

In the Supreme Court of the United States

UNITED STATES POSTAL SERVICE, *et al.*,
Applicants,

v.

CALIFORNIA, *et al.*,
Respondents.

DONALD J. TRUMP, *et al.*,
Applicants,

v.

LEAGUE OF WOMEN VOTERS OF MASSACHUSETTS, *et al.*,
Respondents.

OPPOSITION TO REQUEST FOR AN ADMINISTRATIVE STAY

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Respondents intend to oppose Applicants' request for a stay pending appeal by 10 a.m. EDT on September 8, 2026, as directed by Justice Jackson, including by explaining why Applicants are unlikely to succeed on the merits and why the equities strongly disfavor a stay. In the meantime, Respondents submit this short opposition to explain why Applicants' request for an immediate administrative stay should be denied.

BACKGROUND

Sixty-nine days before the upcoming federal election, and just over a week before some state laws require ballots to be mailed out, the United States Postal Service (USPS) published a rule entitled "Ballot Mail for Federal Elections." 91 Fed. Reg. 54966 (Aug. 26, 2026) (Rule). The Rule provides, among other things, that state and local election officials must upload to USPS via an online portal (Portal) a list of voters eligible to receive mail ballots, together with a unique barcode identifying each such voter. *See id.* at 54991, Rule § 24.3. The Rule makes clear that USPS will refuse to deliver any ballot mail that does not comply with those requirements. *Id.*, Rule § 24.5.3; *see* Appl. 5-6. The district court issued a temporary restraining order against key mandatory provisions of the Rule pending that court's decision on Respondents' motion for a preliminary injunction.

That preliminary injunction motion was heard this morning, and the TRO will be dissolved as soon as the district court issues its decision—which the

court indicated will likely be as soon as this evening or tomorrow.¹ The First Circuit has before it a motion for a stay of the TRO pending appeal on which highly expedited briefing is already complete. Meanwhile, USPS submitted a declaration to the district court today explaining that *the Portal is not yet functional* and will not be available until, at the earliest, “sometime next week.” D. Ct. Dkt. 150-1 ¶ 3.² In seeking a stay of the TRO from the First Circuit, Applicants did not request relief by any date certain—quite possibly because they knew the Portal is not yet functional, meaning no State is currently in a position to comply with the Rule even if it took effect.

ARGUMENT

An administrative stay is not warranted. Applicants cannot show immediate and irreparable harm from a TRO that (a) does not prevent USPS from continuing to develop the Portal, and (b) only prohibits USPS from enforcing requirements as to a Portal that does not exist yet—and to a virtual certainty will not exist before the TRO is dissolved. For that reason alone, the request for an immediate administrative stay should be denied. Applicants make no effort to explain how they could possibly be entitled to emergency relief to effectuate a Rule that they *currently lack the technological capacity to administer*. An administrative stay would also be profoundly disruptive to

¹ Respondents have requested an expedited transcript of the proceeding, but it is not yet available.

² Citations are to the docket in *California v. USPS*, No. 26-cv-13917 (D. Mass.).

Respondents’ ongoing preparations for the rapidly approaching midterm election. And Applicants cannot demonstrate any countervailing harm in denying an immediate stay. Finally, this Court’s jurisdiction is highly questionable given the imminent expiration of the TRO. At a minimum, there is no sensible reason for the Court to grant an administrative stay when any appellate proceedings concerning the TRO will so soon be moot.

1. As discussed, the Rule requires States to upload information about every qualified mail voter to USPS’ as-yet-unreleased online Portal, and USPS will refuse to deliver ballot envelopes containing information that does not match the data in the Portal. *See supra* p. 1. The Rule also requires States to redesign their ballot envelopes and secure USPS’ approval for those new designs before they can send out a single mail ballot. *See* 91 Fed. Reg. at 54990-54991, Rule § 24.3. And the Rule forbids uploading voter data to the Portal until USPS review and certification of ballot envelopes “is complete.” *See* 91 Fed. Reg. at 54979. Complying with these demands would be difficult under the best of circumstances. But USPS has made it “practically impossible as to the 2026 midterm elections.” App’x 10a. The agency published the Rule on August 26—just weeks before Election Day and only days before some States started sending out mail ballots. Respondents “have neither time nor funds to design new mail ballots, seek approval of the new designs, order production of mail ballots, update their own election management systems, train election officials to use the USPS portal, and upload citizen data to the portal, all before

the midterms.” *Id.* at 11a.

