

In run-up to midterm elections

Supreme Court boosts Trump's attack on mail-in voting

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On Monday, August 24, the US Supreme Court granted the Trump administration's emergency request for a stay on a lower court injunction blocking implementation of Trump's executive order curtailing mail-in voting in the November midterm elections.

The court order overridden by the right-wing majority on the Supreme Court was issued in June by Judge Indira Talwani of the US District Court in Massachusetts in a suit brought by 23 Democratic-led states and Washington D.C. Judge Talwani agreed with the plaintiff states that Trump's executive order was an unconstitutional and unlawful assertion of federal executive power over the administration of elections.

Article I, Section 4 of the US Constitution explicitly delegates the "manner of holding elections for senators and representatives" to the states, with residual powers granted to Congress to "make or alter regulations" concerning federal elections. The Constitution grants the executive branch zero power to administer or regulate federal elections.

Monday's high court ruling also overturned an appeals court decision that rejected a Trump administration request to stay Judge Talwani's June ruling.

The Supreme Court ruling is in itself not dispositive (final) from a legal standpoint. A separate injunction handed down earlier this month by Judge Talwani in a case brought by voting rights organizations, including the League of Women Voters and the American Civil Liberties Union, remains for the present in effect. Moreover, the August 24 decision did not address the legality of the executive order. Rather, the Trump administration sought relief, and the court granted it, on the grounds—entirely specious—that the state plaintiffs in the first suit before Judge Talwani did not have legal standing to sue the federal government.

The administration immediately filed suit late Monday asking Judge Talwani, in light of the Supreme Court ruling, to lift her remaining injunction against the executive order, which the judge refused to do. Legal battles will continue and they are guaranteed in short order to go back to the Supreme Court. There are questions as to whether the legal wrangling will permit Trump's limits on mail-in voting to go into effect prior

to the midterms, now less than 10 weeks away. Early voting in some states begins next week.

What is beyond doubt, however, is that Trump will attempt to use the uncertainty surrounding the elections, fomented by his baseless charges of election fraud and compounded by his attack on mail-in voting, to manipulate the elections and possibly suspend them altogether.

There are three main elements to Trump's March 31 executive order on voting. It directs the secretary of Homeland Security to compile lists in each state of US citizens 18 and older and eligible to vote, and to send the lists to the states prior to any federal election.

The states are then required to send lists of all registered voters to whom they are sending mail-in and absentee ballots to the federal government and the US Postal Service (USPS). Ballot mail sent by states and localities to voters is required to be mailed in envelopes with new federal markers and barcodes, so that it can be tracked. The USPS is to be barred from sending mail-in ballots to voters not on the lists of citizens created by federal agencies.

Finally, the Department of Justice is directed to investigate and prosecute state and local election officials who issue federal ballots to individuals not eligible to vote in federal elections. The order also suggests that the Postal Service should refuse to deliver mail ballots in states that don't comply with the new rules.

The databases from which the voter lists are compiled are out of date and full of inaccuracies, and there is vast scope for the Department of Homeland Security, which is spearheading the pogrom against immigrants, to profile and deliberately exclude legal immigrant voters as well as political opponents of Trump. Moreover, a trove of personal information about voters, supplied by the states, will be funneled to the domestic spy and police agencies of the US ruling class.

Last Friday, three days before the Supreme Court ruling, the USPS published its final rule on implementing the executive order on mail-in ballots. The rule specifically requires states to submit names and addresses of voters receiving mail ballots to the Postal Service as a condition of its delivering ballots in the

state.

Trump has largely purged the USPS Board of Governors of Democrats and packed it with Republican election deniers. “USPS is no longer merely a carrier of ballots; it is instead transformed into a gatekeeper of voter eligibility,” lawyers challenging the executive order wrote in one case.

The federal government has already sued 30 states and Washington D.C. for refusing to hand over lists of eligible voters. In March, Trump told Republican lawmakers that passing a strict voter identification law cracking down on mail ballots would “guarantee the midterms” for the GOP.

Trump’s claims of hundreds of thousands of non-citizens voting in US elections are total fabrications. In the 2024 elections, 30 percent of ballots were by mail. Of these, the Brookings Institution found four documented cases of fraud out of 10 million ballots.

The Supreme Court’s emergency ruling on Monday was an unsigned *per curiam* decision. The three liberals on the court made public their opposition. Justice Sonia Sotomayor issued a brief dissent focusing almost entirely on the issue of the plaintiff states’ standing in the first case decided by Judge Talwani. Her dissent was joined by Justice Elena Kagan.

Justice Ketanji Brown Jackson issued a more substantive dissent that legally shredded the opinion issued by the six right-wing justices. Speaking of Trump’s executive order, she wrote: “The order thus requires a fundamental overhaul of the states’ existing mail-in ballot systems—changing from a state-administered process to one in which the federal government controls who gets a ballot and whose vote counts.”

In response to the administration’s claim, upheld by the court, that denying it judicial relief from the injunction against its executive order would inflict “irreparable harm” on the federal government, she wrote: “At bottom, the government’s irreparable-harm argument is just another species of the far-fetched contention that the president must be injured whenever he is prevented from doing as he wishes.”

She accused the Trump administration of seeking to undermine the midterm elections, writing, “The government’s actual objective: to secure our imprimatur for its efforts to foment chaos ahead of the November elections.”

The corporate media and the Democrats have, for the most part, downplayed the significance of the Supreme Court ruling, seeking to spread complacency in the face of the escalating assault on democratic rights and the drive to dictatorship. In a social media post, Pennsylvania Governor Josh Shapiro, a potential contender for the 2028 Democratic presidential nomination, said the court’s decision did not deal with the substance of Trump’s executive order. He asserted that the ruling “does not mean his illegal attempt to restrict mail-in voting will go forward.”

Whether or not Trump’s executive order is implemented in time for the November elections, he is pursuing a definite strategy. Opinion polls point to a defeat for the Republican

Party in November, the social, economic and political crisis of US capitalism is being intensified by the debacle in Iran, and there is an accelerating political shift among workers and youth to the left. Against these dangers, Trump is seeking to promote the specter of voting by masses of “illegal aliens” to entrench himself as dictator-president without any check on executive power. He is acting not as an individual, but as the criminal representative of the corporate-financial oligarchy.

In prosecuting the attack on mail-in voting, the administration is mobilizing the far-right majority on the Supreme Court, the Department of Homeland Security—parent agency of Immigration and Customs Enforcement (ICE)—and a weaponized Postal Service. It is creating the conditions for potentially dispatching ICE, the FBI and/or the National Guard to seize voting machines and arrest state and local election officials in order to block or override the midterm elections, or future elections.

In this, the nominal opposition, the Democratic Party, is in reality an accomplice. It represents the same capitalist oligarchy as Trump. Its major difference with the administration is over its demand for greater US involvement in the conflict with Russia in Ukraine.

The Democratic Party is no less petrified by the growth of anti-capitalist sentiment and working class resistance than the Republicans. Hence the secret meeting between Trump surrogate Jared Kushner and Democratic House Minority Leader Hakeem Jeffries, and as well DSA Democrat Zohran Mamdani’s declaration of support for Jeffries as the next House speaker.

The erection of a presidential dictatorship cannot be halted through lawsuits or appeals to the Democrats. The defense of democratic rights, including the right to vote, requires the independent mobilization of the working class against capitalism and the parties of the financial oligarchy, the Democrats as well as the Republicans.



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