A quiet recess week produced one genuinely major piece of justiciability doctrine: on Sunday the Court, over the Chief Justice, stayed the East Wing injunction on the ground that a historic-preservation plaintiff's aesthetic injury is not an Article III injury — a holding that sits uneasily atop *Sierra Club*, *Lujan*, and *Laidlaw*, and that arrived on the interim docket without merits briefing. The commentary that followed (Baude, Bray, Vladeck, Re) is unusually good and unusually teachable. Elsewhere: a Sixth Circuit pre-enforcement ruling, and a ripeness dismissal in the Texas–Minnesota extradition fight that is essentially a *Branstad* hypothetical come to life.

## SUPREME COURT — INTERIM DOCKET

### The Court kills aesthetic standing (or doesn't) on a stay application.

*National Park Service v. National Trust for Historic Preservation*, No. 26A203, 609 U.S. ___ (Aug. 31, 2026) (per curiam). By 5–4, the Court stayed Judge Leon's preliminary injunction against above-ground East Wing construction, holding the government likely to succeed in showing the Trust lacks Article III standing. The Trust rested on a single member declaration — Alison Hoagland, a historian of architecture who regularly views the White House — and the per curiam held that "mere offense, disagreement, or distaste does not qualify as a concrete and particularized injury under Article III," stringing *Valley Forge*, *Schlesinger*, *Richardson*, and *FDA v. Alliance for Hippocratic Medicine* against a line of environmental aesthetic-injury cases it distinguished on the ground that those plaintiffs alleged more than looking. The Chief Justice, joined by Sotomayor, Kagan, and Jackson, would have found standing under *Hunt* and *Lujan* and reached the merits (no "express authority of Congress" for construction on federal park grounds in the District), concluding that "[t]he distinction between Hoagland and the environmental plaintiffs does not hold up." **Doctrinal hook:** concrete-and-particularized injury and the durability of *Sierra Club v. Morton*'s aesthetic-interest holding — plus associational standing under *Hunt*. Note also the buried remedies move: the Court says the district court "likely exceeded its Article III authority to enjoin the activities of a coordinate branch of government," citing *Trump v. CASA* — a scope-of-equitable-relief principle doing work well outside the universal-injunction setting. **Classroom:** this is the standing unit, ready-made; pair the per curiam and the Roberts dissent and ask students to state the rule that distinguishes a crocodile from the White House. **Podcast:** obviously. Opinion (PDF) · SCOTUSblog case page

### The mail-voting litigation reorganizes around the plaintiff who is *not* a State.

The Court's Aug. 24 stay in *Trump v. California*, No. 26A124 — landing one day before this window, but its consequences fell inside it — rested on the States' failure to show injury from an executive order that, as the majority read it, only directed internal executive process, including a Postal Service rulemaking that "might bind the States in the future." Because the stay reached only the States' facial challenge, Judge Talwani's injunction in *League of Women Voters of Massachusetts v. Trump* survives, and she has since issued a TRO against the USPS Final Rule now that the rulemaking has produced an actual rule. **Doctrinal hook:** ripeness and the timing trap Justice Jackson flagged in dissent — too early against the order, too late once the rule issues and Purcell arrives. Worth pairing with the ballroom case as two stay orders in one week resolving major justiciability questions with no merits briefing. SCOTUSblog · Vladeck, "Making Sense of the Mail-in Ballots Ruling"

### Two new election applications queued for the September 6 order list.

In *Americans for Citizen Voting – Michigan v. Michigan Board of State Canvassers*, applicants ask the Court to order a deadlocked state canvassing board to place a proof-of-citizenship measure on the November 3 ballot; in *National Republican Congressional Committee v. Brown*, applicants seek to block a Fourth Circuit ruling on preferential broadcast rates two months out from the midterms. **Doctrinal hook:** the affirmative-injunction posture in the Michigan application is the interesting one — a federal court commanding state election machinery, with *Purcell* pointing the other way. Watch whether the Court treats *Purcell* as a bar or as an argument for relief. SCOTUSblog

## COURTS OF APPEALS

### Sixth Circuit revives NetChoice's pre-enforcement challenge to Tennessee's age-verification law.

*NetChoice v. Skrmetti* (6th Cir. Aug. 28, 2026). A divided panel vacated the Middle District of Tennessee's denial of a preliminary injunction and remanded. The district court had faulted NetChoice for the absence of any enforcement against its members; the panel held that a credible threat of enforcement can itself chill protected speech, and that unrecoverable compliance costs are irreparable harm even before enforcement. **Doctrinal hook:** pre-enforcement justiciability in the *Susan B. Anthony List v. Driehaus* line, with the familiar slippage between imminence-as-standing and imminence-as-irreparable-harm — the opinion is a useful specimen of how courts move between the two without quite saying so. Also live: trade-association standing after the Court's 2024 *NetChoice* facial-challenge instructions. NetChoice · Courthouse News

