

# Supreme Court ruling on mail-in ballots sets stage for stolen election

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On Monday, the US Supreme Court ruled that the battleground state of Wisconsin cannot count mail-in ballots sent before election day but received after November 3.

The decision disenfranchises hundreds of thousands of Wisconsin voters of the right to vote and legitimizes Trump's claim that mail-in voting is "fraudulent." Twenty years after its infamous *Bush v. Gore* ruling handed the election to George Bush, the high court is now preparing another stolen election.

It is a nakedly political ruling with no real basis in law. Earlier this year, the Supreme Court ruled in regard to Wisconsin's primary elections that the state could *accept* late ballots postmarked by election day—the opposite of yesterday's ruling, the only difference being that suppressing the vote now helps Trump.

In an opinion concurring with the majority, Trump nominee Brett Kavanaugh echoed Trump's statements about voter fraud, writing: "States want to avoid the chaos and suspicions of impropriety that can ensue if thousands of absentee ballots flow in after Election day and potentially flip the results of an election."

Nevermind the "suspicions of impropriety" that tens of millions of Americans have over Trump nominees throwing out countless ballots under conditions where in-person voting poses a significant health risk. Wisconsin is itself a global epicenter of the coronavirus pandemic. As the state's hospitals fill up and its cases skyrocket, the Supreme Court is effectively ordering voters that they can only exercise their right to vote by risking death.

The Supreme Court is legitimizing Trump's lies about voter fraud and lending political support to his plan to mobilize far-right militias to stop mail-in ballots from being counted.

At a speech Monday in Allentown, Pennsylvania, Trump again made clear that questioning the validity of mail-in ballots is essential to his strategy:

"With these ballots, who is sending them, who is receiving them, who is sending them back, who is signing them? It's ridiculous. It's the only way we can lose. Massive fraud. And that's what's happening because all over the country you're seeing it. Thousands and thousands of ballots. How about the military ballots that were thrown into a garbage can with the name Trump on it?"

Hours after the Supreme Court ruling was published, Trump capitalized on the Supreme Court ruling by tweeting, "Big problems and discrepancies with Mail In Ballots all over the USA. Must have final total on November 3rd."

Attorneys supporting Trump's re-election are presently scrambling to file lawsuits against any state measures that might facilitate voting, especially in battleground states.

North Carolina Republicans have appealed to the Supreme Court to overturn an appellate court's decision allowing the state to count absentee ballots after election day, provided they are postmarked by then.

In Nevada the Trump campaign is fighting to stop densely populated Clark County (where Las Vegas is located) from counting mail-in ballots on the pretense that voters' signatures do not exactly match signatures in the state's database. In Michigan, a right-wing challenge to Secretary of State Jocelyn Benson's order barring open carry of firearms within 100 feet of polling stations is currently making its way through the state courts. The order was issued in response to the plot to kidnap and kill the state's governor, Democrat Gretchen Whitmer.

In Pennsylvania, a divided 4-4 Supreme Court ruled last week that it would not hear a challenge by the Trump campaign to that state's decision to accept mail-in ballots until November 6 if postmarked by election day. However, last night's confirmation of a ninth justice, Amy Coney Barrett, now means Trump has the five votes required to reverse course, take the case, and throw thousands more ballots.

The Wisconsin decision will have major implications on the outcome of the vote. Even under normal voting conditions, mail-in ballots postmarked by Election Day but received afterward constitute a substantial portion of the vote.

In 2016, 80,000 people in Wisconsin cast their ballots in this way (such votes were counted that year), and the election there was determined by 20,000 votes. This year, the pandemic has led to record mail-in voting, meaning the total number disenfranchised in Wisconsin alone will be far higher.

Meanwhile, Trump and his crony postmaster general Louis DeJoy are systematically working to slow mail delivery to delay the arrival of as many mail-in ballots as possible. This summer, the postal service removed 671 sorting machines with no prior notice. In late July, the US Postal Service published a letter warning that 186 million voters in 46 states and Washington D.C. faced a 'heightened warning' of late delivery.

The *Washington Post* reported Tuesday that the mail is slowing further in the days before the election: "Mail service continues to lag—especially in certain swing states that could decide control of the White House."

In eastern Michigan, only 71.5 percent of first-class mail was delivered on time during the week of October 16-22. In heavily Democratic Philadelphia, just 76.9 percent was on time, compared to less Democratic Western Pennsylvania, with an on-time rate of 87.3 percent. An on-time rate of 90 percent is considered mediocre.

It was revealing that the justice who swore in Coney Barrett was Clarence Thomas, the last remaining Republican who was on the court during the 2000 *Bush v. Gore* decision. In his concurrence, Kavanaugh favorably cites the ruling, the first time a justice has done so in a majority opinion or concurrence. The five-justice majority, aware of the illegal and political character of its 2000 decision, ruled that its own decision had no precedential value.

It is the Democratic Party which has made another stolen election possible.

In the most immediate sense, they have failed to wage any substantial opposition to Trump's efforts to nominate the most right-wing justices to the court.

Coney Barrett's confirmation Monday was only possible because the Democratic Party did not spend the political capital required to slow the gears of the parliamentary process for one week, until after election day. Kavanaugh is on the court because the Democratic Party made no effort to expose his right-wing record and instead focused entirely on unproven, decades-old allegations of sexual assault. Clarence Thomas' confirmation was secured by the narrowest margin in 1991 in large part because Delaware Senator Joe Biden subjected Anita Hill—who had presented concrete evidence that Thomas sexually assaulted her—to humiliating cross-examination during confirmation hearings.

But in a larger sense, the Democratic Party is complicit in Trump's plot to steal the election because they have worked to hide it from the population and to downplay the danger of dictatorship. The Democratic Party is silent on the fascist plans to kidnap and kill sitting governors, they make no issue of Trump's present efforts to slow the mail, and they appeal for "calm" as Trump openly threatens Democrats with physical violence. The Democrats' are guided first and foremost by a fear that any reference to defending the most basic democratic rights will trigger a groundswell of opposition from below that they cannot control. Instead they are opposing Trump through methods of palace intrigue, negotiating with generals, financiers and intelligence officials behind the backs of the population.



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