SUPREME COURT OF THE UNITED STATES

No. 26A305

UNITED STATES POSTAL SERVICE, ET AL. *v.* CALIFORNIA, ET AL.

ON APPLICATION FOR STAY

[September 14, 2026]

The application for stay presented to JUSTICE JACKSON and by her referred to the Court is denied. The Government is unlikely to succeed on the merits of its challenge to the District Court's preliminary injunction. And the equitable factors applicable for obtaining emergency relief from this Court do not favor a stay.

JUSTICE KAVANAUGH, concurring.

In my view, based on the briefing the Court has received at this interim stage, there is at least a fair prospect that the final rule falls within the Postal Service's statutory authority. See 39 U. S. C. §401(2). But applying the rule in the 2026 elections would be arbitrary and capricious in violation of the Administrative Procedure Act because state and local election officials do not have sufficient time to reasonably implement the rule before the elections. See 39 U. S. C. §3001(m); 5 U. S. C. §706(2)(A). For that reason, I concur in the denial of the application for stay.

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JUSTICE ALITO, with whom JUSTICE THOMAS joins, dissenting from the denial of application for stay.

The Court incorrectly denies the Government's application for a stay of a universal injunction that bars implementation of a final rule concerning election ballot mail. Some of the plaintiffs lack standing, while the remainder are pursuing a claim that this Court has recently called a "'Hail Mary pass'" that "'rarely succeeds.'" *NRC* v. *Texas*, 605 U. S. 665, 681–682 (2025). The Government has made the showings necessary for a stay, so I respectfully dissent.

I

Some five months ago, the President issued an "internal directive" to "his subordinates mandating," among other things, that the United States Postal Service "'initiate a proposed rulemaking'" regarding election ballot mail. *Trump* v. *California*, 609 U. S. ___, ___ (2026) (*per curiam*) (slip op., at 2). Just days after the President's directive issued, numerous organizations and a group of States led by California sued in the District of Massachusetts. The District Court entered a series of injunctions blocking implementation of the directive. This Court eventually stayed one of the injunctions because the District Court likely lacked jurisdiction because the suit was premature. *Id.*, at ___, ___–___ (slip op., at 1, 3–8).

In late August, the Postal Service promulgated a final rule pursuant to the President's directive. Ballot Mail for Federal Elections, 91 Fed. Reg. 54966 (2026). The rule requires federal ballot mail to be sent in envelopes with three special features: an election-mail logo, the ability to be scanned using high-speed processing equipment, and a specialized barcode unique to each voter. *Id.*, at 54990–54991. States must design envelopes that adhere to these requirements and submit the designs to the Postal Service for review. *Ibid.* Finally, States must upload basic information about the voter to a Postal Service portal. *Id.*, at 54991. Under the rule, the Postal Service must review mail sent from States to voters for compliance with these requirements. *Ibid.* Mailings that fail to comply "will not be accepted and will be returned to the" State, which can then resubmit the mail after correcting errors. *Ibid.*

Within days of the final rule's issuance, the District Court entered a temporary restraining order that it later converted to a nationwide preliminary injunction stopping the rule from taking effect. The Government applied to this Court for a stay.

II

To obtain a stay, the applicant must make a strong showing of a likelihood of success on the merits and irreparable harm. In close cases, we also consider the balance of the equities. See *Hollingsworth* v. *Perry*, 558 U. S. 183, 190 (2010) (*per curiam*).

A

The Government is likely to succeed on the merits of its appeal.

To begin, the District Court issued a nationwide injunction based on claims asserted by several plaintiff organizations that likely lack standing. These organizations first claim a direct organizational injury because the rule

supposedly thwarts their ability to educate members about voting. Yet this theory of injury is based on "'a setback to the organization's abstract social interests'" and an effort to "spend its way into standing simply by expending money to gather information and advocate against the defendant's action[s]." *FDA* v. *Alliance for Hippocratic Medicine*, 602 U. S. 367, 394 (2024). The organizations also assert associational standing based on injuries to unnamed members who never filed declarations themselves. Such cryptic filings cannot be used to show standing. We have "required plaintiff-organizations to make specific allegations establishing that at least one identified member had suffered or would suffer harm" and to additionally meet the "requirement of naming the affected members." *Summers* v. *Earth Island Institute*, 555 U. S. 488, 498–499 (2009).

