Fed Courts Weekly — August 28, 2026

An unusually rich week, and almost all of it justiciability. The Court's August 24 stay in *Trump v. California* is a full-dress standing-and-ripeness opinion issued on the interim docket — the kind of thing that used to arrive in June with an argument behind it — and its downstream effect on Judge Talwani's parallel injunctions over the following seventy-two hours is a near-perfect illustration of how interim orders now propagate through the lower courts. Alongside it: a one-sentence administrative stay in the ballroom case that is drawing fire on *Nken* grounds, a cert petition that squarely tees up Rule 23 as the post-*CASA* substitute for universal relief, and a mandamus action asking a federal court to order a sitting governor to sign an extradition warrant.

SUPREME COURT

The Court stays a mail-voting injunction on standing and ripeness grounds — in a per curiam with two dissents.

Trump v. California, Nos. 26A124 & 26A139, 609 U.S. ___ (Aug. 24, 2026) (per curiam), stays the District of Massachusetts's final judgment enjoining §§2 and 3 of Executive Order 14399. The Court's likelihood-of-success analysis is entirely jurisdictional: §2(a) and §2(b) are "internal directive[s]" imposing no obligation on the States, and the §3 challenge to a directive to *initiate* a rulemaking requires a court to "speculate about whether the Postal Service would propose a rule," then how it would weigh comments, then whether it would finalize, then what the rule would say. The opinion is a sustained application of *Clapper*'s attenuated-chain and self-inflicted-injury holdings plus *Trump v. New York*, with *TransUnion*'s "standing is not dispensed in gross" doing structural work. On irreparable harm the Court leans on *CASA* for the proposition that an applicant "can show irreparable harm from a threshold error without also showing that, at the end of the day, it will prevail on the underlying merits." Sotomayor (joined by Kagan) argues the Government cannot simultaneously disclaim implementation to defeat standing and insist on immediate implementation to establish irreparable harm; Jackson's separate dissent frames the case as the mirror image of *Purcell* — "such claims can also come too early" — and accuses the majority of letting the Executive game the timing of proposed and final rules. **Doctrinal hook:** ripeness and injury-in-fact for pre-enforcement challenges to executive directives, and the equitable-stay standard. **Classroom:** the two dissents pair beautifully as a

Purcell-plus-ripeness pincer; the majority is also the cleanest recent statement of *Clapper*'s mitigation-costs rule. Slip opinion · Vladeck's reading

Roberts's one-sentence administrative stay in the ballroom case, and the standing theory underneath it.

On August 21 the Chief Justice administratively stayed Judge Leon's injunction against above-ground construction of the White House ballroom, pending further order, in *National Park Service v. National Trust for Historic Preservation*, No. 26A203. The D.C. Circuit had affirmed 2–1 on August 7, holding that "[w]hether or not a massive ballroom should be constructed is for Congress to decide and is not a matter for Executive self-help"; Judge Rao dissented on the ground that the National Trust lacks standing. The Trust's August 25 filing urges the Court to leave the injunction in place; the Government's reply attacks the standing theory head-on. **Doctrinal hook:** organizational standing plus the increasingly load-bearing — and entirely unrationalized — practice of single-Justice administrative stays, which by design escape the *Nken* factors. **Podcast-worthy:** Vladeck's objection is not that the order was unexplained but that no defensible explanation exists, given that Leon had already found the Trust's own irreparable-harm showing wanting. Worth watching whether the full Court writes. SCOTUSblog · One First No. 245 · Briefing complete

LITIGATION

Seventy-two hours in the District of Massachusetts: an interim order's blast radius.

The sequence is the teaching point. On August 25 Judge Talwani found that USPS violated her injunction in *League of Women Voters of Massachusetts v. Trump*, No. 1:26-cv-11549 (D. Mass.), by transmitting a final "Ballot Mail for Federal Elections" rule to the Federal Register on August 21 — the agency's arguments, she wrote, "ignore the court's explicit directive not to 'initiat[e] or complet[e]' rulemaking" — yet she declined to order withdrawal, block publication, or impose any sanction. On August 26, on the Government's motion for reconsideration, she vacated the nationwide preliminary injunction outright, reasoning that *Trump v. California* required treating the pre-final-rule complaint as unripe absent amendment. On August 26 a 25-state coalition filed a fresh suit aimed at the final rule, *California v. United States Postal Service*, No. 1:26-cv-13917 (D. Mass.); on August 27 Talwani entered a fourteen-day TRO in the consolidated posture against the

rule's envelope-design, portal-registration, and data-upload provisions, expressly limited to "elections occurring before or on November 3, 2026," with a preliminary-injunction hearing set for September 3. **Doctrinal hook:** ripeness as a moving target keyed to final agency action; the remedial consequences of an interim stay for a non-party case; and a district court's discretion to find a violation of its own decree and do nothing about it. **Classroom:** the cleanest available demonstration that "unripe" often means "refile in three days." Aug. 25 violation finding · Aug. 26 vacatur · Aug. 27 TRO

The SG asks the Court to police Rule 23 as the post-*CASA* workaround.