Indeed, one respondent State—North Carolina—is required by state law to begin mailing ballots tomorrow (September 4). *See* N.C. Gen. Stat. § 163-227.10(a). Applicants suggest (Appl. 25-26) that a statement from North Carolina’s Board of Elections undermines the district court’s finding that compliance with the Rule will be impossible. As an initial matter, ballots in North Carolina are mailed out by 100 separate county boards of elections, *see* D. Ct. Dkt. 4-18 ¶ 6, and none of them has suggested that it would be feasible to mail compliant ballots by the end of this week. A spokesman for the state board has also since clarified that “North Carolina ha[s] no current plans to use the new Postal Service portal.” Sullivan, *Postal Service Is Building Ballot Screening System Despite Ongoing Court Fight*, N.Y. Times (Sept. 2, 2026), <https://bit.ly/4ibZEVU>. Likewise, in Wisconsin, which began mailing out ballots on September 1 and must mail all ballots by September 17, the Republican-appointed Chair of the Wisconsin Elections Commission has stated that compliance with the Rule is “virtually impossible.” D. Ct. Dkt. 100-1 ¶ 21. That makes sense: again, by Applicants’ own admission, the Portal *is not available yet*—and will not be until next week at the earliest. D. Ct. Dkt. 150-1 ¶ 3.

Even if state and local officials could meet the Rule’s impossible demands, there is a high risk that errors and delay on USPS’ part will disenfranchise voters. USPS has conceded that its new Portal—the linchpin

of the Rule’s ballot-checking mechanism—will not be ready until “sometime next week.” D. Ct. Dkt. 150-1 ¶ 3. And a recent disclosure from a USPS official familiar with the agency’s “sloppy and rushed” development process explained that there is an extreme risk of error due to “slapdash software development,” D. Ct. Dkt. 115 at 13, 15; “insufficient internal testing,” *id.* at 16; and “‘siloe’d’ . . . teams of developers . . . working independently without any effort towards interoperability,” *id.* at 17. USPS also plans to use a “batch” verification protocol—called a “zero-percent failure policy,” *id.* at 19—whereby thousands or tens of thousands of ballots will be processed simultaneously, and “if even one bar code on one single ballot . . . fails to properly scan,” “the entire batch is rejected and sent back to the state,” *id.* at 10-11. Scanning failures “are predictable—and likely,” in light of many “scanning problems” recently experienced by USPS. *Id.* at 20. While USPS submitted a declaration to the district court today with updates on the status of its Portal, *see* D. Ct. Dkt. 150-1, it was notably silent on its plans with respect to verification and said nothing to counter these startling revelations. Given the many risks and uncertainties associated with USPS’ unprecedented new ballot-verification and non-delivery program, the district court understandably found that the Rule creates an “overwhelming risk of pervasive disenfranchisement of citizens who need access to mail ballots in order to vote.” App’x 12a.

Applicants have not identified any countervailing equitable considerations that warrant an administrative stay. The TRO is narrow: it

does not stop USPS from taking any necessary steps to launch its new Portal, and it does not bar States from voluntarily seeking USPS' approval of their ballot designs or from uploading their voters' information to the Portal, once it is operational. *See id.* at 12a-13a. Instead, the TRO enjoins only the mandatory aspects of the Rule—and only for so long as it takes the Court to rule on Respondents' request for a preliminary injunction. *See id.* That temporary intrusion into USPS' implementation of the Rule is far outweighed by the harms to the States and their voters if the Rule is allowed to go into effect.

2. The TRO at issue will be dissolved upon the district court's issuance of its decision on Respondents' motion for a preliminary injunction.³ The district court held a hearing on that motion this morning, and indicated from the bench its intention to rule very shortly thereafter. In these circumstances, the usual rule that TROs are not appealable applies. *See, e.g., Dep't of Educ. v. California*, 604 U.S. 650, 651 (2025). That is especially true because the TRO at issue has not been extended (as it had been in *Trump v. J.G.G.*, 604 U.S. 670, 671 (2025) and *Sampson v. Murray*, 415 U.S. 61, 67 n.8, 86-87 (1974)), and because it does not operate as a mandatory injunction (as it did in *Northeast Ohio Coalition for the Homeless v. Blackwell*, 467 F.3d 999, 1006 (6th Cir.

³ The TRO was issued on August 27 and would expire automatically on September 10, *see* Fed. R. Civ. P. 65(b)(2), but the district court has indicated its intention to rule on Respondents' preliminary-injunction motion well before that date.

2006)). This Court therefore lacks appellate jurisdiction over the TRO, particularly because, as explained above, Applicants cannot show any likelihood of harm from maintaining the status quo until the earlier of the TRO's dissolution or this Court's ruling on the stay application.

It would also make little sense to enter an administrative stay when it is so likely that a ruling on the preliminary injunction will issue imminently. As the federal government acknowledged at this morning's hearing in district court, issuance of a preliminary injunction ruling will moot any appeal of the TRO. *See, e.g., In re Vendo Co.*, 435 U.S. 994 (1978) (dismissing proceeding as moot once Court had "been advised of an order . . . dissolving the injunction").

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CONCLUSION

The request for an immediate administrative stay should be denied.

Respectfully submitted,

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