Germany and won’t find a shop or department store that has been demolished. You can go to any synagogue or any Jewish cemetery and you won’t find one that has been desecrated.

Trump has used this very technique, repeatedly claiming that huge numbers of “illegal aliens” are voting in the United States. In fact, even the conservative Heritage Foundation has been able to document non-citizen voting by only an infinitesimally small number of individuals.²⁰ But this oft-repeated lie is supported

¹⁸ Adolf Hitler, *Mein Kampf* (Ralph Manheim trans., Mariner Books 1999) p. 231.

¹⁹ Hermann Göring, *Address to the Reichstag* (Mar. 23, 1933), reproduced in “*Verhandlungen des Reichstages*” Vol. 457 (1933) quoted in, Timothy W. Ryback, How Hitler Dismantled a Democracy in 53 Days, *The Atlantic* (January 8, 2025), *The Atlantic*. <https://www.theatlantic.com/ideas/archive/2025/01/hitler-germany-constitution-authoritarianism/681233/>

²⁰ See Footnote 2

by no evidence and is being used to justify the unnecessary and improper disenfranchisement of hundreds of thousands of legitimate citizens.^{21, 22}

It is not a scare-tactic stretch to compare the propaganda of officials of Nazi Germany to that of the current administration; the tactics being used in this election come right out of the Nazi playbook. As Herman Göring said,

“The people can always be brought to the bidding of the leaders. That is easy. All you have to do is tell them they are being attacked and denounce the pacifists for lack of patriotism and exposing the country to danger. It works the same way in any country.” Gilbert, G. M. (1947). *Nuremberg Diary*. New York: Farrar, Straus and Company page 278-279.

And, in a haunting segment of Hitler’s March 23, 1933 speech to the Reichstag, just 53 days after becoming chancellor, he recounted the great advances he had engineered for the German people which was virtually repeated by our President on June 26, 2026 at his recent speech in Washington, D.C.²³ Hitler said he had:

“restructured government ministries, purged the civil service of corruption and incompetency, lowered taxes and raised tariffs.... Consumer prices may rise,” he said, “but it will save farmers from ruin.” He said he was “eradicating Marxism.” He was “protecting Christianity.” He was

²¹ Aaron Reichlin-Melnick, *Unpacking Myths About Noncitizen Voting: How Heritage Foundation’s Own Data Still Proves It’s Not the Problem It’s Made Out to Be*, American Immigration Council (Aug. 13, 2026), <https://www.americanimmigrationcouncil.org/blog/myths-about-noncitizen-voting-heritage-foundation-data/>

²² and See Footnote 3.

²³ Donald J. Trump, *Remarks to the Faith & Freedom Coalition Conference* (June 26, 2026), transcript available at The Senate Democratic Caucus, <https://www.democrats.senate.gov/newsroom/trump-transcripts/transcript-president-trump-addresses-the-faith-and-freedom-coalition-conference-62626>

“rebuilding the military.” He was “making the country’s borders secure.”²⁴

CONCLUSION

Beyond the mere mechanical interplay of law and facts, it is necessary for this Court to recognize and acknowledge the play book used by our current administration. That playbook is based on our history of disenfranchisement of blacks and poor whites in the Jim Crow South because they were viewed as a threat to the established order. More recently, and in many ways more haunting, in 1930-45, in Germany and across Europe, Jews and other minority groups, like “illegal immigrants” today were supposedly a grave social problem. Now, it is poor Americans and minorities who have been marginalized by the current administration as it is threatened by the possibility of losing its majorities in Congress. The means of oppression in the Jim Crow South were poll taxes and literacy tests. In Germany, Hitler manipulated the levers of power by threats, coercion, intimidations and force, to disassemble the Weimar Constitutional government and its parliamentary democracy in the first 53 days of his chancellorship,²⁵ and thereafter engaged in unspeakable but well remembered violence. The illegal and unconstitutional tampering with state mail-in ballots by the USPS are no less noxious than other

²⁴ Adolf Hitler, *Address to the Reichstag* (Mar. 23, 1933), in 457 *Verhandlungen des Reichstags: Stenographische Berichte* 25–32 (Reichsdruckerei 1933) quoted in, Timothy W. Ryback, *How Hitler Dismantled a Democracy in 53 Days*, page 179-180, *The Atlantic* (January 8, 2025), <https://www.theatlantic.com/ideas/archive/2025/01/hitler-germany-constitution-authoritarianism/681233/>

²⁵ Timothy W. Ryback, *How Hitler Dismantled a Democracy in 53 Days*, page 179-180, *The Atlantic* (January 8, 2025), <https://www.theatlantic.com/ideas/archive/2025/01/hitler-germany-constitution-authoritarianism/681233/>

historical efforts to disenfranchise voters. The oft repeated phrase that: “Those who cannot remember the past are condemned to repeat it.”²⁶ is as apt today as it was 121 years ago. We look to the Courts to protect the vitality of our elections, which are the foundation of our democracy.

Respectfully submitted,

Counsel to Lawyers for the Rule of Law:

/s/ Daniel N. Arshack September 10, 2026

Daniel Arshack
NY Bar # 2259059
5 Columbus Circle, Suite 1501
New York, New York 10019
dan@lawahl.com
(212) 582-6500

Co-Counsel to Lawyers for the Rule of Law

/s/ Jon May September 10, 2026

Jon May
FL Bar #0276571
P.O. Box 970006
Boca Raton, FL 33497
jonmay@jonmaycriminaldefense.com
(954) 439-6500

²⁶ George Santayana, *The Life of Reason; or, The Phases of Human Progress*, vol. 1, *Reason in Common Sense*, Page 284 (Charles Scribner’s Sons 1905).