FED COURTS WEEKLY

September 22–29, 2026

An unusually generous week, and almost all of it procedural. The Court closed out September by converting a third-country-removals stay application into a merits case with two questions presented that are pure Federal Courts — district court jurisdiction and whether 8 U.S.C. § 1252(f)(1) permits classwide declaratory relief and APA vacatur — and by staying an APA vacatur in the SAVE-database litigation over a Jackson dissent aimed squarely at the Court's equitable discretion. Meanwhile the Eighth Circuit, on an appeal from a TRO, directed a district court to enter a *permanent* injunction restoring Missouri's 2025 map, and got a per curiam rebuke for its trouble. If you have been looking for a week's worth of teaching material on interim relief, appellate jurisdiction, and remedial scope, this is it.

Supreme Court

The Court turns a stay application into a December merits case on § 1252(f)(1) and classwide relief.

In *Department of Homeland Security v. D.V.D.*, No. 26–426 (26A406) (U.S. Sept. 29, 2026), the Court stayed the District of Massachusetts's February 25, 2026 order and judgment (No. 1:25–cv–10676), treated the application as a certiorari petition, granted it, and set the case for the December session. The questions presented are the fed-courts professor's dream: "(1) Whether the district court had jurisdiction over Respondents' claims. (2) Whether the district court had authority to enter classwide declaratory relief and APA vacatur under 8 U.S.C. § 1252(f)(1)." Sotomayor, Kagan, and Jackson would have denied the stay. Two hooks doing all the work: statutory jurisdiction-channeling, and the post-*CASA* question whether litigants can route around limits on injunctive relief through declaratory judgments and § 706 vacatur — the Alito loophole, now squarely presented. Also worth a raised eyebrow in class: QP (4) invites briefing on "[s]uch other questions that the Government determines are appropriate for the proper disposition of the case," which is a striking delegation of the Court's own question-framing function to one party.

Order list (Sept. 29, 2026) · SCOTUSblog

A stay of an APA vacatur, with standing upheld and the equities weighed on one side only.

Department of Homeland Security v. League of Women Voters, No. 26A308, 609 U.S. ___ (Sept. 25, 2026) (per curiam), stayed the D.D.C.'s June 22, 2026 order vacating the modified SAVE program, 6–3. Two things for the syllabus. First, standing: the Court rejected the government's threshold objection, resting associational standing on a single member (a

naturalized citizen registered in Louisiana whose SSA records were inaccurate) and holding that the "need to take . . . affirmative steps to avoid risk of harm . . . constitutes a cognizable injury," citing *Meese v. Keene*, 481 U.S. 465, 475 (1987). Second, remedies and equity: applying *Hollingsworth v. Perry* and *Nken*, the per curiam reasoned that "[w]e have often granted certiorari where a lower court has set aside an important federal program," and found irreparable harm essentially in the vacatur itself. Justice Jackson, joined by Sotomayor and Kagan, dissented: the majority "misuses its equitable powers" by weighing only the government's side of the ledger, and it should not have forgiven the government's forfeiture of its merits arguments below — "he who seeks equity at the hands of the court must first do equity," *State Railroad Tax Cases*, 92 U.S. 575, 616 (1876). The hook is the increasingly load-bearing proposition that enjoining the government from acting unlawfully is itself an irreparable injury; Jackson's response ("It cannot be that the Government is injured whenever [it] is prevented from violating the law") pairs well with the ballroom order for a standing-plus-equities class. Footnote 2 also flags *Republican National Committee v. Mi Familia Vota*, No. 25–1017, as the vehicle for the NVRA 90-day question.
Opinion (PDF)

Purcell, three times over, and an express instruction to two lower courts.
People Not Politicians v. Onder, No. 26A388, 609 U.S. ___ (Sept. 25, 2026) (per curiam), stayed the Eighth Circuit's September 21 mandate and September 22 order in No. 26–2797, plus the E.D. Mo.'s September 21 and 22 injunctions (No. 4:26–cv–01424), and closed with an unusually direct command: the lower courts "should not enjoin or otherwise prohibit the use of the 2022 map," and "should not order or otherwise require Missouri to use the 2025 map." The Court leaned on *Purcell*, 549 U.S. 1 (2006), and *Allen v. Milligan*, 608 U.S. 511, 514 (2026) (per curiam), noting that the election "is not merely upcoming; it has already started" — ballots printed, military and overseas voting underway. Three separate classroom hooks: (a) *Purcell* as a rule about *federal* courts specifically, since "States are free to decide for themselves whether last-minute changes to an election are in their best interests"; (b) footnote 1's characterization of the district court's TRO as "in practical effect a preliminary injunction," which is how the order becomes appealable at all; and (c) footnote 2's terse "[w]e conclude that at least one of the applicants has standing on appeal," the live *Hollingsworth*-style question of who may defend a state-law judgment on appeal. This is the rare interim order worth assigning in full — it is five pages and does more doctrinal work than most merits opinions.
Opinion (PDF) · SCOTUSblog

