The United States before 3 November: *election rules decided in emergency*

What changed in how this election is run since my July report on the United States, read one day before the midterms.

NEVO GOOR AS OF 2 NOVEMBER 2026, MORNING UTC AN INDEPENDENT PROJECT BY NEVO GOOR

The rules of this election were still being written in court in its last weeks. Since 24 August the Supreme Court has issued four emergency orders on how Americans vote this year, three of them for the federal government or a state and one against the federal government. In California, in the last five days of October, a federal judge and an appeals panel refused twice the Justice Department's request to set aside more than 20,000 mail ballots, and a second federal judge ordered the department to stop threatening election officials with prosecution. Confidence measured in July moved the other way: 55% of Americans told Pew they were confident the midterms will be conducted fairly and accurately, down from 64% before the 2022 midterms. I do not forecast the result.

4	20,000+	55%	81/100
Supreme Court emergency orders on this year's election rules, 24 August to 22 October (dockets)	California mail ballots the Justice Department asked a court to set aside (court order of 28 October)	confident the midterms will be conducted fairly and accurately, July 2026 (Pew)	Freedom House 2026, from 84 the year before

> In July I described the United States as a democracy under acute pressure on several fronts at once, and I wrote that its courts, its states, its civil society and its election officials were what kept the pressure reversible. This note does not change that reading. It looks at what moved between July and the eve of the vote, and only at how the election is run, not at who will win it.

01 Four emergency orders, both directions

This year's fights over election rules reached the Supreme Court through its emergency docket: an application to stay a lower court's order, decided on an expedited basis, without full argument. I count four orders that touch the rules for 3 November. The table gives each order's outcome as the Court's docket records it; the descriptions of the lower-court rulings come from the sources listed at the end.

DATE, DOCKET	WHAT THE LOWER COURT HAD DONE	WHAT THE COURT DID
24 Aug, No. 26A124, Trump v. California	A federal court in Massachusetts blocked parts of the President's executive order on election integrity, on a suit by a group of states.	STAY GRANTED. The lower court's block is on hold while the appeal runs, so the executive order can be carried out. In an unsigned opinion the Court said two doctrines, standing and ripeness, block the states' suit: the order itself does not yet harm them. Justice Sotomayor, joined by Justice Kagan, and Justice Jackson dissented.
14 Sep, No. 26A305, Postal Service v. California	On 4 September the same district court issued a preliminary injunction against the Postal Service's rule on mail ballots.	STAY DENIED. The Court said the government is unlikely to succeed on the merits. Justice Kavanaugh concurred; Justice Alito, joined by Justice Thomas, dissented. The injunction stays in force for this election.
25 Sep, No. 26A308, Homeland Security v. League of Women Voters	On 22 June a federal judge in Washington, D.C., stopped the Department of Homeland Security from giving states access to an expanded version of SAVE, its citizenship-check system, finding it broke privacy and rulemaking law.	STAY GRANTED. States can use the expanded system before the election. Justice Jackson, joined by Justices Sotomayor and Kagan, dissented.
22 Oct, No. 26A512, Scanlan v. Coalition for Open Democracy	On 2 and 5 October a federal judge in New Hampshire left the state's 2026 law in place but barred a directive of the Secretary of State to the extent it prohibited or discouraged election officials from considering student IDs as evidence of identity.	STAY GRANTED. The directive can be enforced again while the appeal runs. Justice Jackson dissented.

Three orders went the way of the federal government or a state, one went against the federal government. The losing side is not always the same, and the orders do not show a Court that simply follows one party. They show something else, which I think matters more for an election than the score: the rules for 3 November were settled late, several of them by brief emergency orders, the last twelve days before the vote in the New Hampshire case. There the Secretary of State told the Court that his office had already published student voting guides and updated polling-place posters since April. A rule decided in emergency arrives like a corrected page glued into a book already printed.

02 California: the ballots the Justice Department wanted set aside

On 15 October the United States sued California, its Secretary of State and the Los Angeles County registrar. The Justice Department wanted the state and the county to separate the mail ballots of more than 20,000 people it had identified as likely noncitizens and not count them until their citizenship was verified. California and the county opposed. The case ran fast.

OCTOBER AND NOVEMBER 2026

- **15 Oct** — The United States files suit in federal court in California (court order of 28 October).
- **26 Oct** — The Ninth Circuit rules that it has no jurisdiction over the department's first appeal, taken before the district court had ruled (court order of 28 October).
- **28 Oct** — Judge David O. Carter denies the department's request for a temporary restraining order. He writes that the relief asked would disrupt the election (order, Dkt. 149).
- **30 Oct** — A Ninth Circuit panel denies the department's emergency motion for an injunction pending appeal, holding the district court did not abuse its discretion. Judge Bumatay dissents (order, No. 26-7231).
- **30 Oct, night** — In a separate case brought by labor unions and other groups, Judge Trina L. Thompson in San Francisco bars the department from demanding that election offices separate ballots or from threatening officials with prosecution. Her order runs to 16 November (CBS News; AP for the Friday-night date).
- **1 Nov** — The department appeals the Thompson order; a hearing is set for Monday 2 November (AP).

