Politicizing the U.S. Postal Service

The Supreme Court Blocks Trump's Attempt to Curb Mail Voting

Joshua Sellers

12.10.2026 doi: 10.59704/0031f84c9845bb78

The American electoral system divides authority between the states and Congress. The President, by contrast, has no formal role in election administration. The rule of law, though, has never deterred President Trump from plowing ahead in pursuit of his policy desires. One such yearning is to substantially reduce mail voting, which, against all evidence, Trump believes favors Democrats and is susceptible to widespread illegal voting by noncitizens.

Trump's Mail Voter Fixation

On March 31, 2026, Trump issued an executive order (EO) attempting to regulate mail voting in two notable, and disruptive, ways. First, the EO instructed the head of the United States Postal Service (USPS), the federal entity responsible for mail delivery, to implement a rule mandating that ballot envelope designs receive preapproval by USPS and that each envelope be marked with unique barcodes that are specific to each mail voter. Second, the EO instructed states to generate lists of mail-ballot-eligible voters (this population differs from state to state) with their individualized barcodes and submit them to the USPS. The USPS, in accordance with the EO, issued an administrative rule on August 21, 2026, in which it both implemented the envelope and barcode requirements and announced the creation of a Federal Ballot Mail Portal for submission of the state-generated lists. It further threatened to withhold from the "mailstream" any mail ballots displaying barcodes that could not be matched with those on the state-generated lists. Election administrators were quick to critique these mandates as unnecessary, logistically burdensome, and costly.

Trump has an established pattern of unlawfully interfering in election administration. This latest infringement, however, raised concerns because of the sheer number of potentially impacted voters – in 2024, just under 30% of the ballots cast were sent through the mail. Even assuming the legal authority to do so, overhauling a voting method used by over twenty million voters based only on conjecture is nonsensical. As noted by the Institute for Responsive Government, mail ballots are already "stored securely and handled under strict chain-of-custody rules, sent only to registered voters whose identities are confirmed through state and federal databases." Equally concerning was the timing; the administrative rule was issued less than two weeks before some states were scheduled to distribute their mail ballots.

As expected, nearly two dozen Democratic-led states sued to block the initial EO, and subsequent lawsuits were filed against the USPS's administrative rule. The litigation history is byzantine, given the multiple lawsuits and expedited nature of the proceedings. It is sufficient to note that a federal district court blocked (i.e., enjoined) the rule, leading the USPS to seek immediate Supreme Court review. More specifically, the USPS asked the Supreme Court to block (i.e., stay, in legal parlance) the federal district court's decision and let the USPS proceed.

The United States Postal Service Loses in Court

The primary legal question was whether or not the USPS has the statutory authority to take the actions it did. Most experts were dubious of that, so there was some anticipation over what the USPS's arguments would be. The USPS's brief cited two statutes in support of its position: 39 U.S.C. § 401(2) and 39 U.S.C. § 404(a)(1). The first statutory provision authorizes the USPS to "adopt . . . such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such

other functions as may be assigned to the Postal Service under any provisions of law outside of this title." The second statutory provision authorizes the USPS to "provide for the collection, handling, transportation, delivery, forwarding, returning, and holding of mail, and for the disposition of undeliverable mail." In a nutshell, then, the USPS's argument was that requiring the states to comply with the barcode and mail voter list requirements was "necessary in the execution of its functions," including the "collection, handling, transportation, delivery, forwarding, returning, and holding of mail." This is a specious claim.

In short, it is far-fetched to assert that the USPS's novel, disruptive administrative rule is "necessary" to the USPS's duties. The USPS is not typically engaged in the administration of elections. As determined by the federal district court, "the [administrative rule] is an election rule where it purports to regulate the time, place, and manner of elections and is unconstitutional where Congress has not authorized such a rule." It further held that Title 39, the section of the U.S. Code containing the two statutes relied on by the USPS, "excludes any reference to elections." The USPS was therefore acting without legal authorization.

Because of the expedited posture of the case, in which, again, the Supreme Court was asked to stay the federal district court's decision, the operative four-part test asked (1) whether the USPS was likely to prevail on the merits, (2) whether the USPS would suffer irreparable injury if the stay is not granted, (3) whether other parties would be substantially harmed if the stay was granted (i.e., who the "balance of the equities" favored), and (4) what best served the public interest.

Regarding the first factor, the USPS's legal arguments are noted above. As to the second factor, the USPS claimed in its brief that preventing it from implementing its rule in advance of the 2026 midterm elections, and preventing it from addressing "the risk that the federal mails will be used to perpetrate voter fraud," would cause it irreparable injury. The USPS provided little on the third factor, and argued that, in this case, the fourth factor was indistinguishable from the second.

On September 14, 2026, the Supreme Court, in a brief, unsigned order, denied the USPS's stay request, holding simply that "[t]he Government is unlikely to succeed on the merits of its challenge to the District Court's preliminary injunction. And the equitable factors applicable for obtaining emergency relief from this Court do not favor a stay." Justice Kavanaugh wrote a short concurring opinion asserting that, though the USPS might have a meritorious argument, applying its administrative rule this close to the 2026 midterm elections would be imprudent. And Justices Alito and Thomas dissented, noting their belief that the USPS should have prevailed.

Conclusion

A brief coda: at the time of this writing, the Federal Ballot Mail Portal is still not operative, confirming the suspicions of many that Trump's and the USPS's ambitions were quixotic. Time will tell if Trump is sincerely committed to this endeavor. It seems more likely that this entire episode was yet another example of his penchant for stagecraft, and more disturbingly, insistence on fomenting confusion and consternation over the legitimacy of American elections. One hardly knows, then, what to make of his latest about-face: an urgent call for Republicans to vote by mail.

ABOUT THE AUTHOR

Joshua Sellers
Joshua Sellers is Professor of Law at The University of Texas School of Law.

SUGGESTED CITATION

Sellers, Joshua: Politicizing the U.S. Postal Service: The Supreme Court Blocks Trump's Attempt to Curb Mail Voting, Verfassungsblog, 12.10.2026, doi: 10.59704/0031f84c9845bb78.

Licensed under CC BY-SA 4.0.

Langzeitarchiviert bei IntRechtDok unter: doi.org/10.17176/20261012-143507-0.