## LITIGATION

### A *Branstad* suit dismissed for want of ripeness.

*Minnesota v. Abbott* (S.D. Tex. Aug. 26, 2026) (Rodriguez, J.). Minnesota sued Governor Abbott to compel rendition of an ICE agent charged with second-degree assault in Minneapolis, invoking *Puerto Rico v. Branstad*, 483 U.S. 219 (1987), which made the Extradition Clause judicially enforceable against an asylum-state governor. The court dismissed for lack of subject-matter jurisdiction: Abbott has neither granted nor refused the demand, having instead ordered a state investigation, and so "[t]he threat of an indefinite consideration of Minnesota's extradition request does not currently exist." **Doctrinal hook:** ripeness as a jurisdictional bar, and the practical question *Branstad* left open — whether a mandatory duty can be defeated by indefinite non-decision. A clean vehicle for the point that ripeness doctrine allocates power over timing to the party being sued. **Classroom:** excellent short problem for the justiciability unit, and it pairs with *Trump v. California* on the too-early/too-late structure. Complaint · Coverage

## SCHOLARSHIP & COMMENTARY

### Baude, "Esthetic Standing in the White House Ballroom Case," Divided Argument (Aug. 31).

Argues the per curiam leaves "the doctrine of standing in a little bit more of a mess than it was before," and that the Court's failure to articulate a principle separating environmental aesthetic injury from this one invites the suspicion that it grants or denies standing "at its whim, calling it 'esthetic standing' when it wishes to grant, and 'offense' when it wishes to deny." The forward-looking claim — that the ruling may be a threat to environmental standing generally — is the one to press. Link

### Bray, "(A)esthetic Standing: Three More Arguments," Divided Argument (Sept. 1).

Three grounds the majority didn't rely on: Re's relative-standing idea (Bray is skeptical); proportionality between grievance and remedy, drawing on *CASA* — "why does one person's aesthetic injury allow an injunction that restricts a large building project?" — which he thinks strong; and unclean hands, which cuts for the dissent given the government's conduct. The middle argument is the interesting one for a Fed Courts course: it relocates the real dispute from standing to remedial scope. Link

### Vladeck, "Should *Purcell* Apply to the Federal Government?" One First (Aug. 31).

Contends *Purcell* is at bottom a federalism doctrine — district courts should not enjoin *state* election rules close to an election — and that extending it to federal election rules has no

precedent and no forum-preserving justification, since state courts cannot entertain such suits against federal defendants. Directly relevant to how the mail-voting litigation resolves. Link

**Re, "The Supreme Court's realignment roundup: October Term 2025," SCOTUSblog (Aug. 28).**

Maps the ideological inversion of justiciability: *Bost v. Illinois State Board of Elections* as the most striking standing realignment yet, mootness as "an area to watch" with the coalitions reversing, and jurisdictional sequencing loosening from *Steel Co.*'s rigid rule toward a flexible approach for interim relief. Re also observes that "court majorities tend to favor their own court's jurisdiction, whereas frequent dissenters aim to confine it" — a serviceable organizing frame for the whole justiciability unit, and a good final-exam prompt. Link

**Chemerinsky, "Gutting the Alien Tort Statute," SCOTUSblog (Aug. 25).**

On *Cisco Systems, Inc. v. Doe I*, No. 24-856 (U.S. June 2026), holding 6–3 (Barrett, J.) that federal courts may not create new causes of action for violations of international norms and that the TVPA does not reach aiding and abetting. Chemerinsky reads it as overruling *Sosa* without saying so. **Doctrinal hook:** federal common law and judicially implied causes of action — the ATS analogue to the *Bivens* contraction, and a natural pairing with *Egbert* in the implied-remedies unit. Link

**Little, "The orders docket, why it matters, and this term's criminal law orders," SCOTUSblog (Aug. 26).**

A practitioner's account of what the orders list actually does, with attention to summary dispositions and GVRs in criminal cases. Useful assigned reading before the interim-docket discussion, since it treats the orders docket as ordinary institutional practice rather than scandal — a helpful counterweight when teaching against Vladeck. Link

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Nothing this week on jurisdiction-stripping or remedies legislation; the Grassley and Issa bills on universal injunctions remain where they were. The final summer order list issues Friday, September 6, at 9:30 a.m.