

IMMIGRATION

After SCOTUS Smackdown On Census Question, Trump Tries To Achieve Same Goal Via Executive Order

It's a blatantly unconstitutional move from the 'law and order' president.

By LORELEI LAIRD

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(Photo by Alex Wong/Getty Images)

One of my favorite cases of 2019 was the deceptively boring-sounding [Department of Commerce v. New York](#). That was the case about whether the 2020 Census should have a question about citizenship, which the Census Bureau staff itself objected to because it would discourage participation by undocumented immigrants. That was, of course, the point. But the Commerce Department told various judges that it was akshully rilly just trying to enforce the Voting Rights Act. In support of their argument, the department had to manufacture a VRA-related request from DOJ, well after evidence shows work had started on the citizenship question.

[documents that his estranged daughter provided](#) to the media after his death. That alone would put the case in the running for my favorite, but an added bonus was that the revelation proved Commerce Secretary Wilbur Ross lied under oath. As [Elie Mystal observed](#) in these hallowed pages, the Supreme Court did its best to protect Ross from any consequences. (Those are for criminal defendants, not powerful white people!) But in the end, John Roberts apparently wasn't willing to put up with being outright lied to.

Fast-forward to this week. Not content with undermining democracy [in the 503 area code](#), Donald Trump [issued an executive order Tuesday](#) instructing Ross to ethnically cleanse Census data of any undocumented immigrants before submitting it to the White House. Thus, he is trying to achieve via executive order what he could not achieve by blatantly lying to the courts and the American people: erasure of undocumented people, so that Congressional seats will be taken from blue-voting parts of this country with high immigrant populations and given to places that vote Republican.

It's blatantly illegal. [The Constitution says](#) federal census-takers must count "the whole Number of free Persons." It also says that the census should be made "in such Manner as [Congress] shall by Law direct." Either of those things alone is likely enough to get an injunction. The ACLU's Dale Ho, who led that organization's citizenship-question litigation, has already promised to sue, and the states that stand to lose Congressional representation probably won't be far behind. They will win, and — if we manage to get through the next few months without a civil war — it will hopefully be obviated by a Joe Biden presidency.

Speaking of the election, one final thought. Apparently Trump is running for re-election as a guardian of "law and order," which is some astounding chutzpah. Especially on immigration, but outside of it too, the Trump administration has a long history of blatantly breaking laws it doesn't like. I'm not even talking about stuff like Ivanka Trump using her job to promote canned beans; I mean that they are outright ignoring [the DACA ruling](#), [the limits of federal law enforcement's authority](#), and the Administrative Procedure Act. Law and order, like consequences for perjury, apparently do not apply to powerful white people.