The long conference.
The justices met September 28 to work through the summer's accumulated petitions; grants beyond *D.V.D.* should surface in the coming days, in time for January argument. Worth watching

for fed-courts vehicles, since the long conference historically produces a disproportionate share of the term's procedural grants.
SCOTUSblog

Also on the interim docket.
Trump v. Kingdom, No. 26A416, was submitted September 28 (response due October 8): the government seeks to stay Judge Lamberth's August 26 order against the BOP's transgender-care policy after a divided D.C. Circuit panel declined to do so. The remedial-scope question — how far a district court order may run given the case's class posture — is worth tracking, though the government's framing so far is deference, not Article III. Two single-Justice denials round out the week: Justice Sotomayor denied an injunction pending appeal in *Chen v. Mamdani* (Sept. 28), a useful reminder that the in-chambers standard for an injunction is materially stiffer than for a stay, and Justice Kagan denied a stay in *M.W. v. Superior Court of California, Los Angeles County* (Sept. 22).
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Courts of Appeals

Eighth Circuit orders a permanent injunction on an appeal from a TRO.
Onder v. Missouri, No. 26–2797 (8th Cir. Sept. 21, 2026), affirmed the district court's TRO requiring use of Missouri's 2025 map and remanded with instructions to enter a *permanent* injunction to the same effect — eleven days after the Supreme Court had stayed the district court's September 8 injunction, and on the theory that Article I, § 2 requires a State to use its primary map in the general election. The panel's own Purcell analysis blamed the Missouri Supreme Court's September 3 decision for the disruption. As a teaching vehicle this is close to perfect: appellate jurisdiction over a TRO (and when a TRO becomes a § 1292(a)(1) injunction); the scope of relief an appellate court may direct on an interlocutory record; whether a Supreme Court stay of one order constrains a lower court's entry of a differently labeled order; and the Purcell allocation between federal and state courts. The Court's September 25 answer to all of it was to stay the mandate and tell both courts what not to do.
Vladeck, One First · Law Dork

Fifth Circuit sits en banc on habeas and mandatory immigration detention.
The en banc court heard argument September 24 in *Sosnava Rodriguez v. Ortega*, No. 26–50183 (5th Cir.), consolidated habeas petitions from three long-resident noncitizens detained without bond under 8 U.S.C. § 1225(b)(2)(A). The July 2, 2026 panel decision — holding that due process requires a bond hearing within 90 days, with the government bearing the burden — was vacated when rehearing was granted July 10. The doctrinal hook is the continuing viability of

§ 2241 habeas as the vehicle for detention challenges notwithstanding the INA's channeling provisions, an issue on which the Fourth Circuit has split from the Second and Third. Given the pending § 1252(f)(1) question in *D.V.D.*, the two cases together make a tidy unit on how Congress structures (and restricts) federal court review in the immigration context.
American Immigration Council · Vacated panel opinion

Scholarship & Commentary

Administrative stays are not nothing: an empirical account.
Taraleigh Davis, *The decision before the decision*, SCOTUSblog (Sept. 23, 2026), codes 476 emergency applications across the 2000–01 through 2024–25 terms and finds that applications drawing an administrative stay from the Circuit Justice succeeded 54% of the time against 34% without — and were substantially more likely to produce a written opinion (27% v. 10%) and to take longer to resolve (median 13 days v. 2). The standard line is that a temporary administrative stay carries no merits signal; Davis's data say otherwise. Genuinely podcast-worthy, and a good empirical counterweight for a seminar session on interim-orders practice.
SCOTUSblog

The TRO/preliminary-injunction line is collapsing, and it matters.
Vladeck, *Bonus 252: TROs vs. Preliminary Injunctions*, One First (Sept. 24, 2026), uses the Missouri sequence to work through why "a stay of a TRO is not a stay of an injunction, because the two orders differ in how long they last, how much process precedes them, and whether an appellate court can touch them at all." The companion post from September 22 makes the harder claim that the Eighth Circuit's maneuver was a more serious instance of a lower court departing from a Supreme Court directive than any of the examples Justice Gorsuch collected in his *NIH* concurrence. Assign both alongside the per curiam.
One First

Also worth a look.
Vikram Amar, *Déjà Vu All Over Again for the Eighth Circuit in the Missouri Redistricting Matter*, Verdict (Sept. 23, 2026), argues the panel's Purcell analysis could not be squared with the Court's September 10 order. (Published two days before the Court proved the point.)
Verdict

Legislation

Nothing new this week. The remedies bills from the last Congress — the Judicial Relief Clarification Act and the No Rogue Rulings Act — remain the relevant background, and the

§ 1252(f)(1) question in *D.V.D.* may well do more to settle the declaratory-relief-and-vacatur workaround than either of them.

Compiled from primary orders at supremecourt.gov and the sources linked above. Items are included only where a Federal Courts doctrine is doing the work.