Twitter Thread by Elie Honig



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I'm still seeing a lot of concern about the Texas Supreme Court filing, which is understandable. From a certain angle, it looks imposing.

So here, in sum, is why there's no need for alarm (thread):

1) The case asks the Supreme Court to exercise "original jurisdiction," skipping lower courts. The Court rarely does this. The Court *can* exercise this jurisdiction in state v. state disputes, but doesn't have to.

It takes 5 justices to hear this case, rather than the usual 4.

2) Usually original jurisdiction applies to state v. state disputes over borders, etc. - for example when NJ and NY sued over control of Ellis Island (Jersey!).

The TX case is something else entirely and could have been heard in lower courts (many have rejected similar claims).

3) The heart of Texas's claim is that it objects to election procedures used in four other states. This is unconstitutional and would lead to utter insanity.

First, The Constitution specifically gives each state the right to run its elections as it sees fit. Done and done.

4) And to allow one state to sue over another state's processes would lead to absurd results. Any state could sue any other state over the election. NJ could sue Alabama, Alaska, Idaho. Arkansas could sue MA, NY, and CA. It would never end.

The Court won't countenance that.

5) Texas does not base its claim on voter fraud, nor does it offer any viable proof. Its attention-grabbing "one in a quadrillion" statistical "analysis" assumes votes don't change from one election to another (Why even hold elections then? Just declare the last guy the winner).

6) The statistical junk also assumes there's no such thing as different areas, different neighborhoods, tending to vote more one way or the other politically. And it ignores the inarguable fact that Dems voted by mail far more than GOP voters.

7) Yes, 17 state AGs (all GOP) have signed onto the case. Here are some folks who have not: (1) many other Republican AGs, (2) the Solicitor General of TX itself, who often appears in the Supreme Court and has to maintain dignity and credibility, (3) the US Department of Justice.

8) It's too late, in several respects. Texas easily could have filed this challenge well *before* the election. Yet it waited until not only after the election but after all states had certified the results. The Court can reject on this basis alone.

(9) We are now past the Safe Harbor date (Dec. 8). So state certifications of election results are presumptively legally valid and binding on Congress.

10) If the Court took the case now and overturned results, it would disenfranchise millions of votes and throw the political process into mayhem. Dem states would fire back with similar suits. The Court is famously (and rightly) reluctant to get involved in political matters.

11) For example, earlier this week, the Supreme Court flatly rejected a different case seeking to overturn the election results in PA with a one-line rejection that noted zero dissents -- not from any of the conservatives, including the three justices appointed by Trump himself.

12) So yes, there's a lot of chest-pounding in certain quarters about how this is the big one. I get why it looks scary.

But don't fear. The Court won't take this case and even if they do, they'll reject it on the merits. (END)