

[POLITICS](#)

Trump Can't Win the Vote

Will he retake the presidency anyway?

By [TOM SCOCCA](#) SLATE

OCT 29, 2020 5:57 PM



President Donald Trump at a campaign rally in Omaha, Nebraska, on Tuesday. Brendan Smialowski/AFP via Getty Images

No one thinks that Donald Trump will win a majority of the votes in the 2020 election. In the country that considers itself the world's leading democracy, the political coverage and predictions start from this: The current president lost the popular vote by a margin of more than 3 million in 2016, and all the polling says that the 2016 margin is the absolute floor from which Joe Biden will build an even greater popular advantage. Whether Trump serves one term or two terms, there will never be more people who voted for him than voted against him.

Still, everyone remembers how unpopular Trump was in 2016 and how he strung together enough support in enough of the right places to win the Electoral College anyway. For four years, the public has been dreading seeing, or hoping to see, a repeat performance. The Republican Party—the [political minority that rules over the majority](#) in two and a half of the three branches of the federal government—has been praising the 2016 result nonstop, insisting that the wisdom of our constitutional design holds that mere democracy (“rank democracy,” as Sen. Mike Lee [put it](#)) is a less important goal than making sure the interests of rural states or exurban enclaves or the right kind of voters prevail. The game has rules, after all, and Trump played by them.

The press mostly went along with this premise, diligently trudging to the Upper Midwest to [study](#), or [conjure](#), the American public whose will had manifested itself in the election result, despite the larger American public's obvious preference not to have had Trump become president. Even as Trump deliberately infuriated the people who'd already voted against him, and alienated larger and larger swaths of white suburbanites and the elderly who had been on his side before, the question, over and over, was whether Trump and his voters could pull off the same magic trick again.

But with Election Day arriving, it's clear that question was the wrong one to ask. Trump isn't trying to duplicate his success of four years ago. The Trump campaign, or the Trump administration—which are the same thing—is trying to pull off something different, and even less democratic. The question is whether they can do it and can get away with calling it a victory.

Consider Wisconsin. On Monday, the Republican majority on the Supreme Court—including Trump appointees Neil Gorsuch and Brett Kavanaugh—ruled that the state may not grant a grace period to absentee ballots arriving after Election Day, despite the pandemic-driven flood of extra mail ballots and the ongoing nationwide [Postal Service slowdown](#) created by Trump's postmaster general.* Tens of thousands of ballots could be thrown out under the ruling, and that's before the court weighs in on legal challenges to the state's other pandemic-voting measures.

In his Electoral College triumph of 2016, Trump won Wisconsin by less than 23,000 votes. Now, even if 23,000 more Wisconsinites do vote for Trump than for Biden, the Supreme Court, at Trump's urging, has made it impossible for that to matter. The uncanceled or disqualified votes would far outnumber the actual difference; the procedural noise Trump has introduced into the system would be louder than the democratic signal.

This is the entire Republican strategy in 2020: not to win the election but to make the winner unknowable, so that Trump can claim victory. FiveThirtyEight currently gives Trump a 12 percent chance of winning, if random events and polling errors somehow overwhelmingly bounce his way. This is too small a chance to gamble on. So, instead, there are signature invalidations, deadline rollbacks, drop box removals, poll watchers. There is that Republican wing of the Supreme Court, with three justices who were Bush lawyers in *Bush v. Gore*, flipping the court's principle of nonintervention in active elections back and forth, depending on whether a particular intervention would give Democrats less or more opportunity to vote.

And above it all is the president, denouncing the basic operations of voting as a grand scheme to overthrow him, and declaring that soliciting, collecting, and counting absentee ballots is inherently fraudulent. Trump's current position, bizarrely [echoed by Kavanaugh](#) in a formal opinion, is that the states should call a winner as soon as the polls close on Nov. 3, and all the counting and certification that normally comes afterward should be viewed as a suspicious attempt to steal the election.

Trump has nothing else left. He got lucky last time, and rather than trying to build a majority on that luck, he decided to try to make his luck into election law. He has done nothing to expand his political support. Ever since Biden won the Democratic nomination, the polling has made it clear that if you'd called a snap election on any day, and the voting were clean, Trump would have done worse than he did in 2016.

In this, he is, once again, the perfect standard-bearer for his party. The Republican apparatus, caught up in the belief that whatever gets them a victory must be legitimate, has moved beyond simple partisanship to leave electoral politics behind altogether. The party has become a nation unto itself, seceding from the political system of the broader republic; the implicit message of its long-running 21st-century program of gerrymandering, voter suppression, and rule-changing is now explicit: People voting is good for the Democrats, so Republicans are against people voting.

Justice Samuel Alito, in a statement complaining about the Supreme Court's 4–4 decision Wednesday to defer its possible involvement in the battle over Pennsylvania's mail-in ballot deadlines, wrote that the lawsuit in question, brought by the state Republican Party, was “a last-ditch attempt to prevent the election in Pennsylvania from being conducted under a cloud.” This was nonsense; the lawsuit itself is the cloud, and the goal of Alito and his party is to bury the state's election in an all-obscuring fog.

Pennsylvania has a good chance, under current polling, to end up being the tipping point between Biden and Trump in the Electoral College. Like Wisconsin, it was a vitally important, narrowly decided battleground in 2016, one where Trump won by less than 45,000 votes. This time, disputes over ballot envelopes alone could endanger 100,000 votes there, and that's only one part of the Republicans' [legal blitz against voting procedures](#) in the state. The president's newly invented election night deadline for resolving the results would exclude the absentee count in even [Trump-friendly jurisdictions](#), but that doesn't matter to a man who isn't trying to get more votes. There is no way for Trump to honestly or plausibly win the state on Nov. 3. All he can do is emptily say he's the winner, and hope his personally stacked federal courts and the minority-controlled state legislatures back him up. It may be a plan to hold onto the presidency, but it can't any longer be called a plan to win an election.

Think You're Smarter Than Tom Scocca? Find Out With a Special News Quiz About the Trump Administration.

From now until Election Day, we're offering a series of quizzes to test your political knowledge. Questions are multiple-choice, and time is of the essence: answer more quickly for more points. If you don't see the quiz below, [click here to take it](#), and [check out all of our Slate News Quizzes here](#).

1. [Texas Republicans Ask Federal Judge to Throw Out 117,000 Legally Cast Ballots](#)
2. [Rush Limbaugh's Fight to the Death](#)
3. [What Will Happen to the Lawyers Who Aided and Abetted Donald Trump?](#)
4. [A Racist Sheriff and a Racist System Were Behind the Attack on North Carolina Election Marchers](#)