As for the plaintiff States, their claims are unlikely to succeed. They claim the rule violates the Elections Clause. U. S. Const., Art. I, §4, cl. 1. This claim, however, collapses into an inquiry about whether the Postal Service has statutory authority to promulgate the rule. Even assuming the rule here is a regulation of elections, Congress may create such rules under the Elections Clause. And, by statute, it may authorize the Postal Service to issue such rules. Because litigants cannot convert claims that a federal entity has "acted in excess of [its] statutory authority" into constitutional claims, see *Dalton* v. *Specter*, 511 U. S. 462, 472–474 (1994), the crux of the dispute is whether the Postal Service has statutory authority to issue the rule.

To assert a claim that an agency exceeded its statutory authority, the challenger needs a cause of action, which is typically provided by the Administrative Procedure Act. 5 U. S. C. §§702, 704. However, Congress broadly exempted "the exercise of the powers of the Postal Service" from review under the APA. 39 U. S. C. §410(a); see also *Mittleman* v. *Postal Regulatory Comm'n*, 757 F. 3d 300, 305 (CADC 2014). It also channeled many claims against the

Postal Service to initial review before the Postal Regulatory Commission followed by review in the United States Court of Appeals for the District of Columbia. See 39 U. S. C. §§3662–3663. These provisions tightly constrain APA review of Postal Service actions.

Unsurprisingly, the statutory claim here is not subject to APA review. It is a challenge to the scope of the Postal Service's general rulemaking authority and therefore exempt from the APA. §410(a).*

Since the plaintiff States cannot proceed under the APA, they must instead invoke an equitable cause of action known as an ultra vires claim. Because such claims rely on a judicially-implied cause of action and may be used to "end-run" statutes created by Congress that restrict judicial review, this Court's "cases have strictly limited nonstatutory ultra vires review" to a narrow set of circumstances. *NRC* v. *Texas*, 605 U. S., at 681. Crucially, the relevant agency action must be "entirely in 'excess of [the agency's] delegated powers and contrary to a specific prohibition' in a statute." *Ibid.* (emphasis deleted). Such a claim is thus "'essentially a Hail Mary pass'" that "'rarely succeeds.'" *Id.*, at 681–682; see also *Federal Express Corp.* v. *Department of Commerce*, 39 F. 4th 756, 764 (CADC 2022) ("*ultra vires* claims are confined to 'extreme' agency error where the agency has 'stepped so plainly beyond the bounds of [its statutory authority], or acted so clearly in defiance of it, as to warrant the immediate intervention of an equity court'").

That Hail Mary pass is unlikely to be successfully completed here. The Postal Service has broad authority to

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*The claim is arguably channeled to the Postal Regulatory Commission for review in the first instance. The lower courts have not addressed that issue despite its jurisdictional implications. See *Axon Enterprises, Inc.* v. *FTC*, 598 U. S. 175, 185 (2023); *Steel Co.* v. *Citizens for Better Environment*, 523 U. S. 83, 94 (1998). And because the Government is likely to succeed for another reason, resolution of that question is not necessary.

regulate the mail. It holds the "general powers" to "adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to [it] under any provisions of law outside of this title." 39 U. S. C. §401(2). Through this provision, Congress has "broadly empowered [the Postal Service] to adopt rules and regulations." *Postal Service* v. *Council of Greenburgh Civic Assns.*, 453 U. S. 114, 123 (1981). The Postal Service also possesses the power "to provide for the collection, handling, transportation, delivery, forwarding, returning, and holding of mail, and for the disposition of undeliverable mail." 39 U. S. C. §404(a)(1).

If the question of the Postal Service's power were before us in something other than the context of an ultra vires claim, the Government's argument would present a difficult question. But here the question is different. In order to assert an ultra vires claim, the plaintiffs must show that the challenged regulation of envelopes here is "entirely 'in excess'" of the power to govern collecting, handling, transporting, delivering, forwarding, and returning of mail. *NRC* v. *Texas*, 605 U. S., at 681. The same is true of the requirement to pass along information about each recipient of ballot mail. At the very least, the Postal Service did not act "'contrary to a specific prohibition'" in enacting the rule. *Ibid.* (emphasis deleted).