So the pattern of July held here, at the lower courts: when the federal government moved against how a state counts ballots, judges stopped it, and an appeals panel agreed within two days. The order of 28 October also records that Los Angeles County, reviewing the list, found 7,035 of the more than 20,000 records had addresses in the county. I give that figure as the court states the county's evidence, not as my own finding. What the appeal of the Thompson order brings, I do not know at the time of writing.

03 Federal observers at the polls

NPR reported on 21 October that counties in Colorado, Florida, Minnesota, Texas and Washington had received notice that the Justice Department wanted to monitor the vote there, and that the head of its Civil Rights Division had said in September the plan was about 1,000 observers nationwide. What is new is the setting: the same department is in court against at least one state over whose ballots count. The Adams County clerk in Colorado told NPR his first thought was that the choice of his county was politically motivated and possibly an intimidation technique; a department spokesperson told NPR the department prioritizes places with competitive elections and would monitor Adams County because the Voting Rights Act's language-assistance section covers it, and that details of which places would be shared closer to the election. I give both sides as claims. I have not seen a published list.

04 Confidence, measured before the vote



Share of US adults confident the coming November elections will be conducted fairly and accurately (Pew Research Center, survey of 6 to 12 July 2026; earlier points as Pew reports them).

Pew's July survey put confidence at 55%, against 61% before the 2024 election and 64% before the 2022 midterms. Gallup, asking a different question in May and June, found 49% confident in the honesty of elections, close to its average of 45% since 2006. Two instruments, two wordings, one direction for Pew and a long low

plateau for Gallup. Pew's later survey, fielded from 28 September to 4 October, before the California suit, and published on 20 October, asked different questions. Registered voters generally expected the elections to be run and administered well, and confidence that votes cast in person will be counted as voters intend was broad; for mail and absentee ballots it was considerably lower. Among Democratic voters, confidence in the count of mail ballots stood at 64%, down from 88% in the 2022 midterms; among Republican voters it was 42%, modestly higher than in recent elections. Other national polls in October asked about confidence too; I cite only the publishers whose pages I read in full. I do not say what caused the fall in Pew's July measure.

05 What the published indices say

Freedom House scores the United States 81 of 100 in Freedom in the World 2026, from 84 the year before, still in its Free category. The World Justice Project's Rule of Law Index 2026 gives the United States an overall score of 0.67, 30th of 143 countries; the 2025 edition gave 0.68, 27th. These are the publishers' own figures and their own movements. Freedom House's 2026 edition covers the year 2025, so it has not yet seen what this note describes.

06 What the July report said would matter, and whether it showed

JULY SAID	BY 2 NOVEMBER
Judicial review was the active constraint, under pressure but resisting	At the lower courts, it held. In California a district judge and an appeals panel refused the federal request within two days of each other, and a second judge barred threats against officials.
The Supreme Court mostly sided with the administration on emergency appeals, a pattern of deference, not capture	Of the four election orders I count, three went for the federal government or a state and one against the federal government. Four orders are too few for a pattern, and I make no finding on it.
Fifty states running their own elections were a distributed safeguard	The states became parties. Three of the six cases in this note set the federal government against states or a county; in New Hampshire the case was brought against the state's Secretary of State.
Erosion of confidence in the result was the most dangerous path	Pew's measure fell again, to 55%. A measure of confidence before the vote cannot say how the result will be received after it.

One gap is mine. In July I counted court rulings for and against the administration. I did not ask when a ruling arrives. For an election, the date of a ruling can matter as much as its direction.

The rules for 3 November were settled late, several by brief emergency orders.

07 What I can and cannot conclude

I can say that the rules of this election were fought over in court until its last weeks, that the federal government won some of these fights and lost others, and that in California the courts stopped a federal attempt to set aside ballots before the vote. I can say that confidence in a fair and accurate election stood lower in July than before the last two national elections.

I cannot say who will win, how the count will go, or whether the result will be accepted. Those belong to Tuesday and to the weeks after it. I do not forecast them.

In July the safeguards were courts, states, civil society and the people who run elections. All four are still standing on the eve of the vote. Most of them spent October in a courtroom.

08 Method and limits

I researched and wrote this alone, with AI research assistance, and checked it claim by claim. A fact needs a primary document, such as a court docket or order or a publisher's own page, or two independent sources; anything less is given with its source named. Court orders were read from the court's own documents where I could reach them; the Supreme Court opinion text in the 24 August case was read through a legal information service. Some outlets I cite are not yet on my list of assessed sources, so I name them and use them only for what each reports. The framework behind this piece is not externally validated and makes no predictions. This is a structured analytical opinion.

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