The Government filed for certiorari on August 25 in *Mullin v. Refugee and Immigrant Center for Education and Legal Services*, No. 26-239, seeking review of a D.C. Circuit decision blocking a border proclamation. Beyond the statutory removal-authority question, the petition's remedial argument is the one to watch: that the courts below certified an "astoundingly broad class" reaching noncitizens abroad with no imminent plans to enter, and that classwide relief on those terms simply relabels the universal injunction *CASA* foreclosed. Response due September 23. **Doctrinal hook:** scope of equitable relief against the government after *Trump v. CASA* — whether Rule 23(b)(2) certification is a genuine substitute or an evasion, and how Article III's party-specific-remedy premise constrains class definition. This is the question *CASA* reserved, and the SG is asking for it directly. SCOTUSblog

A federal court declines to mandamus a governor into signing an extradition warrant.

Minnesota sued Governor Abbott on August 18 in the Southern District of Texas, seeking to compel rendition of Christian Castro, a former ICE officer charged in Minnesota with assault and false reporting, on the theory that signing is a ministerial duty enforceable in federal court under *Puerto Rico v. Branstad*, 483 U.S. 219 (1987). On August 26 Judge Fernando Rodriguez Jr. denied relief, holding that federal extradition law gave him no authority to set a deadline for Texas's investigation into whether Castro is a "fugitive" and no power to enjoin a county sheriff's release; Castro walked. Abbott and DOJ have also pressed Supremacy Clause immunity for a federal officer. **Doctrinal hook:** a rare live Extradition Clause case, and a clean one on the limits of federal equitable and mandamus power over state executive officials — *Branstad* abolished the *Kentucky v. Dennison* immunity but left the scope of the remedy conspicuously undertheorized. **Classroom:** excellent vehicle for the gap between a duty being judicially enforceable and a court having

a usable remedy; the interstate-asymmetry angle (New York's and California's refusals to render telemedicine-abortion defendants) makes it non-partisan on the merits. MPR News · Vladeck on the merits

SCHOLARSHIP & COMMENTARY

Little counts the orders docket, and the numbers are not what the shadow-docket debate assumes.

Rory Little (Aug. 26) argues for retiring "shadow docket" in favor of the Court's own "orders docket," and supplies the arithmetic: of 37 matters generating written opinions this term, only nine involved emergency stays; 28 were dissents from denial of certiorari. Sotomayor wrote in fifteen; Roberts in none. He also flags the quiet erosion of the premise that orders-docket rulings carry less precedential weight. **Doctrinal hook:** SCOTUS appellate practice and the precedential status of interim orders. **Classroom:** a genuinely useful corrective — assign it against Vladeck to show how much of the disagreement is definitional. SCOTUSblog

Harawa: AEDPA's "clearly established Federal law" is qualified immunity, only harder.

Daniel Harawa (Aug. 24) presses the parallel between §2254(d)(1) and the qualified-immunity clearly-established inquiry, and locates a genuine contradiction in the case law: the Court insists that holdings stated "at a high level of generality" cannot ground habeas relief while simultaneously maintaining that general principles can supply clearly established law. Lower courts granting relief face summary reversal; state prisoners bear the cost. He works through *Brown v. Davenport*, *Andrew v. White*, and two recent per curiams. **Doctrinal hook:** habeas and postconviction review, with a direct bridge to §1983 immunities. **Classroom:** the natural way to teach the two "clearly established" standards in one session. SCOTUSblog

Chemerinsky on the closing of the *Sosa* door.

A retrospective (Aug. 25) on *Cisco Systems, Inc. v. Doe I*, No. 24-856 (U.S. June 2026), in which a 6–3 Court per Justice Barrett held that courts may not recognize new causes of action under the Alien Tort Statute — "we close the door that [*Sosa*] cracked" — and separately barred aiding-and-abetting liability under the TVPA for want of express

authorization. **Doctrinal hook:** federal common law and implied rights of action; also a clean jurisdiction-versus-cause-of-action problem, since the ATS is by its terms purely jurisdictional. **Classroom:** pairs with *Sosa* and *Ziglar v. Abbasi* as a single arc on judicial cause-of-action creation across constitutional, statutory, and common-law registers. SCOTUSblog

Also: Richard Garnett (Aug. 26) on *Landor v. Louisiana Department of Corrections and Public Safety*, No. 23-1197 (U.S. June 23, 2026), where a 6–3 Court per Justice Gorsuch held that RLUIPA's "appropriate relief" does not reach individual-capacity damages against officials who did not themselves receive federal funds — the Spending Clause "regulation by contract" rationale, and the resulting RFRA/RLUIPA asymmetry, are the fed-courts payoff. **Doctrinal hook:** remedies for federal statutory rights against state officials and the reach of conditional-spending consent. SCOTUSblog

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Nothing this week in the courts of appeals cleared the bar independently of the matters above, and no new jurisdiction-stripping or remedies legislation moved. Coverage window: August 21–28, 2026.