FED COURTS WEEKLY

September 8–15, 2026

An unusually good week for the syllabus. The Missouri redistricting fight produced something close to a Federal Courts final exam — a federal district court ordering a state to disregard its own supreme court's judgment, an Anti-Injunction Act motion to enjoin a state contempt proceeding, an appellate court disclaiming jurisdiction over a TRO, and a one-paragraph emergency stay resolving none of it. Separately, Alito's dissent from the denial of a stay in the USPS mail-ballot case stacks associational standing, post-*CASA* remedial scope, and APA reviewability into four pages, and the Court dismissed an argument-ready immigration detention case as moot after a governor's pardon. The Ninth Circuit added a clean tribal immunity/Rule 19 decision.

SUPREME COURT — INTERIM DOCKET

The Missouri map: a federal court, a state judgment, and an unexplained stay.
People Not Politicians v. Onder, No. 26A326 (U.S. Sept. 10, 2026). The Missouri Supreme Court held on Sept. 3 that HB 1's mid-decade map was subject to referendum under the state constitution and ordered the Secretary of State to run the November election on the 2022 lines. Five days later Chief Judge Clark (E.D. Mo.) issued a TRO in a separate federal suit brought by Rep. Bob Onder *requiring* use of the HB 1 map, reasoning that primary voters who nominated candidates under HB 1 would be disenfranchised if the general election ran on different lines. The Eighth Circuit declined to stay the TRO, stating it "either lack[ed] jurisdiction over the appeal" — TROs generally not being appealable under § 1292(a)(1) — or that the stay factors were unmet. The Supreme Court then stayed Clark's order in an unsigned, unexplained one-pager with no noted dissents, Kavanaugh having referred the application to the full Court.
Hook: the whole Federal Courts sequence at once — Rooker-Feldman (a federal district court effectively reviewing a state supreme court's construction of state law), *Younger*/comity in ongoing state proceedings, *Pennhurst*, the appealability line between TROs and preliminary injunctions, and *Purcell* lurking unmentioned. The applicants argued flatly that Clark "had no jurisdiction." The Court said nothing about why it agreed.
Classroom: as close to a purpose-built hypothetical as reality supplies, and the unexplained disposition is itself the pedagogical point — students can be asked which of four independent jurisdictional grounds the Court might have relied on, and why it matters that we cannot tell. Obvious podcast material.
SCOTUSblog · Opposition to stay (PDF) · Analysis

The Anti-Injunction Act coda.
The same dispute generated a genuine § 2283 question. After the Missouri Supreme Court ordered Secretary of State Denny Hoskins to appear and show cause why he should not be held in contempt for using the enjoined map, Hoskins asked Judge Clark to enjoin the state contempt proceeding, invoking the Act's exception permitting injunctions "necessary in aid of its jurisdiction, or to protect or effectuate its judgments." Clark declined, calling it an extraordinary measure.
Hook: the relitigation and "protect or effectuate" exceptions to the Anti-Injunction Act, plus the *Atlantic Coast Line* instruction that doubts be resolved against the injunction. A state executive asking a federal court to shield him from his own state's high court is a fact pattern the casebooks do not have.
Missouri Independent · TPM

Alito packs three doctrines into a stay dissent.
U.S. Postal Service v. California, No. 26A305 (U.S. Sept. 14, 2026). The Court denied the government's application to stay Judge Talwani's preliminary injunction against the USPS ballot-mail rule (envelope design mandates, pre-clearance of designs, and per-voter upload to a USPS portal), which the First Circuit had left undisturbed on Sept. 10. Kavanaugh concurred briefly on timing, noting election officials lack sufficient time to implement before November. Alito, joined by Thomas, dissented on three fronts: that the organizational plaintiffs rested associational standing on unnamed members who filed no declarations (the *Summers* problem); that the district court should not have entered what he characterized as a nationwide injunction; and that Congress largely exempted Postal Service action from APA review.
Hook: associational standing and the named-member requirement; the scope-of-remedy question *CASA* left open when the plaintiff is a national membership organization — relief to "members" can replicate universal relief without being formally universal; and statutory preclusion of APA review under 39 U.S.C. § 410.
Classroom: the cleanest available illustration that *CASA* relocated rather than resolved the universality fight. Pair with the organizational-standing materials.
Order and opinions (PDF) · SCOTUSblog

A pardon moots an argument-ready case.
Genalo v. Black, No. 25-886 (U.S. Sept. 11, 2026). Set for argument Oct. 13 on whether § 1226(c) detention can become "unreasonably prolonged" such that due process requires a bond hearing, and if so who bears what burden. Governor Hochul's late-August pardon of the respondent's 2015 assault conviction eliminated the predicate for deportability and mandatory detention; the Solicitor General and the ACLU jointly stipulated to mootness and the Court dismissed. The SG has signaled a fresh petition.

