

MY OPINION—Poisoning the Well

by Mary K. Garber

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Last Friday, responding to an emergency request by the Trump administration, the U.S. Supreme Court reversed a lower court ruling that had restrained the administration from using a controversial database to develop a list of people on the voting rolls who might not be citizens. The unsigned ruling was passed 6-3 by the conservative majority, with Justice Jackson writing in dissent, joined by Kagan and Sotomayer.

The court's opinion, however, acknowledged that the National Voter Registration Act (NVRA) prohibits systematic purges of the voter rolls during the 90-day "quiet" period before a federal election.¹ As we are within that period now, no scrubbing of the voting rolls, it said, could be undertaken before the mid-terms, although it did specify that election officials could do individualized investigations of voter eligibility.

But if there was no emergency, what was the point of the ruling? What was the "emergency" that this administration wished to address if not to remove people from the voting list prior to the 2026 midterms based on a comparison with a database known to be flawed? Numerous investigations by both right- and left-oriented elections organizations into allegations that large numbers of noncitizens are registering to vote have concluded that it just isn't so—for reasons that seem obvious. In fact, elections officials who have examined samples of the database have reportedly found error rates as high as 35 percent.

So perhaps that isn't the real purpose. A more likely and doable objective may be to "poison the well," that is, to cast doubt on the integrity of an election that the administration's side seems likely to lose. While the ruling seems to uphold the prohibition on widespread voter purges, it explicitly allows the development of a list for that purpose after the midterms. Meanwhile, the administration can simply continue to allege that many thousands of illegal aliens are on the voting rolls without any proof. Despite the lack of evidence, many of the administration's supporters will be convinced that they need to show up at the polls to prevent hordes of illegal voters from voting. The potential for voter intimidation and violence is obvious. And some legitimate voters may be persuaded to stay home—especially those who look or sound as though they might be "foreigners." We can also expect harassment and attempted intimidation of election workers as they go through the legally prescribed process for tabulating official results for certification. As we have seen in the past, elections office staff may be subject to threats and harassment in their homes as well.

Of course, this has all happened before. But this time President Trump will have "poisoned the well" in advance so that the response won't be just one angry, violent mob at the U.S. Capitol. Given that Trump has continued to push the falsehood that he won the 2020 presidential election, what will he do this time? Will there be efforts to invalidate the results? Will the administration try to impound voting machines and election records? Regardless of the exact actions taken, the result will be to undermine confidence in the fairness of our elections. And that poses a very serious existential threat to our democracy.

Editor's Note: The opinions expressed herein are those of the author and are not intended to represent the views of any other person or organization.

¹ Why does the NVRA prohibit voting roll purges close to an election? To understand how such purges can disenfranchise legally registered voters, [read about what happened in Florida's 2000 election](#) when the state contracted with ChoicePoint, a private company, to identify people on the Florida voter rolls who might not be eligible under Florida law.