The plaintiff States resist these conclusions by invoking a highly technical provision tucked away in a corner of the Postal Reorganization Act of 1970. It concerns "nonmailable matter," a hodgepodge of items ranging from those that exceed the size and weight limits for certain classes of mail to fragrance-advertising samples. See 39 U. S. C. §3001. Under this provision, "proceedings concerning the mailability of matter under [chapter 30 of title 39] and chapters 71 and 83 of title 17 shall be conducted in accordance with [the APA]." §3001(m). But a lawsuit claiming the Postal Service

exceeded its authority under chapter 4 of title 39, see §401(2), is not a proceeding concerning the mailability of matter under chapter 30 of title 39. Such a broad reading is difficult to square with Congress' decision to exempt the Postal Service from APA review except in narrow instances. §§410(a), 3662–3663.

It is also not clear that the Postal Service created a new class of nonmailable matter, let alone that it is specifically prohibited from doing so. *NRC* v. *Texas*, 605 U. S., at 681. The rule's requirements appear more similar to other threshold requirements for mailing—such as the basic requirement to list the recipient's address on one side of the package or stamping requirements—that do not render noncompliant mail "nonmailable material." Reading the nonmailable material provisions to prohibit the rule's conditions on mailing would allow niche provisions to swallow the Postal Service's otherwise broad power to regulate the delivery of mail.

In sum, the plaintiff States' statutory claim is based on a contestable reading of a broadly drawn statute empowering the Postal Service to regulate the mail. Given that the plaintiff States advance an ultra vires claim, the Government must show only that the agency's interpretation of the statute is not "'patently a misconstruction.'" *Changji Esquel Textile Co.* v. *Raimondo*, 40 F. 4th 716, 722 (CADC 2022). I express no view on whether the Government would be likely to succeed on *de novo* review of the Postal Service's powers. But for now, the Government has satisfied its burden of making a strong showing that the plaintiff States' ultra vires claim is not likely to succeed.

B

The remaining equitable factors favor a stay as well. The Government will suffer irreparable harm absent relief. "Because reversal of the District Court's [injunction] would come too late for the 2026 midterms, the District Court's

errors deal a serious setback to the Executive's goals while this litigation unfolds." *Trump* v. *California*, 609 U. S., at ___, (slip op., at 9) (internal quotation marks omitted).

As for the equities, the Government has a strong interest in enforcing the rule, and implementing it will also "enhance the visibility of Federal Ballot Mail" in order to better detect election fraud. 91 Fed. Reg. 54972. On the other side of the balance, the plaintiff States invoke the practical effects of implementing the rule close to the midterm elections. I take that problem very seriously, but it is not enough to convince me to deny the application.

First, as the District Court acknowledged, the States disagree about the nature of these effects. App. to Application for Stay 44a. Twelve States supported the rule below and asserted that compliance at this time is practicable.

Second, the plaintiff States and the courts bear a substantial share of the blame for the rule's timing. In April, the plaintiff States sued to challenge the President's internal directive to subordinates mandating a rulemaking. For months, this litigation cast a cloud over the Government's ability to issue a final rule. The District Court entered several injunctions months later prohibiting the Government from undertaking that rulemaking. Not only was the Government subject to months of premature litigation and a series of injunctions that this Court later determined were likely issued without jurisdiction, the Government had to wait nearly another full month for this Court to issue its decision so holding. Indeed, this Court spent from late July to the end of August drafting nearly 40 pages of opinions, including two dissents, despite the Government's public notice that it would not publish a final rule while subject to the injunctions, see 91 Fed. Reg. 44880, and its representation that it had a strong interest in issuing its rule in early- to mid-August to allow time to implement it. The plaintiff States cannot claim the timing of the rule tilts the equities

in their favor when they, and courts hearing their claims, are responsible for so much of the delay.

* * *

For these reasons, I would grant the Government's application and respectfully dissent from the Court's denial.