Hook: mootness caused by a non-party sovereign — neither voluntary cessation by the defendant nor anything the plaintiff controlled — and a strong candidate for "capable of repetition yet evading review" that nobody pressed. Also worth asking why no *Munsingwear* vacatur.
Classroom: excellent for the proposition that mootness doctrine is manipulable by actors outside the litigation.
SCOTUSblog · Case page

Pending: causation through third parties.
DHS v. League of Women Voters, No. 26A308. The government seeks a stay of Judge Sooknanan's order barring use of the modified SAVE database, and argues the challengers lack standing because it is *states*, not the federal government, that would actually remove voters from the rolls. Respondents invoke the foreseeable-third-party-reaction line. Fully briefed and pending as of this writing.
Hook: textbook *Lujan* footnote-style causation and redressability where injury is mediated by independent third parties — *Bennett v. Spear* against *Clapper*. Worth watching this week.
SCOTUSblog

COURTS OF APPEALS

Tribal immunity, the real party in interest, and Rule 19 as a workaround.
Erwine v. Westbrook, No. 25-3136 (9th Cir. Sept. 11, 2026) (Bennett, J.). A terminated Washoe Tribe police officer sued his supervising officers individually under federal civil rights law plus a Nevada tort claim; he did not sue the Tribe. The district court dismissed on absolute personal immunity and, alternatively, held the Tribe a required party under Rule 19 who could not be joined. Reversed on both. Because Erwine seeks damages from the defendants personally rather than from the tribal treasury, the Tribe is not the real party in interest and sovereign immunity does not bar the suit; a functional approach governs absolute immunity in individual-capacity suits arising under federal law, and defendants failed to carry their burden; and the Tribe lacked a legally protected interest that joinder would protect, so it is not a required party. Qualified immunity left for remand.
Hook: the *Lewis v. Clarke* individual-capacity/official-capacity line transplanted to tribal immunity, plus the recurring move of using Rule 19 to reimport an immunity the real-party-in-interest analysis just rejected.
Classroom: a tidy vehicle for teaching why "who is the real defendant" does more work in immunity doctrine than the caption does.
Opinion (PDF)

CERT STAGE

What follows from an invalidly appointed prosecutor.
United States v. Jackson, No. 26-304. The government has petitioned from a Ninth Circuit ruling (Miller, J.) holding the FVRA's automatic-succession provision unambiguously reaches only a first assistant already serving when the vacancy arose, so Sigal Chattah could not serve as acting U.S. Attorney. Notably, the panel disqualified her from the prosecutions but *declined* to dismiss the indictments. The government reports conflicting authority in other circuits.
Hook: primarily an appointments question, but the fed-courts interest is remedial — what relief a criminal defendant gets from a structural appointments defect, and whether disqualification rather than dismissal is the right remedial floor. Include only if you are already teaching remedies for structural violations.
SCOTUSblog

SCHOLARSHIP & COMMENTARY

Chemerinsky on the death of aesthetic injury.
Writing Sept. 9, Erwin Chemerinsky argues that the Court's 5-4 emergency-docket stay in *National Park Service v. National Trust for Historic Preservation*, No. 26A203 (U.S. Aug. 31, 2026) — holding the government likely to show the Trust lacks Article III standing to challenge the East Wing demolition — cannot be squared with fifty years of aesthetic-injury precedent from *Sierra Club v. Morton* through *Lujan*, *Laidlaw*, and *Summers*. His central charge is that the majority's line between cognizable aesthetic harm and mere "offense, disagreement, or distaste" is incoherent and, if taken seriously, threatens the standing predicate of most environmental litigation. Roberts, dissenting with the three liberals, wrote that a preservationist "can be aesthetically injured in a concrete, particularized way" by the alteration of a building she frequently views.
Hook: injury in fact and the aesthetic-injury line. Note the procedural posture: a major contraction of standing doctrine delivered as a likelihood-of-success holding on a stay application — which is itself the interim-docket precedent problem in miniature.
Classroom: assign alongside *Lujan* and *Summers*; the Roberts dissent is the better teaching text.
SCOTUSblog · Lawfare

Little on the OT2026 criminal docket.
Rory Little's Sept. 15 preview flags several grants with federal courts content: *Maxwell v. Dinis*, No. 25-5930 (whether release to a halfway house is cognizable in habeas at all, the Fifth Circuit having said no); *Guerrero v. Johnson*, No. 25-1003 (retroactive application of a new constitutional rule in state capital postconviction where the claim was previously treated as

meritless); *Nielsen v. Watanabe*, No. 25-417 (an Eighth Amendment deliberate-indifference damages claim against federal officers, i.e., another *Bivens* extension question); and *Montoya Palacios v. Liggins*, No. 25-1223 (EAJA fees following a successful immigration habeas).
Hook: the scope of the habeas remedy, retroactivity, and whether *Bivens* retains any operative content after *Egbert*. Useful for setting up the habeas and constitutional-remedies units with live cases rather than decided ones.
SCOTUSblog

Lederman on deciding stays without deciding merits.
Marty Lederman (Just Security, Sept. 8) urged the Court to resolve the USPS application purely on the equities rather than the ultra vires merits, arguing the government offered no concrete showing of harm from the injunction against mass disenfranchisement. The Court's Sept. 14 denial, with Kavanaugh's timing-focused concurrence, is roughly what he proposed.
Hook: the standards governing interim relief and how much merits adjudication a stay posture can bear — the live methodological question on the emergency docket.
Just Security

No qualifying legislative developments this week. The *National Trust* order (Aug. 31) falls outside the reporting window and appears here only because of the commentary it generated.